Sessional Papers

THE PROCEEDINGS

OF THE

NATIONAL AUSTRALASIAN CONVENTION.

HELD IN THE PARLIAMENT HOUSE, SYDNEY, NEW SOUTH WALES.

No. 1.

MONDAY, 2ND MARCH, 1891.

MEETING OF CONVENTION.

Mr. MUNRO, Prime Minister and Treasurer of Victoria, read to the Convention the Resolutions adopted by the Federation Conference, 1890, held in Melbourne, and stated that, in accordance with the request of the Conference, he, as Convener of the National Australasian Convention, had arranged the time and place of the meeting of this Convention.

ROLL OF DELEGATES.

Mr. MUNRO then produced the Roll of Delegates appointed by the Colonies, and called the names in the alphabetical order of the various Colonies.

DELEGATES PRESENT.

The following Delegates, as appointed by the respective Colonies, thereupon subscribed the Roll:—

New South Wales.

The Honorable Sir HENRY PARKES, G.C.M.G., M.L.A.
The Honorable WILLIAM MCMILLAN, M.L.A.
JOSEPH PALMER ABBOTT, Esquire, M.L.A.
GEORGE RICHARD DIBBS, Esquire, M.L.A.
The Honorable WILLIAM HENRY SUTTOR, M.L.C.
The Honorable EDMUND BARTON, Q.C., M.L.C.
The Honorable Sir PATRICK ALFRED JENNINGS, K.C.M.G., LL.D., M.L.C.

New Zealand.

Captain WILLIAM RUSSELL RUSSELL, M.H.R.
The Honorable Sir HARRY ALBERT ATKINSON, K.C.M.G., M.L.C.

Queensland.

The Honorable JOHN MURTAGH MACROSSAN, M.L.A.
The Honorable JOHN DONALDSON, M.L.A.
The Honorable Sir SAMUEL WALKER GRIFFITH, K.C.M.G., Q.C., M.L.A.
The Honorable ARTHUR RUTLEDGE, M.L.A.
The Honorable ANDREW JOSEPH THYNNE, M.L.C.
The Honorable THOMAS MACDONALD-PATERSON, M.L.C.

South Australia.

The Honorable Richard Chaffey Baker, C.M.G., M.L.C.
The Honorable John Hannah Gordon, M.L.C.
The Honorable Sir John Cox Bray, K.C.M.G., M.P.
John Alexander Cockburn, Esquire, M.D., M.P.
The Honorable Sir John William Downer, K.C.M.G., Q.C., M.P.
The Honorable Charles Cameron Kingston, Q.C., M.P.
The Honorable Thomas Playford, M.P.

Tasmania.

The Honorable William Moore, M.L.C.
The Honorable Adye Douglas, M.L.C.
The Honorable Andrew Inglis Clark, M.H.A.
The Honorable William Henry Burgess, M.H.A.
The Honorable Nicholas John Brown, M.H.A.
The Honorable Bolton Stafford Bird, M.H.A.
The Honorable Philip Oakley Fysh, M.L.C.

Victoria.

The Honorable Alfred Deakin, M.P.
The Honorable James Munro, M.P.
The Honorable Lieutenant-Colonel William Collard Smith, M.P.
The Honorable Duncan Gillies, M.P.
The Honorable Henry Cuthbert, M.L.C.
The Honorable Nicholas FitzGerald, M.L.C.

Delegates Absent.

The following Delegates, as appointed by the respective Colonies, were not present:—

New Zealand.

Sir George Grey, K.C.B., M.H.R.

Queensland.

The Honorable Sir Thomas McIlwraith, K.C.M.G., LL.D., M.L.A.

Victoria.

The Honorable Henry John Wrixon, Q.C., M.P.

Western Australia.

The Honorable John Forrest, C.M.G., M.L.A.
The Honorable William Edward Marmion, M.L.A.
The Honorable Sir James George Lee-Steere, M.L.A.
The Honorable John Arthur Wright, M.L.C.
The Honorable John Winthrop Hackett, M.L.C.
Alexander Forrest, Esquire, M.L.A.
William Thorley Loton, Esquire, M.L.A.

Delegate Acting in the Absence of Mr. Wrixon (Victoria).

Mr. Munro, referring to the absence of the Honorable Henry John Wrixon, Q.C., M.P., read to the Convention the resolution adopted by the Legislative Assembly of Victoria, on 18th December, 1890, empowering the Governor to appoint a Representative to fill any vacancy caused by death, resignation, or otherwise, or to act during the absence of any Representative of that Colony.

Mr. Munro then produced the Commission under the hand of His Excellency the Governor of Victoria, appointing the Honorable William Shiels, a Member of the Legislative Assembly, and Attorney-General and Minister of Railways for the Colony of Victoria, to be a Representative of that Colony to fill any such vacancy. Whereupon Mr. Shiels entered the Convention and subsequently subscribed the Roll.

Election of President.

Mr. Munro moved, That the Honorable Sir Henry Parkes, G.C.M.G., do take the Chair as President of the Convention.

The motion having been seconded by Sir Samuel Griffith, and supported by Mr. Playford, Mr. Fysh, Mr. Dibbs, and Captain Russell, was put by Mr. Munro, and carried unanimously.

Sir Henry Parkes was then conducted to the Chair and, having returned his acknowledgments for the great honor conferred upon him, took the Chair.

Appointment of Secretary.

Mr. Munro moved, That Mr. Frederick William Webb be appointed Secretary to the Convention.

The motion having been seconded by Sir Samuel Griffith, was put by the President, and carried unanimously.

Rules of Procedure.

Mr. McMillan gave notices for the next meeting of motions to regulate the procedure of the Convention.

Election of Vice-President.

Mr. Playford moved, That Sir Samuel Walker Griffith, K.C.M.G., be appointed Vice-President of the Convention.

The motion having been seconded by Mr. Fysh, and supported by Mr. Munro, was put and carried unanimously.

Sir Samuel Griffith thanked the Convention for the honor conferred upon him.

Adjournment.

Mr. McMillan moved, That the Convention do now adjourn until to-morrow at half-past two o'clock.

A short Debate having ensued,—

The Question was put and passed.

The President thereupon left the Chair at three minutes after twelve o'clock, and the Convention stood adjourned until to-morrow at half-past two o'clock, p.m.

HENRY PARKES,
President.

F. W. WEBB,
Secretary to the National Australasian Convention.

THE PROCEEDINGS

OF THE

NATIONAL AUSTRALASIAN CONVENTION.

HELD IN THE PARLIAMENT HOUSE, SYDNEY, NEW SOUTH WALES.

No. 2.

TUESDAY, 3RD MARCH, 1891.

Delegates Present:

NEW SOUTH WALES ...The Honorable Sir HENRY PARKES, G.C.M.G., M.P., Colonial Secretary and Prime Minister;

The Honorable WILLIAM MCMILLAN, M.P., Colonial Treasurer;

The Honorable JOSEPH PALMER ABBOTT, M.P., Speaker of the Legislative Assembly;

GEORGE RICHARD DIBBS, Esquire, M.P., formerly Colonial Secretary and Prime Minister;

The Honorable WILLIAM HENRY SUTTOR, M.L.C., Vice-President of the Executive Council;

The Honorable EDMUND BARTON, Q.C., M.L.C., formerly Speaker;

The Honorable Sir PATRICK ALFRED JENNINGS, K.C.M.G., M.L.C., formerly Prime Minister and Colonial Treasurer.

VICTORIA.....The Honorable JAMES MUNRO, M.P., Prime Minister and Treasurer;

The Honorable DUNCAN GILLIES, M.P., formerly Prime Minister and Treasurer;

The Honorable ALFRED DEAKIN, M.P., formerly Chief Secretary;

The Honorable WILLIAM SHIELS, M.P., Attorney-General and Minister of Railways;

The Honorable Lieutenant-Colonel WILLIAM COLLARD SMITH, M.P., formerly Minister of Education;

The Honorable HENRY CUTHBERT, M.L.C., formerly Minister of Justice;

The Honorable NICHOLAS FITZGERALD, M.L.C.

QUEENSLAND

QUEENSLAND .....The Honorable Sir SAMUEL WALKER GRIFFITH, K.C.M.G., Q.C., M.P., Chief Secretary and Prime Minister;

The Honorable JOHN MURTAGH MACROSSAN, M.P., formerly Secretary for Mines and Colonial Secretary;

The Honorable ARTHUR RUTLEDGE, M.P., formerly Attorney-General;

The Honorable THOMAS MACDONALD-PATERSON, M.L.C., formerly Postmaster-General;

The Honorable ANDREW JOSEPH THYNNE, M.L.C., formerly Minister of Justice;

JOHN DONALDSON, Esquire, M.P., formerly Postmaster-General and Secretary for Public Instruction.

SOUTH AUSTRALIA .....The Honorable THOMAS PLAYFORD, M.P., Treasurer and Prime Minister;

The Honorable Sir JOHN COX BRAY, K.C.M.G., M.P., Chief Secretary;

JOHN ALEXANDER COCKBURN, Esquire, M.D., M.P., formerly Prime Minister and Chief Secretary;

The Honorable Sir JOHN WILLIAM DOWNER, K.C.M.G., Q.C., M.P., formerly Prime Minister;

The Honorable CHARLES CAMERON KINGSTON, Q.C., M.P., formerly Attorney-General;

The Honorable JOHN HANNAH GORDON, M.L.C., formerly Minister of Education and of the Northern Territory;

The Honorable RICHARD CHAFFEY BAKER, C.M.G., M.L.C., formerly Attorney-General and Minister of Justice.

TASMANIA .....The Honorable PHILIP OAKLEY FYSH, M.L.C., Prime Minister and Chief Secretary;

The Honorable BOLTON STAFFORD BIRD, M.H.A., Treasurer;

The Honorable ANDREW INGLIS CLARK, M.H.A., Attorney-General;

The Honorable WILLIAM MOORE, President of the Legislative Council;

The Honorable ADYE DOUGLAS, M.L.C., formerly Chief Secretary and Prime Minister;

The Honorable WILLIAM HENRY BURGESS, M.H.A., formerly Treasurer;

The Honorable NICHOLAS JOHN BROWN, M.H.A., formerly Minister of Lands and Works.

NEW ZEALAND .....Sir HARRY ALBERT ATKINSON, K.C.M.G., Speaker of the Legislative Council;

Captain WILLIAM RUSSELL RUSSELL, M.H.R., formerly Colonial Secretary and Minister of Justice and Defence.

The PRESIDENT took the Chair, pursuant to adjournment.

NOTICE OF MOTION.

Mr. MCMILLAN, on behalf of Sir HENRY PARKES, gave notice for to-morrow of certain Resolutions with reference to a Federal Constitution.

DAYS

Days of Meeting.

Mr. McMillan moved, pursuant to *amended* Notice, That, unless otherwise ordered, the Convention shall meet daily (Saturdays and Sundays excepted) punctually at 11 o'clock a.m.

The motion having been seconded by Mr. W. H Sutton, and debated, was put and passed.

Record of Proceedings.

Mr. McMillan moved, pursuant to Notice, That the Secretary to the Convention shall take Minutes of each day's proceedings, which shall be printed and circulated amongst the Delegates; that such official record of the proceedings be signed by the President and Secretary; and that the Secretary be authorized to make such record public, together with Notices of Motions to be submitted to the Convention.

The motion having been seconded by Mr. W. H. Sutton, was put and passed.

Business to be Submitted.

Mr. McMillan moved, pursuant to *amended* Notice, That, unless otherwise ordered, previous notice, in writing, shall be given at a sitting of the Convention of all Motions to be submitted by the Delegates, and that all Notices of Motions shall be printed and circulated daily amongst the Delegates.

The motion having been seconded by Mr. W. H. Sutton, and debated, was put and passed.

Rules of Debate.

Mr. McMillan moved, pursuant to Notice, That in the Debates of the Convention the ordinary rules of the House of Commons be observed; but that the President or Vice-President, as the case may be, have the same right as any other Delegate "to make any motion and" to take part in the discussion of any question.

Mr. W. H. Sutton seconded the motion.

Sir John Downer moved an amendment, to insert, after the word "Delegate," the words "to make any motion and"

Amendment agreed to.

Question, as amended, put and passed.

Rules of Debate in Committee of the Whole.

Mr. McMillan moved, pursuant to Notice, That in Committee the Rules of Debate observed in Committees of the Whole in Parliament be adopted by the Convention; but that the President or Vice-President, as the case may be, have the same right as any other Delegate "to make any motion and" to take part in the discussion of any question.

Mr. W. H. Sutton seconded the motion.

Sir John Downer moved an amendment to insert, after the word "Delegate," the words "to make any motion and"

Amendment agreed to.

Question, as amended, put and passed.

Official Record of the Debates.

Mr. McMillan moved, pursuant to Notice, That an Official Record of the Debates in the Convention be made by the Parliamentary Reporting Staff of this Colony.

The motion having been seconded by Mr. W. H. Sutton, was put and passed.

Divisions.

Divisions.

Mr. McMillan moved, pursuant to Notice, That in any Divisions taken in the Convention the President or Vice-President, as the case may be, have the right to vote, "and in case of an equality of votes exercise a second or casting vote"; and that the names of the Delegates be printed in alphabetical order, without reference to the Colonies which they represent.

Mr. W. H. Sutton seconded the motion.

Mr. Playford moved an amendment to omit the words, "and in case of an equality of votes exercise a second or casting vote."

Debate ensued.

On motion of Mr. Dibbs, the Debate was adjourned until to-morrow.

Admission of the Press and the Public.

Mr. McMillan moved, pursuant to *amended* Notice,—

(1.) That "when the Convention is engaged in debating matters formally submitted by previous notice, or submitted *by consent* without notice," the Press and Public be admitted on the order of the President.

(2.) That whenever the Convention is in Committee the Press and Public be not admitted, unless otherwise ordered.

Mr. W. H. Sutton seconded the motion.

Mr. Dibbs moved an amendment to omit from the first paragraph the words "when the Convention is engaged in debating matters formally submitted by previous notice, or submitted *by consent* without notice," with a view to insert in their place the words "during the sitting of the Convention."

Debate ensued.

On motion of Mr. Shiels, the Debate was adjourned until to-morrow.

Notice of Motion.

Mr. McMillan gave a Notice of Motion to decide the number of Delegates to form a quorum.

Adjournment.

Mr. McMillan moved, That the Convention do now adjourn.

Question put and passed.

The President thereupon left the Chair at fourteen minutes before four o'clock, and the Convention stood adjourned until to-morrow at eleven o'clock.

HENRY PARKES,
President.

F. W. WEBB,
Secretary to the National Australasian Convention.

THE PROCEEDINGS

OF THE

NATIONAL AUSTRALASIAN CONVENTION.

HELD IN THE PARLIAMENT HOUSE, SYDNEY, NEW SOUTH WALES.

No. 3.

WEDNESDAY, 4TH MARCH, 1891.

Delegates Present:

NEW SOUTH WALES ...The Honorable Sir HENRY PARKES, G.C.M.G., M.P., Colonial Secretary and Prime Minister;

The Honorable WILLIAM MCMILLAN, M.P., Colonial Treasurer;

The Honorable JOSEPH PALMER ABBOTT, M.P., Speaker of the Legislative Assembly;

GEORGE RICHARD DIBBS, Esquire, M.P., formerly Colonial Secretary and Prime Minister;

The Honorable WILLIAM HENRY SUTTOR, M.L.C., Vice-President of the Executive Council;

The Honorable EDMUND BARTON, Q.C., M.L.C., formerly Speaker;

The Honorable Sir PATRICK ALFRED JENNINGS, K.C.M.G., M.L.C., formerly Prime Minister and Colonial Treasurer.

VICTORIA.....The Honorable JAMES MUNRO, M.P., Prime Minister and Treasurer;

The Honorable DUNCAN GILLIES, M.P., formerly Prime Minister and Treasurer;

The Honorable ALFRED DEAKIN, M.P., formerly Chief Secretary;

The Honorable WILLIAM SHIELS, M.P., Attorney-General and Minister of Railways;

The Honorable Lieutenant-Colonel WILLIAM COLLARD SMITH, M.P., formerly Minister of Education;

The Honorable HENRY CUTHBERT, M.L.C., formerly Minister of Justice;

The Honorable NICHOLAS FITZGERALD, M.L.C.

QUEENSLAND

QUEENSLAND .....The Honorable Sir SAMUEL WALKER GRIFFITH, K.C.M.G., Q.C., M.P., Chief Secretary and Prime Minister;

The Honorable Sir THOMAS MCILWRAITH, K.C.M.G., LL.D., M.P., Colonial Treasurer;

The Honorable JOHN MURTAGH MACROSSAN, M.P., formerly Secretary for Mines and Colonial Secretary;

The Honorable ARTHUR RUTLEDGE, M.P., formerly Attorney-General;

The Honorable THOMAS MACDONALD-PATERSON, M.L.C., formerly Postmaster-General;

The Honorable ANDREW JOSEPH THYNNE, M.L.C., formerly Minister of Justice;

JOHN DONALDSON, Esquire, M.P., formerly Postmaster-General and Secretary for Public Instruction.

SOUTH AUSTRALIA .....The Honorable THOMAS PLAYFORD, M.P., Treasurer and Prime Minister;

The Honorable Sir JOHN COX BRAY, K.C.M.G., M.P., Chief Secretary;

JOHN ALEXANDER COCKBURN, Esquire, M.D., M.P., formerly Prime Minister and Chief Secretary;

The Honorable Sir JOHN WILLIAM DOWNER, K.C.M.G., Q.C., M.P., formerly Prime Minister;

The Honorable CHARLES CAMERON KINGSTON, Q.C., M.P., formerly Attorney-General;

The Honorable JOHN HANNAH GORDON, M.L.C., formerly Minister of Education and of the Northern Territory;

The Honorable RICHARD CHAFFEY BAKER, C.M.G., M.L.C., formerly Attorney-General and Minister of Justice.

TASMANIA .....The Honorable PHILIP OAKLEY FYSH, M.L.C., Prime Minister and Chief Secretary;

The Honorable BOLTON STAFFORD BIRD, M.H.A., Treasurer;

The Honorable ANDREW INGLIS CLARK, M.H.A., Attorney-General;

The Honorable WILLIAM MOORE, President of the Legislative Council;

The Honorable ADYE DOUGLAS, M.L.C., formerly Chief Secretary and Prime Minister;

The Honorable WILLIAM HENRY BURGESS, M.H.A., formerly Treasurer;

The Honorable NICHOLAS JOHN BROWN, M.H.A., formerly Minister of Lands and Works.

NEW ZEALAND .....Sir GEORGE GREY, K.C.B., formerly Governor, and more recently Prime Minister.

Sir HARRY ALBERT ATKINSON, K.C.M.G., Speaker of the Legislative Council;

Captain WILLIAM RUSSELL RUSSELL, M.H.R., formerly Colonial Secretary and Minister of Justice and Defence.

The PRESIDENT took the Chair, pursuant to adjournment.

ROLL OF DELEGATES.

Sir George Grey, K.C.B., M.H.R., one of the Delegates from New Zealand, and the Honorable Sir Thomas McIlwraith, K.C.M.G., LL.D., M.P., one of the Delegates from Queensland, subscribed the Roll.

DIVISIONS.

Divisions.

On the Order of the Day being read by the Secretary for the resumption of the adjourned Debate, on the motion of Mr. McMillan,—

"That in any Divisions taken in the Convention the President or Vice-President, "as the case may be, have the right to vote, 'and in case of an equality of "votes 'exercise a second or casting vote'; and that the names of the "Delegates be printed in alphabetical order, without reference to the "Colonies which they represent,"—

Upon which Mr. Playford had moved an amendment to omit the words, "and in case of an equality of votes exercise a second or casting vote,"—

Mr. Playford, by leave, withdrew his proposed amendment.

Whereupon Mr. McMillan, *by consent*, moved an amendment to omit the words "exercise a second or casting vote," and to insert in their place the words "the Question shall be deemed to have passed in the negative."

Amendment agreed to.

The Question, as amended,—That in any Divisions taken in the Convention the President or Vice-President, as the case may be, have the right to vote, and in case of an equality of votes the Question shall be deemed to have passed in the negative; and that the names of the Delegates be printed in alphabetical order, without reference to the Colonies which they represent,—was then put and passed.

Admission of the Press and the Public.

On the Order of the Day being read by the Secretary for the resumption of the adjourned Debate, on the motion of Mr. McMillan,—

"(1.) That, 'when the Convention is engaged in debating matters formally sub- "'mitted by previous notice, or submitted *by consent* without notice,' the "Press and Public be admitted on the order of the President.

"(2.) That whenever the Convention is in Committee the Press and Public be "not admitted, unless otherwise ordered,"—

Upon which Mr. Dibbs had moved an amendment to omit from the first paragraph the words, "when the Convention is engaged in debating "matters formally submitted by previous notice, or submitted *by consent* "without notice," with a view to insert the words, "during the sitting of "the Convention,"—

Mr. Dibbs, by leave, withdrew his proposed amendment.

Mr. McMillan then, by leave, withdrew the original motion.

Whereupon Mr. McMillan, *by consent*, moved, without notice, That the Press and Public be admitted, unless otherwise ordered, during the sitting of the Convention, on the order of the President.

And Sir Thomas McIlwraith, Lieutenant-Colonel Smith, and Sir Patrick Jennings having addressed the Convention,—

The Question was put and passed.

Quorum.

Mr. McMillan moved, pursuant to notice, That twenty-five delegates do form a Quorum of the Convention.

And Mr. Thynne having addressed the Convention,—

The Question was put and passed.

Vice-President in the Chair.

On the suggestion of the President, concurred in by the Convention, he vacated the Chair, and it was taken by Sir Samuel Griffith, Vice-President.

FEDERAL CONSTITUTION.

Sir HENRY PARKES moved, pursuant to Notice,—

That in order to establish and secure an enduring foundation for the structure of a Federal Government, the principles embodied in the Resolutions following be agreed to:—

(1.) That the powers and privileges and territorial rights of the several existing Colonies shall remain intact, except in respect to such surrenders as may be agreed upon as necessary and incidental to the power and authority of the National Federal Government.

(2.) That the trade and intercourse between the Federated Colonies, whether by means of land carriage or coastal navigation, shall be absolutely free.

(3.) That the power and authority to impose Customs duties shall be exclusively lodged in the Federal Government and Parliament, subject to such disposal of the revenues thence derived as shall be agreed upon.

(4.) That the Military and Naval Defence of Australia shall be entrusted to Federal Forces, under one command.

Subject to these and other necessary conditions, this Convention approves of the framing of a Federal Constitution, which shall establish,—

(1.) A Parliament, to consist of a Senate and a House of Representatives, the former consisting of an equal number of members from each Province, to be elected by a system which shall provide for the retirement of one-third of the members every years, so securing to the body itself a perpetual existence combined with definite responsibility to the electors, the latter to be elected by districts formed on a population basis, and to possess the sole power of originating and amending all Bills appropriating revenue or imposing taxation.

(2.) A Judiciary, consisting of a Federal Supreme Court, which shall constitute a High Court of Appeal for Australia, under the direct authority of the Sovereign, whose decisions as such shall be final.

(3.) An Executive, consisting of a Governor-General, and such persons as may from time to time be appointed as his advisers, such persons sitting in Parliament, and whose term of office shall depend upon their possessing the confidence of the House of Representatives expressed by the support of the majority.

The Question having been proposed by the VICE-PRESIDENT,—

The PRESIDENT resumed the Chair.

Sir SAMUEL GRIFFITH suggested that the PRESIDENT should leave the Chair until half-past two o'clock p.m.,—and the Convention approving,—

The PRESIDENT left the Chair accordingly.

The PRESIDENT having resumed the Chair,—

Sir SAMUEL GRIFFITH and Mr. FYSH addressed the Convention on the motion submitted by Sir Henry Parkes.

On motion of Mr. MUNRO, the Debate was adjourned until to-morrow.

ADJOURNMENT.

Mr. MCMILLAN moved,—That the Convention do now adjourn.

Question put and passed.

The PRESIDENT thereupon left the Chair at four o'clock, and the Convention stood adjourned until to-morrow at eleven o'clock.

HENRY PARKES,
President.

F. W. WEBB,
Secretary to the National Australasian Convention.

THE PROCEEDINGS

OF THE

NATIONAL AUSTRALASIAN CONVENTION.

HELD IN THE PARLIAMENT HOUSE, SYDNEY, NEW SOUTH WALES.

No. 4.

THURSDAY, 5TH MARCH, 1891.

Delegates Present:

NEW SOUTH WALES ...The Honorable Sir HENRY PARKES, G.C.M.G., M.P., Colonial Secretary and Prime Minister;

The Honorable WILLIAM MCMILLAN, M.P., COLONIAL Treasurer;

The Honorable JOSEPH PALMER ABBOTT, M.P., Speaker of the Legislative Assembly;

GEORGE RICHARD DIBBS, Esquire, M.P., formerly Colonial Secretary and Prime Minister;

The Honorable WILLIAM HENRY SUTTOR, M.L.C., Vice-President of the Executive Council;

The Honorable EDMUND BARTON, Q.C., M.L.C., formerly Speaker;

The Honorable Sir PATRICK ALFRED JENNINGS, K.C.M.G., M.L.C., formerly Prime Minister and Colonial Treasurer.

VICTORIA.....The Honorable JAMES MUNRO, M.P., Prime Minister and Treasurer;

The Honorable DUNCAN GILLIES, M.P., formerly Prime Minister and Treasurer;

The Honorable ALFRED DEAKIN, M.P., formerly Chief Secretary;

The Honorable WILLIAM SHIELS, M.P., Attorney-General and Minister of Railways;

The Honorable Lieutenant-Colonel WILLIAM COLLARD SMITH, M.P., formerly Minister of Education;

The Honorable HENRY CUTHBERT, M.L.C., formerly Minister of Justice;

The Honorable NICHOLAS FITZGERALD, M.L.C.

QUEENSLAND

QUEENSLAND .....The Honorable Sir SAMUEL WALKER GRIFFITH, K.C.M.G., Q.C., M.P., Chief Secretary and Prime Minister;

The Honorable Sir THOMAS MCILWRAITH, K.C.M.G., LL.D., M.P., Colonial Treasurer;

The Honorable JOHN MURTAGH MACROSSAN, M.P., formerly Secretary for Mines and Colonial Secretary;

The Honorable ARTHUR RUTLEDGE, M.P., formerly Attorney-General;

The Honorable THOMAS MACDONALD-PATERSON, M.L.C., formerly Postmaster-General;

The Honorable ANDREW JOSEPH THYNNE, M.L.C., formerly Minister of Justice;

JOHN DONALDSON, Esquire, M.P., formerly Postmaster-General and Secretary for Public Instruction.

SOUTH AUSTRALIA.....The Honorable THOMAS PLAYFORD, M.P., Treasurer and Prime Minister;

The Honorable Sir JOHN COX BRAY, K.C.M.G., M.P., Chief Secretary;

JOHN ALEXANDER COCKBURN, Esquire, M.D., M.P., formerly Prime Minister and Chief Secretary;

The Honorable Sir JOHN WILLIAM DOWNER, K.C.M.G., Q.C., M.P., formerly Prime Minister;

The Honorable CHARLES CAMERON KINGSTON, Q.C., M.P., formerly Attorney-General;

The Honorable JOHN HANNAH GORDON, M.L.C., formerly Minister of Education and of the Northern Territory;

The Honorable RICHARD CHAFFEY BAKER, C.M.G., M.L.C., formerly Attorney-General and Minister of Justice.

TASMANIA .....The Honorable PHILIP OAKLEY FYSH, M.L.C., Prime Minister and Chief Secretary;

The Honorable BOLTON STAFFORD BIRD, M.H.A., Treasurer;

The Honorable ANDREW INGLIS CLARK, M.H.A., Attorney-General;

The Honorable WILLIAM MOORE, President of the Legislative Council;

The Honorable ADYE DOUGLAS, M.L.C., formerly Chief Secretary and Prime Minister;

The Honorable WILLIAM HENRY BURGESS, M.H.A., formerly Treasurer;

The Honorable NICHOLAS JOHN BROWN, M.H.A., formerly Minister of Lands and Works.

NEW ZEALAND .....Sir GEORGE GREY, K.C.B., formerly Governor, and more recently Prime Minister;

Sir HARRY ALBERT ATKINSON, K.C.M.G., Speaker of the Legislative Council, late Prime Minister and Colonial Treasurer;

Captain WILLIAM RUSSELL RUSSELL, M.H.R., formerly Colonial Secretary and Minister of Justice and Defence.

The PRESIDENT took the Chair, pursuant to adjournment.

Federal Constitution.

On the Order of the Day being read by the Secretary for the resumption of the adjourned Debate, on the motion of Sir Henry Parkes,—

"That in order to establish and secure an enduring foundation for the structure "of a Federal Government, the principles embodied in the Resolutions "following be agreed to:—

"(1.) That the powers and privileges and territorial rights of the several existing "Colonies shall remain intact, except in respect to such surrenders as may "be agreed upon as necessary and incidental to the power and authority of "the National Federal Government.

"(2.) That the trade and intercourse between the Federated Colonies, whether "by means of land carriage or coastal navigation, shall be absolutely free.

"(3.) That the power and authority to impose Customs duties shall be "exclusively lodged in the Federal Government and Parliament, subject "to such disposal of the revenues thence derived as shall be agreed upon.

"(4.) That the Military and Naval Defence of Australia shall be entrusted to "Federal Forces, under one command.

"Subject to these and other necessary conditions, this Convention approves of the "framing of a Federal Constitution, which shall establish,—

"(1.) A Parliament, to consist of a Senate and a House of Representatives, the "former consisting of an equal number of members from each Province, to "be elected by a system which shall provide for the retirement of one-third "of the members every years, so securing to the body itself a perpetual "existence combined with definite responsibility to the electors; the latter "to be elected by districts formed on a population basis, and to possess the "sole power of originating and amending all Bills appropriating revenue "or imposing taxation.

"(2.) A Judiciary, consisting of a Federal Supreme Court, which shall constitute "a High Court of Appeal for Australia, under the direct authority of the "Sovereign, whose decisions as such shall be final.

"(3.) An Executive, consisting of a Governor-General, and such persons as may "from time to time be appointed as his advisers, such persons sitting in "Parliament, and whose term of office shall depend upon their possessing "the confidence of the House of Representatives expressed by the support "of the majority,"—

The Debate was resumed by Mr. Munro.

Mr. Playford, Sir Thomas McIlwraith, and Captain Russell also addressed the Convention.

Telegram from Her Majesty the Queen.

The President informed the Convention that His Excellency the Governor had telegraphed to Her Most Gracious Majesty the Queen the opening of the Convention and the success of the National Convention Banquet, to which Her Majesty had been graciously pleased to send a telegram in reply, which he proposed to read to the Convention.

Whereupon the Delegates rose in their places, and remained standing during the reading of the following telegram:—

"Telegram from London, addressed to Governor, Sydney."

"Have received your telegram with great satisfaction, and am much pleased at "the great loyalty evinced on this important occasion.—Victoria R.I., 4th "March, 9·15 a.m."

The President then invited three cheers for Her Most Gracious Majesty, which were enthusiastically given by the Convention.

FEDERAL CONSTITUTION.

The Debate on the motion submitted by Sir HENRY PARKES was then resumed by Mr. DEAKIN.

On motion of Mr. BARTON, the Debate was adjourned until to-morrow.

ADJOURNMENT.

Mr. MCMILLAN moved, that the Convention do now adjourn.

And Sir SAMUEL GRIFFITH, Mr. PLAYFORD, Mr. J. P. ABBOTT, Mr. BARTON, Lieutenant-Colonel SMITH, and Sir JOHN BRAY having addressed the Convention,—

Question put and passed.

The PRESIDENT thereupon left the Chair at twenty-three minutes past four o'clock, and the Convention stood adjourned until to-morrow at eleven o'clock.

HENRY PARKES,
President.

F. W. WEBB,
Secretary to the National Australasian Convention.

THE PROCEEDINGS

OF THE

NATIONAL AUSTRALASIAN CONVENTION.

HELD IN THE PARLIAMENT HOUSE, SYDNEY, NEW SOUTH WALES.

No. 5.

FRIDAY, 6TH MARCH, 1891.

Delegates Present:

NEW SOUTH WALES...The Honorable Sir HENRY PARKES, G.C.M.G., M.P., Colonial Secretary and Prime Minister;

The Honorable WILLIAM MCMILLAN, M.P., Colonial Treasurer;

The Honorable JOSEPH PALMER ABBOTT, M.P., Speaker of the Legislative Assembly;

GEORGE RICHARD DIBBS, Esquire, M.P., formerly Colonial Secretary and Prime Minister;

The Honorable WILLIAM HENRY SUTTOR, M.L.C., Vice-President of the Executive Council;

The Honorable EDMUND BARTON, Q.C., M.L.C., formerly Speaker;

The Honorable Sir PATRICK ALFRED JENNINGS, K.C.M.G., M.L.C., formerly Prime Minister and Colonial Treasurer.

VICTORIA.....The Honorable JAMES MUNRO, M.P., Prime Minister and Treasurer;

The Honorable DUNCAN GILLIES, M.P., formerly Prime Minister and Treasurer;

The Honorable ALFRED DEAKIN, M.P., formerly Chief Secretary;

The Honorable WILLIAM SHIELS, M.P., Attorney-General and Minister of Railways;

The Honorable Lieutenant-Colonel WILLIAM COLLARD SMITH, M.P., formerly Minister of Education;

The Honorable HENRY CUTHBERT, M.L.C., formerly Minister of Justice;

The Honorable NICHOLAS FITZGERALD, M.L.C.

QUEENSLAND

QUEENSLAND .....The Honorable Sir SAMUEL WALKER GRIFFITH, K.C.M.G., Q.C., M.P., Chief Secretary and Prime Minister;

The Honorable SIR THOMAS MCILWRAITH, K.C.M.G., LL.D., M.P., Colonial Treasurer;

The Honorable JOHN MURTAGH MACROSSAN, M.P., formerly Secretary for Mines and Colonial Secretary;

The Honorable ARTHUR RUTLEDGE, M.P., formerly Attorney-General;

The Honorable THOMAS MACDONALD-PATERSON, M.L.C., formerly Postmaster-General;

The Honorable ANDREW JOSEPH THYNNE, M.L.C., formerly Minister of Justice;

JOHN DONALDSON, Esquire, M.P., formerly Postmaster-General and Secretary for Public Instruction.

SOUTH AUSTRALIA .....The Honorable THOMAS PLAYFORD, M.P., Treasurer and Prime Minister;

The Honorable Sir JOHN COX BRAY, K.C.M.G., M.P., Chief Secretary;

JOHN ALEXANDER COCKBURN, Esquire, M.D., M.P., formerly Prime Minister and Chief Secretary;

The Honorable Sir JOHN WILLIAM DOWNER, K.C.M.G., Q.C., M.P., formerly Prime Minister;

The Honorable CHARLES CAMERON KINGSTON, Q.C., M.P., formerly Attorney-General;

The Honorable JOHN HANNAH GORDON, M.L.C., formerly Minister of Education and of the Northern Territory;

The Honorable RICHARD CHAFFEY BAKER, C.M.G., M.L.C., formerly Attorney-General and Minister of Justice.

TASMANIA .....The Honorable PHILIP OAKLEY FYSH, M.L.C., Prime Minister and Chief Secretary;

The Honorable BOLTON STAFFORD BIRD, M.H.A., Treasurer;

The Honorable ANDREW INGLIS CLARK, M.H.A., Attorney-General;

The Honorable WILLIAM MOORE, President of the Legislative Council;

The Honorable ADYE DOUGLAS, M.L.C., formerly Chief Secretary and Prime Minister;

The Honorable WILLIAM HENRY BURGESS, M.H.A., formerly Treasurer;

The Honorable NICHOLAS JOHN BROWN, M.H.A., formerly Minister of Lands and Works.

NEW ZEALAND .....Sir GEORGE GREY, K.C.B., formerly Governor, and more recently Prime Minister;

Sir HARRY ALBERT ATKINSON, K.C.M.G., Speaker of the Legislative Council, late Prime Minister and Colonial Treasurer;

Captain WILLIAM RUSSELL RUSSELL, M.H.R., formerly Colonial Secretary and Minister of Justice and Defence.

The PRESIDENT took the Chair, pursuant to adjournment.

FEDERAL CONSTITUTION.

On the Order of the Day being read by the Secretary for the resumption of the adjourned Debate, on the motion of Sir HENRY PARKES,—

"That in order to establish and secure an enduring foundation for the structure "of a Federal Government, the principles embodied in the Resolutions "following be agreed to :—

"(1.) That the powers and privileges and territorial rights of the several existing "Colonies shall remain intact, except in respect to such surrenders as may "be agreed upon as necessary and incidental to the power and authority of "the National Federal Government.

"(2.) That the trade and intercourse between the Federated Colonies, whether "by means of land carriage or coastal navigation, shall be absolutely free.

"(3.) That the power and authority to impose Customs duties shall be "exclusively lodged in the Federal Government and Parliament, subject "to such disposal of the revenues thence derived as shall be agreed upon.

"(4.) That the Military and Naval Defence of Australia shall be entrusted to "Federal Forces, under one command.

"Subject to these and other necessary conditions, this Convention approves of the "framing of a Federal Constitution, which shall establish,—

"(1.) A Parliament, to consist of a Senate and a House of Representatives, the "former consisting of an equal number of members from each Province, to "be elected by a system which shall provide for the retirement of one-third "of the members every years, so securing to the body itself a perpetual "existence combined with definite responsibility to the electors, the latter to "be elected by districts formed on a population basis, and to possess the "sole power of originating and amending all Bills appropriating revenue "or imposing taxation.

"(2.) A Judiciary, consisting of a Federal Supreme Court, which shall constitute "a High Court of Appeal for Australia, under the direct authority of the "Sovereign, whose decisions as such shall be final.

"(3.) An Executive, consisting of a Governor-General, and such persons as may "from time to time be appointed as his advisers, such persons sitting in "Parliament, and whose term of office shall depend upon their possessing "the confidence of the House of Representatives expressed by the support "of the majority,"—

The Debate was resumed by Mr. BARTON.

Sir JOHN DOWNER and Mr. THYNNE addressed the Convention.

ADDRESS FROM THE WESLEYAN CONFERENCE.

The PRESIDENT read to the Convention the following letter from the Rev. Arthur J. Webb to the Secretary to the National Australasian Convention :—

"Wesleyan Conference, Sydney, March 5th, 1891.

"The Secretary, the Federation Convention,—

"Sir,

"The Conference has prepared an Address to the Convention, and "the Revs. A. J. Webb and John Gardiner have been appointed to present it.

"Would you please be so good as to obtain for us the information as to "when we may present it.

"I have the honor to be,
"Yours truly,
"ARTHUR J. WEBB."

The Convention having taken the letter into consideration, decided that the Address referred to should be presented by one of the Delegates during the sitting of the Convention.

CONGRATULATORY

CONGRATULATORY TELEGRAMS.

The Secretary, by direction of the President, read to the Convention the following telegrams of congratulation :—

(1.) Telegram from Exchange, Melbourne, addressed to Sir Henry Parkes.

"The Australian Natives' Association of Victoria sends greetings to the Federa-
"tion Convention, and trusts that its labours will result in a real and permanent
"step being taken towards an early establishment of Australian Federation.

"D. J. WHEAL,
"President."

(2.) Telegram from Melbourne, addressed to the Hon. the Premier of Victoria, Sydney.

"The President and Members of the Council of the Victorian Chambers of
"Manufactures congratulate the President and Delegates of the Australian
"Colonies upon having to-day assembled in conference at Sydney for the
"purpose of drafting an Australian Constitution, and fervently pray that their
"labours may be guided by wisdom and patriotism, and result in the adoption
"of a Federal Constitution which will prove acceptable to the whole of the
"peoples of Australia; and may God save the Queen.

"FREDERICK POOLMAN, J.P.,
"President, Victorian Chamber of Manufactures."

(3.) Telegram from Exchange, Melbourne, addressed to Sir Henry Parkes, President of the Federation Conference.

"Victorian Manufacturers recommend free trade throughout Australasia; also
"free trade with Great Britain for all goods not produced or made in Australasia,
"except alcoholic liquors.

"J. H. KNIPE,
"416, Collins-street."

(4.) Telegram from Melbourne, addressed to Sir Henry Parkes, President, Australian Federation Convention.

"The Federated Builders' and Contractors' Association of Australasia congratu-
"lates the Federation Convention on having laid the foundation of Australian
"national unity, and trusts that the structure built on it during the remaining
"days of the Convention will be of a solid and enduring character, and satis-
"factory to the whole of the Australian people.

"R. C. BROWN,
"President,
"Builders' Exchange."

The PRESIDENT stated that, unless the Convention objected, he would direct the Secretary to enter the telegrams upon the proceedings.

The Convention making no objection, the telegrams were entered accordingly.

FEDERAL CONSTITUTION.

The Debate on the motion submitted by Sir HENRY PARKES was then resumed by Mr. BAKER.

Mr. BIRD and Sir PATRICK JENNINGS also addressed the Convention.

On motion of Lieutenant-Colonel SMITH, the Debate was adjourned until Monday next.

ADJOURNMENT.

Mr. MCMILLAN moved, That the Convention do now adjourn.

Question put and passed.

The PRESIDENT thereupon left the Chair, at twenty minutes past four o'clock, and the Convention stood adjourned until Monday next at eleven o'clock.

HENRY PARKES,
President.

F. W. WEBB,
Secretary to the National Australasian Convention.

THE PROCEEDINGS

OF THE

NATIONAL AUSTRALASIAN CONVENTION.

HELD IN THE PARLIAMENT HOUSE, SYDNEY, NEW SOUTH WALES.

No. 6.

MONDAY, 9TH MARCH, 1891.

Delegates Present:

NEW SOUTH WALES...The Honorable Sir HENRY PARKES, G.C.M.G., M.P., Colonial Secretary and Prime Minister;

The Honorable WILLIAM MCMILLAN, M.P., Colonial Treasurer;

The Honorable JOSEPH PALMER ABBOTT, M.P., Speaker of the Legislative Assembly;

GEORGE RICHARD DIBBS, Esquire, M.P., formerly Colonial Secretary and Prime Minister;

The Honorable WILLIAM HENRY SUTTOR, M.L.C., Vice-President of the Executive Council;

The Honorable EDMUND BARTON, Q.C., M.L.C., formerly Speaker;

The Honorable Sir PATRICK ALFRED JENNINGS, K.C.M.G., M.L.C., formerly Prime Minister and Colonial Treasurer.

VICTORIA.....The Honorable JAMES MUNRO, M.P., Prime Minister and Treasurer;

The Honorable DUNCAN GILLIES, M.P., formerly Prime Minister and Treasurer;

The Honorable ALFRED DEAKIN, M.P., formerly Chief Secretary;

The Honorable HENRY JOHN WRIXON, Q.C., M.P., formerly Attorney-General;

The Honorable Lieutenant-Colonel WILLIAM COLLARD SMITH, M.P., formerly Minister of Education;

The Honorable HENRY CUTHBERT, M.L.C., formerly Minister of Justice;

The Honorable NICHOLAS FITZGERALD, M.L.C.

QUEENSLAND

QUEENSLAND .....The Honorable Sir SAMUEL WALKER GRIFFITH, K.C.M.G., Q.C., M.P., Chief Secretary and Prime Minister;

The Honorable Sir THOMAS MCILWRAITH, K.C.M.G., LL.D., M.P., Colonial Treasurer;

The Honorable JOHN MURTAGH MACROSSAN, M.P., formerly Secretary for Mines and Colonial Secretary;

The Honorable ARTHUR RUTLEDGE, M.P., formerly Attorney-General;

The Honorable THOMAS MACDONALD-PATERSON, M.L.C., formerly Postmaster-General;

The Honorable ANDREW JOSEPH THYNNE, M.L.C., formerly Minister of Justice;

JOHN DONALDSON, Esquire, M.P., formerly Postmaster-General and Secretary for Public Instruction.

SOUTH AUSTRALIA.....The Honorable THOMAS PLAYFORD, M.P., Treasurer and Prime Minister;

The Honorable Sir JOHN COX BRAY, K.C.M.G., M.P., Chief Secretary;

JOHN ALEXANDER COCKBURN, Esquire, M.D., M.P., formerly Prime Minister and Chief Secretary;

The Honorable Sir JOHN WILLIAM DOWNER, K.C.M.G., Q.C., M.P., formerly Prime Minister;

The Honorable CHARLES CAMERON KINGSTON, Q.C., M.P., formerly Attorney-General;

The Honorable JOHN HANNAH GORDON, M.L.C., formerly Minister of Education and of the Northern Territory;

The Honorable RICHARD CHAFFEY BAKER, C.M.G., M.L.C., formerly Attorney-General and Minister of Justice.

TASMANIA .....The Honorable PHILIP OAKLEY FYSH, M.L.C., Prime Minister and Chief Secretary;

The Honorable ANDREW INGLIS CLARK, M.H.A., Attorney-General;

The Honorable WILLIAM MOORE, President of the Legislative Council;

The Honorable ADYE DOUGLAS, M.L.C., formerly Chief Secretary and Prime Minister;

The Honorable WILLIAM HENRY BURGESS, M.H.A., formerly Treasurer;

The Honorable NICHOLAS JOHN BROWN, M.H.A., formerly Minister of Lands and Works.

NEW ZEALAND .....Sir GEORGE GREY, K.C.B., formerly Governor, and more recently Prime Minister;

Sir HARRY ALBERT ATKINSON, K.C.M.G., Speaker of the Legislative Council, late Prime Minister and Colonial Treasurer;

Captain WILLIAM RUSSELL RUSSELL, M.H.R., formerly Colonial Secretary and Minister of Justice and Defence.

WESTERN AUSTRALIA..The Honorable JOHN FORREST, C.M.G., M.P., Prime Minister and Treasurer;

The Honorable WILLIAM EDWARD MARMION, M.P., Commissioner of Crown Lands;

The Honorable Sir JAMES GEORGE LEE-STEERE, Kt., M.P., Speaker of the Legislative Assembly;

The Honorable JOHN ARTHUR WRIGHT, M.L.C.;

The Honorable JOHN WINTHROP HACKETT, M.L.C.;

ALEXANDER FORREST, Esquire, M.P.;

WILLIAM THORLEY LOTON, Esquire, M.P.

The PRESIDENT took the Chair, pursuant to adjournment.

ROLL OF DELEGATES.

(1.) *Victoria :—*

The Honorable HENRY JOHN WRIXON, Q.C., M.P., one of the Delegates from Victoria, subscribed the Roll.

(2.) *Western Australia :—*

The following Delegates from Western Australia subscribed the Roll,—

The Honorable JOHN FORREST, C.M.G., M.P.

The Honorable WILLIAM EDWARD MARMION, M.P.

The Honorable Sir JAMES GEORGE LEE-STEERE, Kt., M.P.

The Honorable JOHN ARTHUR WRIGHT, M.L.C.

The Honorable JOHN WINTHROP HACKETT, M.L.C.

ALEXANDER FORREST, Esquire, M.P.; and

WILLIAM THORLEY LOTON, Esquire, M.P.

WELCOME TO THE DELEGATES FROM WESTERN AUSTRALIA.

The PRESIDENT, for himself, and on behalf of the Convention, offered a cordial welcome to the Delegates from Western Australia, and congratulated them on the possession by their Colony of Constitutional Government.

Mr. JOHN FORREST, C.M.G., returned thanks for the welcome so cordially given, and also for the congratulations upon their Colony obtaining Constitutional Government.

DELEGATE ACTING IN THE ABSENCE OF MR. WRIXON (VICTORIA).

The PRESIDENT drew the attention of the Convention to the matter of Mr. Shiels having acted in the absence of Mr. Wrixon, of Victoria, and stated that a suggestion had been made to him that Mr. Shiels should be permitted to remain in the Convention, on the understanding that he should not vote.

And Mr. J. P. ABBOTT objecting to the course proposed to be taken,—

Mr. MUNRO stated that he was not aware that the proposal suggested by the President had been made; but as Mr. Shiels would only consent to sit with the unanimous concurrence of the Delegates, and as an objection had been taken, Mr. Shiels would not sit.

The PRESIDENT then explained that the subject had been brought under his notice by Mr. Wrixon.

FEDERAL CONSTITUTION.

On the Order of the Day being read by the Secretary for the resumption of the adjourned Debate, on the motion of Sir HENRY PARKES,—

"That in order to establish and secure an enduring foundation for the structure "of a Federal Government, the principles embodied in the Resolutions "following be agreed to:—

"(1.) That the powers and privileges and territorial rights of the several exist- "ing Colonies shall remain intact, except in respect to such surrenders as "may be agreed upon as necessary and incidental to the power and "authority of the National Federal Government.

"(2.) That the trade and intercourse between the Federated Colonies, whether "by means of land carriage or coastal navigation, shall be absolutely free.

"(3.) That the power and authority to impose Customs duties shall be exclu- "sively lodged in the Federal Government and Parliament, subject to "such disposal of the revenues thence derived as shall be agreed upon.

"(4.) That the Military and Naval Defence of Australia shall be entrusted to "Federal Forces, under one command.

"Subject to these and other necessary conditions, this Convention approves of the "framing of a Federal Constitution, which shall establish,—

"(1.) A Parliament, to consist of a Senate and a House of Representatives, the "former consisting of an equal number of members from each Province, to "be elected by a system which shall provide for the retirement of one-third "of the members every years, so securing to the body itself a perpetual "existence combined with definite responsibility to the electors; the latter "to be elected by districts formed on a population basis, and to possess the "sole power of originating and amending all Bills appropriating revenue "or imposing taxation.

"(2.) A Judiciary, consisting of a Federal Supreme Court, which shall con- "stitute a High Court of Appeal for Australia, under the direct authority "of the Sovereign, whose decisions as such shall be final.

"(3.) An Executive, consisting of a Governor-General and such persons as "may from time to time be appointed as his advisers, such persons sitting "in Parliament, and whose term of office shall depend upon their possessing "the confidence of the House of Representatives expressed by the support "of the majority,"—

The Debate was resumed by Lieutenant-Colonel SMITH.

Sir GEORGE GREY, Mr. RUTLEDGE, Mr. KINGSTON, and Mr. FITZGERALD also addressed the Convention.

On motion of Mr. DIBBS, the Debate was adjourned until to-morrow.

ADJOURNMENT.

Mr. MCMILLAN moved,—That the Convention do now adjourn.

Question put and passed.

The PRESIDENT thereupon left the Chair at thirteen minutes past five o'clock, and the Convention stood adjourned until to-morrow at eleven o'clock.

HENRY PARKES,
President.

F. W. WEBB,
Secretary to the National Australasian Convention.

THE PROCEEDINGS

OF THE

NATIONAL AUSTRALASIAN CONVENTION.

HELD IN THE PARLIAMENT HOUSE, SYDNEY, NEW SOUTH WALES.

No. 7.

TUESDAY, 10TH MARCH, 1891.

Delegates Present:

NEW SOUTH WALES ...The Honorable Sir HENRY PARKES, G.C.M.G., M.P., Colonial Secretary and Prime Minister;

The Honorable WILLIAM MCMILLAN, M.P., Colonial Treasurer;

The Honorable JOSEPH PALMER ABBOTT, M.P., Speaker of the Legislative Assembly;

GEORGE RICHARD DIBBS, Esquire, M.P., formerly Colonial Secretary and Prime Minister;

The Honorable WILLIAM HENRY SUTTOR, M.L.C., Vice-President of the Executive Council;

The Honorable EDMUND BARTON, Q.C., M.L.C., formerly Speaker;

The Honorable Sir PATRICK ALFRED JENNINGS, K.C.M.G., M.L.C., formerly Prime Minister and Colonial Treasurer.

VICTORIA.....The Honorable JAMES MUNRO, M.P., Prime Minister and Treasurer;

The Honorable DUNCAN GILLIES, M.P., formerly Prime Minister and Treasurer;

The Honorable ALFRED DEAKIN, M.P., formerly Chief Secretary;

The Honorable HENRY JOHN WRIXON, Q.C., M.P., formerly Attorney-General;

The Honorable Lieutenant-Colonel WILLIAM COLLARD SMITH, M.P., formerly Minister of Education;

The Honorable HENRY CUTHBERT, M.L.C., formerly Minister of Justice;

The Honorable NICHOLAS FITZGERALD, M.L.C.

QUEENSLAND

QUEENSLAND .....The Honorable SIR SAMUEL WALKER GRIFFITH, K.C.M.G., Q.C., M.P., Chief Secretary and Prime Minister;

The Honorable Sir THOMAS MCILWRAITH, K.C.M.G., LL.D., M.P., Colonial Treasurer;

The Honorable JOHN MURTAGH MACROSSAN, M.P., formerly Secretary for Mines and Colonial Secretary;

The Honorable ARTHUR RUTLEDGE, M.P., formerly Attorney-General;

The Honorable THOMAS MACDONALD-PATERSON, M.L.C., formerly Postmaster-General;

The Honorable ANDREW JOSEPH THYNNE, M.L.C., formerly Minister of Justice;

JOHN DONALDSON, Esquire, M.P., formerly Postmaster-General and Secretary for Public Instruction.

SOUTH AUSTRALIA.....The Honorable THOMAS PLAYFORD, M.P., Treasurer and Prime Minister;

The Honorable Sir JOHN COX BRAY, K.C.M.G., M.P., Chief Secretary;

JOHN ALEXANDER COCKBURN, Esquire, M.D., M.P., formerly Prime Minister and Chief Secretary;

The Honorable Sir JOHN WILLIAM DOWNER, K.C.M.G., Q.C., M.P., formerly Prime Minister;

The Honorable CHARLES CAMERON KINGSTON, Q.C., M.P., formerly Attorney-General;

The Honorable JOHN HANNAH GORDON, M.L.C., formerly Minister of Education and of the Northern Territory;

The Honorable RICHARD CHAFFEY BAKER, C.M.G, M.L.C., formerly Attorney-General and Minister of Justice.

TASMANIA .....The Honorable PHILIP OAKLEY FYSH, M.L.C., Prime Minister and Chief Secretary;

The Honorable BOLTON STAFFORD BIRD, M.H.A., Treasurer;

The Honorable ANDREW INGLIS CLARK, M.H.A., Attorney-General;

The Honorable WILLIAM MOORE, President of the Legislative Council;

The Honorable ADYE DOUGLAS, M.L.C., formerly Chief Secretary and Prime Minister;

The Honorable WILLIAM HENRY BURGESS, M.H.A., formerly Treasurer;

The Honorable NICHOLAS JOHN BROWN, M.H.A., formerly Minister of Lands and Works.

NEW ZEALAND .....Sir GEORGE GREY, K.C.B., formerly Governor, and more recently Prime Minister;

Sir HARRY ALBERT ATKINSON, K.C.M.G., Speaker of the Legislative Council, late Prime Minister and Colonial Treasurer;

Captain WILLIAM RUSSELL RUSSELL, M.H.R., formerly Colonial Secretary and Minister of Justice and Defence.

WESTERN AUSTRALIA..The Honorable JOHN FORREST, C.M.G., M.P., Prime Minister and Treasurer;

The Honorable WILLIAM EDWARD MARMION, M.P., Commissioner of Crown Lands;

The Honorable Sir JAMES GEORGE LEE-STEERE, Kt., M.P., Speaker of the Legislative Assembly;

The Honorable JOHN ARTHUR WRIGHT, M.L.C.;

The Honorable JOHN WINTHROP HACKETT, M.L.C.;

ALEXANDER FORREST, Esquire, M.P.;

WILLIAM THORLEY LOTON, Esquire, M.P.

The PRESIDENT took the Chair, pursuant to adjournment.

ADDRESS FROM THE WESLEYAN CONFERENCE.

Mr. McMILLAN presented an Address from the President and Secretary, on behalf of the Ministers of the New South Wales and Queensland Conference of the Australasian Wesleyan Methodist Church.

On motion of Mr. McMILLAN the Address was received and read by the Secretary, as follows:—

"To the President and Members of the Federation Convention of Australasia,—

"We, the Ministers of the New South Wales and Queensland Conference of "the Australasian Wesleyan Methodist Church, now in Session, desire to "approach the Federation Convention assembled in the City of Sydney with "assurances of the deep interest taken by our Church in the great question "entrusted to you, and of our high sense of the vast importance of your "deliberations.

"And we trust that, under Divine guidance, you may be led to conclusions "which will advance the best interests of Australasia.

"GEORGE BROWN,
"President.

"CHARLES STEAD,
"Secretary.

"Wesleyan Conference,
"Sydney, 5th March, 1891."

CONGRATULATORY TELEGRAMS AND LETTERS TO THE CONVENTION.

The Secretary, by direction of the President, read to the Convention the following telegrams of congratulation, and letters addressed to the President:—

(1.) Telegram from Adelaide, March 6, addressed to Hon. T. Playford, Federation Convention, Sydney.

"Please convey President congratulations from South Australia Literary "Societies Union, membership fifteen hundred, on opening National Australa-"sian Convention, earnestly hoping the result will be the adoption of a consti-"tution for United Australasia.

"ALLAN CAMPBELL,
"President."

(2.) Telegram from Melbourne, March 9, addressed to Sir Henry Parkes, G.C.M.G., President of the Federation Convention, Sydney.

"The Improvement Society's Union of Victoria offers its respectful congratu-"lations to the Convention on the commencement of its labours, and expresses "its ardent wish that they may inaugurate a new and glorious era for Australia.

"ALEXANDER SUTHERLAND,
"President,
"Improvement Society's Union, Victoria."

(3.)

(3.) Letter from the Woman's Christian Temperance Union of Victoria.

"Melbourne, March 5, 1891.

"To the President and Delegates of the Federation Convention,—

"Gentlemen,

"It is with deep interest that the Woman's Christian Temperance "Union regards the movement which has called your body together, viz., The "Federation of the Australian Colonies.

"May they not hope that in this enlightened age the last born nation of "the world may have embodied in its Constitution universal suffrage without "regard to sex; and the prohibition of the drink traffic by the vote of the "people, except for medicinal and scientific purposes.

"We ask for this in the name of the God of Heaven, and in the interests "of the home, the Church, and State.

"Signed, on behalf of the Woman's Christian Temperance "Union of Victoria,—

"President: M. M. Love.
"Secretary: M. E. Kirk."

(4.) Letter from the Victorian Chamber of Manufactures.

"Offices, 64, Elizabeth-street, Melbourne, 5 March, 1891.

"To the Honorable Sir Henry Parkes, Premier of New South Wales, Sydney,—

"Dear Sir,

"I am instructed by the Council of this Chamber to forward you the "under-written copy of a resolution carried at its meeting, held on the 2nd "instant, and it is hoped that you will take the earliest suitable opportunity for "moving in the direction indicated thereby, as it seems to this Chamber to be a "matter that will, in the not far distant future, have a very important bearing "upon the vital interests of these Colonies, especially in view of the action of the "United States Government with reference to the M'Kinley Tariff.

"Copy Resolution,—

"That, in the opinion of this Chamber, Parliament should have power "to impose differential duties in favour of Great Britain and British "possessions.

"I have the honor to remain,
"Sir,
"Yours most obediently,
"W. W. C. Darvall,
"Honorary Secretary."

Federal Constitution.

On the Order of the Day being read by the Secretary for the resumption of the adjourned Debate, on the motion of Sir Henry Parkes,—

"That in order to establish and secure an enduring foundation for the structure "of a Federal Government, the principles embodied in the Resolution "following be agreed to:—

"(1.) That the powers and privileges and territorial rights of the several existing "Colonies shall remain intact, except in respect to such surrenders as may "be agreed upon as necessary and incidental to the power and authority of "the National Federal Government.

"(2.) That the trade and intercourse between the Federated Colonies, whether "by means of land carriage or coastal navigation, shall be absolutely free.

"(3.) That the power and authority to impose Customs duties shall be "exclusively lodged in the Federal Government and Parliament, subject "to such disposal of the revenues thence derived as shall be agreed upon.

"(4.) That the Military and Naval Defence of Australia shall be entrusted to "Federal Forces, under one command.

"Subject

"Subject to these and other necessary conditions, this Convention approves of the "framing of a Federal Constitution, which shall establish,—

"(1.) A Parliament, to consist of a Senate and a House of Representatives, the "former consisting of an equal number of members from each Province, to "be elected by a system which shall provide for the retirement of one-third "of the members every years, so securing to the body itself a perpetual "existence combined with definite responsibility to the electors, the latter to "be elected by districts formed on a population basis, and to possess the "sole power of originating and amending all Bills appropriating revenue or "imposing taxation.

"(2.) A Judiciary, consisting of a Federal Supreme Court, which shall constitute "a High Court of Appeal for Australia, under the direct authority of the "Sovereign, whose decisions as such shall be final.

"(3.) An Executive, consisting of a Governor-General, and such persons as may "from time to time be appointed as his advisers, such persons sitting in "Parliament, and whose term of office shall depend upon their possessing "the confidence of the House of Representatives expressed by the support "of the majority,"—

The Debate was resumed by Mr. DIBBS.

Sir JAMES LEE-STEERE, Dr. COCKBURN, Mr. BROWN, Mr. WRIXON, and Mr. JOHN FORREST also addressed the Convention.

On motion of Mr. GILLIES, the Debate was adjourned until to-morrow.

ADJOURNMENT.

Sir PATRICK JENNINGS moved, That the Convention do now adjourn.

Question put and passed.

The PRESIDENT thereupon left the Chair at thirteen minutes before five o'clock, and the Convention stood adjourned until to-morrow at eleven o'clock.

HENRY PARKES,

President.

F. W. WEBB,

Secretary to the National Australasian Convention.

THE PROCEEDINGS

OF THE

NATIONAL AUSTRALASIAN CONVENTION.

HELD IN THE PARLIAMENT HOUSE, SYDNEY, NEW SOUTH WALES.

No. 8.

WEDNESDAY, 11TH MARCH, 1891.

Delegates Present:

NEW SOUTH WALES...The Honorable Sir HENRY PARKES, G.C.M.G., M.P., Colonial Secretary and Prime Minister;

The Honorable WILLIAM MCMILLAN, M.P., Colonial Treasurer;

The Honorable JOSEPH PALMER ABBOTT, M.P., Speaker of the Legislative Assembly;

GEORGE RICHARD DIBBS, Esquire, M.P., formerly Colonial Secretary and Prime Minister;

The Honorable WILLIAM HENRY SUTTOR, M.L.C., Vice-President of the Executive Council;

The Honorable Sir PATRICK ALFRED JENNINGS, K.C.M.G., M.L.C., formerly Prime Minister and Colonial Treasurer.

VICTORIA.....The Honorable JAMES MUNRO, M.P., Prime Minister and Treasurer;

The Honorable DUNCAN GILLIES, M.P., formerly Prime Minister and Treasurer;

The Honorable ALFRED DEAKIN, M.P., formerly Chief Secretary;

The Honorable HENRY JOHN WRIXON, Q.C., M.P., formerly Attorney-General;

The Honorable Lieutenant-Colonel WILLIAM COLLARD SMITH, M.P., formerly Minister of Education;

The Honorable HENRY CUTHBERT, M.L.C., formerly Minister of Justice;

The Honorable NICHOLAS FITZGERALD, M.L.C.

QUEENSLAND

QUEENSLAND .....The Honorable Sir THOMAS MCILWRAITH, K.C.M.G., LL.D., M.P., Colonial Treasurer;

The Honorable JOHN MURTAGH MACROSSAN, M.P., formerly Secretary for Mines and Colonial Secretary;

The Honorable ARTHUR RUTLEDGE, M.P., formerly Attorney-General;

The Honorable THOMAS MACDONALD-PATERSON, M.L.C., formerly Postmaster-General;

The Honorable ANDREW JOSEPH THYNNE, M.L.C., formerly Minister of Justice;

JOHN DONALDSON, Esquire, M.P., formerly Postmaster-General and Secretary for Public Instruction.

SOUTH AUSTRALIA.....The Honorable THOMAS PLAYFORD, M.P., Treasurer and Prime Minister;

The Honorable Sir JOHN COX BRAY, K.C.M.G., M.P., Chief Secretary;

JOHN ALEXANDER COCKBURN, Esquire, M.D., M.P., formerly Prime Minister and Chief Secretary;

The Honorable Sir JOHN WILLIAM DOWNER, K.C.M.G., Q.C., M.P., formerly Prime Minister;

The Honorable CHARLES CAMERON KINGSTON, Q.C., M.P., formerly Attorney-General;

The Honorable JOHN HANNAH GORDON, M.L.C., formerly Minister of Education and of the Northern Territory;

The Honorable RICHARD CHAFFEY BAKER, C.M.G., M.L.C., formerly Attorney-General and Minister of Justice.

TASMANIA .....The Honorable PHILIP OAKLEY FYSH, M.L.C., Prime Minister and Chief Secretary;

The Honorable BOLTON STAFFORD BIRD, M.H.A., Treasurer;

The Honorable ANDREW INGLIS CLARK, M.H.A., Attorney-General;

The Honorable WILLIAM MOORE, President of the Legislative Council;

The Honorable ADYE DOUGLAS, M.L.C., formerly Chief Secretary and Prime Minister;

The Honorable WILLIAM HENRY BURGESS, M.H.A., formerly Treasurer;

The Honorable NICHOLAS JOHN BROWN, M.H.A., formerly Minister of Lands and Works.

NEW ZEALAND .....Sir HARRY ALBERT ATKINSON, K.C.M.G., Speaker of the Legislative Council, late Prime Minister and Colonial Treasurer;

Captain WILLIAM RUSSELL RUSSELL, M.H.R., formerly Colonial Secretary and Minister of Justice and Defence.

WESTERN AUSTRALIA..The Honorable JOHN FORREST, C.M.G., M.P., Prime Minister and Treasurer;

The Honorable WILLIAM EDWARD MARMION, M.P., Commissioner of Crown Lands;

The Honorable Sir JAMES GEORGE LEE-STEERE, Kt., M.P., Speaker of the Legislative Assembly;

The Honorable JOHN ARTHUR WRIGHT, M.L.C.;

The Honorable JOHN WINTHROP HACKETT, M.L.C.;

ALEXANDER FORREST, Esquire, M.P.;

WILLIAM THORLEY LOTON, Esquire, M.P.

The PRESIDENT took the Chair, pursuant to adjournment.

FEDERAL CONSTITUTION.

On the Order of the Day being read by the Secretary for the resumption of the adjourned Debate, on the motion of Sir HENRY PARKES,—

"That in order to establish and secure an enduring foundation for the structure "of a Federal Government, the principles embodied in the Resolutions "following be agreed to :—

"(1.) That the powers and privileges and territorial rights of the several existing "Colonies shall remain intact, except in respect to such surrenders as may "be agreed upon as necessary and incidental to the power and authority of "the National Federal Government.

"(2.) That the trade and intercourse between the Federated Colonies, whether "by means of land carriage or coastal navigation, shall be absolutely free.

"(3.) That the power and authority to impose Customs duties shall be "exclusively lodged in the Federal Government and Parliament, subject "to such disposal of the revenues thence derived as shall be agreed upon.

"(4.) That the Military and Naval Defence of Australia shall be entrusted to "Federal Forces, under one command.

"Subject to these and other necessary conditions, this Convention approves of the "framing of a Federal Constitution, which shall establish,—

"(1.) A Parliament, to consist of a Senate and a House of Representatives, the "former consisting of an equal number of members from each Province, to "be elected by a system which shall provide for the retirement of one-third "of the members every years, so securing to the body itself a perpetual "existence combined with definite responsibility to the electors, the latter to "be elected by districts formed on a population basis, and to possess the "sole power of originating and amending all Bills appropriating revenue "or imposing taxation.

"(2.) A Judiciary, consisting of a Federal Supreme Court, which shall constitute "a High Court of Appeal for Australia, under the direct authority of the "Sovereign, whose decisions as such shall be final.

"(3.) An Executive, consisting of a Governor-General, and such persons as may "from time to time be appointed as his advisers, such persons sitting in "Parliament, and whose term of office shall depend upon their possessing "the confidence of the House of Representatives expressed by the support "of the majority,"—

The Debate was resumed by Mr. GILLIES.

Mr. CLARK and Sir JOHN BRAY also addressed the Convention.

On motion of Mr. MCMILLAN, the Debate was adjourned until to-morrow.

ADJOURNMENT.

Mr. McMILLAN moved, That the Convention do now adjourn.

And Mr. MUNRO, Sir JOHN BRAY, and Mr. JOHN FORREST having addressed the Convention,—

The Question was put and passed.

The PRESIDENT thereupon left the Chair at three minutes before four o'clock, and the Convention stood adjourned until to-morrow at eleven o'clock.

HENRY PARKES,
President.

F. W. WEBB,
Secretary to the National Australasian Convention.

THE PROCEEDINGS

OF THE

NATIONAL AUSTRALASIAN CONVENTION.

HELD IN THE PARLIAMENT HOUSE, SYDNEY, NEW SOUTH WALES.

No. 9.

THURSDAY, 12TH MARCH, 1891.

Delegates Present:

NEW SOUTH WALES...The Honorable Sir HENRY PARKES, G.C.M.G., M.P., Colonial Secretary and Prime Minister;

The Honorable WILLIAM MCMILLAN, M.P., Colonial Treasurer;

The Honorable JOSEPH PALMER ABBOTT, M.P., Speaker of the Legislative Assembly;

GEORGE RICHARD DIBBS, Esquire, M.P., formerly Colonial Secretary and Prime Minister;

The Honorable WILLIAM HENRY SUTTOR, M.L.C., Vice-President of the Executive Council;

The Honorable Sir PATRICK ALFRED JENNINGS, K.C.M.G., M.L.C., formerly Prime Minister and Colonial Treasurer.

VICTORIA.....The Honorable JAMES MUNRO, M.P., Prime Minister and Treasurer;

The Honorable DUNCAN GILLIES, M.P., formerly Prime Minister and Treasurer;

The Honorable ALFRED DEAKIN, M.P., formerly Chief Secretary;

The Honorable HENRY JOHN WRIXON, Q.C., M.P., formerly Attorney-General;

The Honorable Lieutenant-Colonel WILLIAM COLLARD SMITH, M.P., formerly Minister of Education;

The Honorable HENRY CUTHBERT, M.L.C., formerly Minister of Justice;

The Honorable NICHOLAS FITZGERALD, M.L.C.

QUEENSLAND

QUEENSLAND .....The Honorable Sir SAMUEL WALKER GRIFFITH, K.C.M.G., Q.C., M.P., Chief Secretary and Prime Minister;

The Honorable Sir THOMAS MCILWRAITH, K.C.M.G., LL.D., M.P., Colonial Treasurer;

The Honorable JOHN MURTAGH MACROSSAN, M.P., formerly Secretary for Mines and Colonial Secretary;

The Honorable ARTHUR RUTLEDGE, M.P., formerly Attorney-General;

The Honorable THOMAS MACDONALD-PATERSON, M.L.C., formerly Postmaster-General;

The Honorable ANDREW JOSEPH THYNNE, M.L.C., formerly Minister of Justice;

JOHN DONALDSON, Esquire, M.P., formerly Postmaster-General and Secretary for Public Instruction.

SOUTH AUSTRALIA.....The Honorable THOMAS PLAYFORD, M.P., Treasurer and Prime Minister;

The Honorable Sir JOHN COX BRAY, K.C.M.G., M.P., Chief Secretary;

JOHN ALEXANDER COCKBURN, Esquire, M.D., M.P., formerly Prime Minister and Chief Secretary;

The Honorable Sir JOHN WILLIAM DOWNER, K.C.M.G., Q.C., M.P., formerly Prime Minister;

The Honorable CHARLES CAMERON KINGSTON, Q.C., M.P., formerly Attorney-General;

The Honorable JOHN HANNAH GORDON, M.L.C., formerly Minister of Education and of the Northern Territory;

The Honorable RICHARD CHAFFEY BAKER, C.M.G., M.L.C., formerly Attorney-General and Minister of Justice.

TASMANIA .....The Honorable PHILIP OAKLEY FYSH, M.L.C., Prime Minister and Chief Secretary;

The Honorable BOLTON STAFFORD BIRD, M.H.A., Treasurer;

The Honorable ANDREW INGLIS CLARK, M.H.A., Attorney-General;

The Honorable WILLIAM MOORE, President of the Legislative Council;

The Honorable ADYE DOUGLAS M.L.C., formerly Chief Secretary and Prime Minister;

The Honorable WILLIAM HENRY BURGESS, M.H.A., formerly Treasurer;

The Honorable NICHOLAS JOHN BROWN, M.H.A., formerly Minister of Lands and Works.

NEW ZEALAND .....Sir GEORGE GREY, K.C.B., formerly Governor, and more recently Prime Minister;

Sir HARRY ALBERT ATKINSON, K.C.M.G., Speaker of the Legislative Council, late Prime Minister and Colonial Treasurer;

Captain WILLIAM RUSSELL RUSSELL, M.H.R., formerly Colonial Secretary and Minister of Justice and Defence.

WESTERN AUSTRALIA..The Honorable JOHN FORREST, C.M.G., M.P., Prime Minister and Treasurer;

The Honorable WILLIAM EDWARD MARMION, M.P., Commissioner of Crown Lands;

The Honorable Sir JAMES GEORGE LEE-STEERE, Kt., M.P., Speaker of the Legislative Assembly;

The Honorable JOHN ARTHUR WRIGHT, M.L.C.;

The Honorable JOHN WINTHROP HACKETT, M.L.C.;

ALEXANDER FORREST, Esquire, M.P.;

WILLIAM THORLEY LOTON, Esquire, M.P.

The PRESIDENT took the Chair, pursuant to adjournment.

TELEGRAM FROM THE MAYOR OF WARRNAMBOOL.

The Secretary, by direction of the President, read to the Convention the following telegram from the Mayor of Warrnambool:—

"Warrnambool, 7 March.

"Addressed to Sir Henry Parkes, President, Federal Convention, Sydney.

"Meeting citizens held here yesterday, at which suggestion partly supported "that Warrnambool excellently situated for being seat of Federal Parliament, "and respectfully solicit support of assembled Convention.

"JNO. HYLAND,
"Mayor."

FEDERAL CONSTITUTION.

On the Order of the Day being read by the Secretary for the resumption of the adjourned Debate, on the motion of Sir HENRY PARKES,—

"That in order to establish and secure an enduring foundation for the structure "of a Federal Government, the principles embodied in the Resolutions "following be agreed to:—

"(1.) That the powers and privileges and territorial rights of the several existing Colonies shall remain intact, except in respect to such surrenders as "may be agreed upon as necessary and incidental to the power and "authority of the National Federal Government.

"(2.) That the trade and intercourse between the Federated Colonies, whether "by means of land carriage or coastal navigation, shall be absolutely free.

"(3.) That the power and authority to impose Customs duties shall be exclusively lodged in the Federal Government and Parliament, subject to "such disposal of the revenues thence derived as shall be agreed upon.

"(4.) That the Military and Naval Defence of Australia shall be entrusted to "Federal Forces, under one command.

"Subject to these and other necessary conditions, this Convention approves of the "framing of a Federal Constitution, which shall establish,—

"(1.) A Parliament, to consist of a Senate and a House of Representatives, the "former consisting of an equal number of members from each Province, to "be elected by a system which shall provide for the retirement of one-third "of the members every years, so securing to the body itself a perpetual "existence combined with definite responsibility to the electors; the latter "to be elected by districts formed on a population basis, and to possess the "sole power of originating and amending all Bills appropriating revenue "or imposing taxation.

"(2.) A Judiciary, consisting of a Federal Supreme Court, which shall constitute "a High Court of Appeal for Australia, under the direct authority of the "Sovereign, whose decisions as such shall be final.

"(3.) An Executive, consisting of a Governor-General, and such persons as may "from time to time be appointed as his advisers, such persons sitting in "Parliament, and whose term of office shall depend upon their possessing "the confidence of the House of Representatives expressed by the support "of the majority,"—

The Debate was resumed by Mr. MCMILLAN. Mr.

Mr. HACKETT, Mr. MOORE, Mr. CUTHBERT, Mr. DOUGLAS, Mr. J. P. ABBOTT, Mr. W. H. SUTTOR, and Mr. DONALDSON also addressed the Convention.

The PRESIDENT stated that he understood that no other Delegate was desirous of addressing the Convention on this subject, he would therefore reply to-morrow morning, if that privilege were granted to him. He also stated that he intended, if the Convention approved, to treat the Resolutions as if they were a Bill at the second reading stage, after which they would be considered in detail in Committee of the Whole,—and no objection being taken,—

On motion of Mr. MACDONALD-PATERSON, the Debate was adjourned until to-morrow.

ADJOURNMENT.

Mr. MCMILLAN moved, That the Convention do now adjourn.

Question put and passed.

The PRESIDENT thereupon left the Chair at four minutes before five o'clock, and the Convention stood adjourned until to-morrow at eleven o'clock.

HENRY PARKES,
President.

F. W. WEBB,
Secretary to the National Australasian Convention.

THE PROCEEDINGS

OF THE

NATIONAL AUSTRALASIAN CONVENTION.

HELD IN THE PARLIAMENT HOUSE, SYDNEY, NEW SOUTH WALES.

No. 10.

FRIDAY, 13TH MARCH, 1891.

Delegates Present:

NEW SOUTH WALES ...The Honorable Sir HENRY PARKES, G.C.M.G., M.P., Colonial Secretary and Prime Minister;

The Honorable WILLIAM MCMILLAN, M.P., Colonial Treasurer;

The Honorable JOSEPH PALMER ABBOTT, M.P., Speaker of the Legislative Assembly;

GEORGE RICHARD DIBBS, Esquire, M.P., formerly Colonial Secretary and Prime Minister;

The Honorable WILLIAM HENRY SUTTOR, M.L.C., Vice-President of the Executive Council;

The Honorable EDMUND BARTON, Q.C., M.L.C., formerly Speaker;

The Honorable Sir PATRICK ALFRED JENNINGS, K.C.M.G., M.L.C., formerly Prime Minister and Colonial Treasurer.

VICTORIA.....The Honorable JAMES MUNRO, M.P., Prime Minister and Treasurer;

The Honorable DUNCAN GILLIES, M.P., formerly Prime Minister and Treasurer;

The Honorable ALFRED DEAKIN, M.P., formerly Chief Secretary;

The Honorable HENRY JOHN WRIXON, Q.C., M.P., formerly Attorney-General;

The Honorable Lieutenant-Colonel WILLIAM COLLARD SMITH, M.P., formerly Minister of Education;

The Honorable NICHOLAS FITZGERALD, M.L.C.

QUEENSLAND .....The Honorable Sir SAMUEL WALKER GRIFFITH, K.C.M.G., Q.C., M.P., Chief Secretary and Prime Minister;

The Honorable Sir THOMAS MCILWRAITH, K.C.M.G., LL.D., M.P., Colonial Treasurer;

The Honorable JOHN MURTAGH MACROSSAN, M.P., formerly Secretary for Mines and Colonial Secretary;

The Honorable ARTHUR RUTLEDGE, M.P., formerly Attorney-General;

The Honorable THOMAS MACDONALD-PATERSON, M.L.C., formerly Postmaster-General;

The Honorable ANDREW JOSEPH THYNNE, M.L.C., formerly Minister of Justice;

JOHN DONALDSON, Esquire, M.P., formerly Postmaster-General and Secretary for Public Instruction.

SOUTH AUSTRALIA .....The Honorable THOMAS PLAYFORD, M.P., Treasurer and Prime Minister;

The Honorable Sir JOHN COX BRAY, K.C.M.G., M.P., Chief Secretary;

JOHN ALEXANDER COCKBURN, Esquire, M.D., M.P., formerly Prime Minister and Chief Secretary;

The Honorable Sir JOHN WILLIAM DOWNER, K.C.M.G., Q.C., M.P., formerly Prime Minister;

The Honorable CHARLES CAMERON KINGSTON, Q.C., M.P., formerly Attorney-General;

The Honorable JOHN HANNAH GORDON, M.L.C., formerly Minister of Education and of the Northern Territory;

The Honorable RICHARD CHAFFEY BAKER, C.M.G., M.L.C., formerly Attorney-General and Minister of Justice.

TASMANIA .....The Honorable PHILIP OAKLEY FYSH, M.L.C., Prime Minister and Chief Secretary;

The Honorable ANDREW INGLIS CLARK, M.H.A., Attorney-General;

The Honorable WILLIAM MOORE, President of the Legislative Council;

The Honorable ADYE DOUGLAS, M.L.C., formerly Chief Secretary and Prime Minister;

The Honorable WILLIAM HENRY BURGESS, M.H.A., formerly Treasurer;

The Honorable NICHOLAS JOHN BROWN, M.H.A., formerly Minister of Lands and Works.

NEW ZEALAND .....Sir GEORGE GREY, K.C.B., formerly Governor, and more recently Prime Minister;

Sir HARRY ALBERT ATKINSON, K.C.M.G., Speaker of the Legislative Council, late Prime Minister and Colonial Treasurer;

Captain WILLIAM RUSSELL RUSSELL, M.H.R., formerly Colonial Secretary and Minister of Justice and Defence.

WESTERN AUSTRALIA ..The Honorable JOHN FORREST, C.M.G., M.P., Prime Minister and Treasurer;

The Honorable WILLIAM EDWARD MARMION, M.P., Commissioner of Crown Lands;

The Honorable Sir JAMES GEORGE LEE-STEERE, Kt., M.P., Speaker of the Legislative Assembly;

The Honorable JOHN ARTHUR WRIGHT, M.L.C.;

The Honorable JOHN WINTHROP HACKETT, M.L.C.;

ALEXANDER FORREST, Esquire, M.P.;

WILLIAM THORLEY LOTON, Esquire, M.P.

The VICE-PRESIDENT took the Chair, pursuant to adjournment.

CHAIRMAN OF COMMITTEES OF THE WHOLE.

Mr. MUNRO, *by consent* moved, without notice, That the Honorable Joseph Palmer Abbott be Chairman of Committees of the Whole Convention.

The motion having been seconded by Mr. W. H. SUTTOR, was put and carried unanimously.

CONGRATULATORY TELEGRAM.

The Secretary, by direction of the VICE-PRESIDENT, read to the Convention the following telegram from the President of the United Benefit Friendly Societies' Council at Broken Hill:—

"Telegram from Broken Hill, 12th March, 3·5 p.m., addressed to President
"Federal Convention, Sydney.

"Accept congratulations of United Benefit Friendly Societies Council on "Federation movement.

"JNO. PEDLER,
"President."

FEDERAL CONSTITUTION.

On the Order of the Day being read by the Secretary for the resumption of the adjourned Debate, on the motion of Sir HENRY PARKES,—

"That in order to establish and secure an enduring foundation for the structure "of a Federal Government, the principles embodied in the Resolutions "following be agreed to:—

"(1.) That the powers and privileges and territorial rights of the several existing "Colonies shall remain intact, except in respect to such surrenders as may "be agreed upon as necessary and incidental to the power and authority of "the National Federal Government.

"(2.) That the trade and intercourse between the Federated Colonies, whether "by means of land carriage or coastal navigation, shall be absolutely free.

"(3.) That the power and authority to impose Customs duties shall be "exclusively lodged in the Federal Government and Parliament, subject "to such disposal of the revenues thence derived as shall be agreed upon.

"(4.) That the Military and Naval Defence of Australia shall be entrusted to "Federal Forces, under one command.

"Subject to these and other necessary conditions, this Convention approves of the "framing of a Federal Constitution, which shall establish,—

"(1.) A Parliament, to consist of a Senate and a House of Representatives, the "former consisting of an equal number of members from each Province, to "be elected by a system which shall provide for the retirement of one-third "of the members every years, so securing to the body itself a perpetual "existence combined with definite responsibility to the electors, the latter to "be elected by districts formed on a population basis, and to possess the "sole power of originating and amending all Bills appropriating revenue or "imposing taxation.

"(2.)

"(2.) A Judiciary, consisting of a Federal Supreme Court, which shall constitute "a High Court of Appeal for Australia, under the direct authority of the "Sovereign, whose decisions as such shall be final.

"(3.) An Executive, consisting of a Governor-General and such persons as may "from time to time be appointed as his advisers, such persons sitting in "Parliament, and whose term of office shall depend upon their possessing "the confidence of the House of Representatives expressed by the support "of the majority,"—

Sir HENRY PARKES was heard in reply.

Sir HENRY PARKES then moved, That the Convention do now resolve itself into a Committee of the Whole to consider the Resolutions in detail.

Question put and passed.

Whereupon, on motion of Mr. MCMILLAN, the Vice-President left the Chair, and the Convention resolved itself into a Committee of the Whole accordingly.

In Committee of the Whole :—

The Honorable J. P. ABBOTT in the Chair.

Preamble :—

That in order to establish and secure an enduring foundation for the structure of a Federal Government, the principles embodied in the Resolutions following be agreed to,—

postponed.

Resolution (1) proposed as follows :—

(1.) That the powers and privileges and territorial rights of the several existing Colonies shall remain intact, except in respect to such surrenders as may be agreed upon as necessary and incidental to the power and authority of the National Federal Government.

Debate ensued.

Resolution as proposed put and agreed to.

Mr. BARTON moved, That the following stand as Resolution (2) :—

(2.) No new State shall be formed by separation from another State, nor shall any State be formed by the junction of two or more States or parts of States without the consent of the Legislatures of the States concerned as well as of the Federal Parliament.

And objection being taken to the reception of a new Resolution at this stage,—

The CHAIRMAN, basing his ruling on the usual Parliamentary practice, upheld the objection, and stated that new resolutions could not be proposed until after those now under consideration had been disposed of.

Resolution (2) proposed as follows :—

(2.) That the trade and intercourse between the Federated Colonies, whether by means of land carriage or coastal navigation, shall be absolutely free.

On motion of Mr. DEAKIN, *by consent*, the Resolution was *postponed*, until after Resolution (3.)

Resolution (3) proposed as follows :—

(3.) That the power and authority to impose "Customs" duties shall be exclusively lodged in the Federal Government and Parliament, subject to such disposal of the revenues thence derived as shall be agreed upon.

Mr. DEAKIN moved the insertion after the word "Customs" of the words "and Excise."

Debate ensued.

On

On motion of Mr. DONALDSON the CHAIRMAN left the Chair to report progress, and ask leave to sit again on Monday.

The VICE-PRESIDENT resumed the Chair, and the CHAIRMAN OF COMMITTEES reported progress and obtained leave to sit again on Monday next.

ADJOURNMENT.

Sir PATRICK JENNINGS moved, That the Convention do now adjourn.

Question put and passed.

The VICE-PRESIDENT thereupon left the Chair at twenty minutes before five o'clock, and the Convention stood adjourned until Monday next at eleven o'clock.

HENRY PARKES,
President.

F. W. WEBB,
Secretary to the National Australasian Convention.

THE PROCEEDINGS

OF THE

NATIONAL AUSTRALASIAN CONVENTION.

HELD IN THE PARLIAMENT HOUSE, SYDNEY, NEW SOUTH WALES.

No. II.

MONDAY, 16TH MARCH, 1891.

Delegates Present:

NEW SOUTH WALES...The Honorable Sir HENRY PARKES, G.C.M.G., M.P., Colonial Secretary and Prime Minister;

The Honorable WILLIAM MCMILLAN, M.P., Colonial Treasurer;

The Honorable JOSEPH PALMER ABBOTT, M.P., Speaker of the Legislative Assembly;

GEORGE RICHARD DIBBS, Esquire, M.P., formerly Colonial Secretary and Prime Minister;

The Honorable WILLIAM HENRY SUTTOR, M.L.C., Vice-President of the Executive Council;

The Honorable EDMUND BARTON, Q.C., M.L.C., formerly Speaker;

The Honorable Sir PATRICK ALFRED JENNINGS, K.C.M.G., M.L.C., formerly Prime Minister and Colonial Treasurer.

VICTORIA.....The Honorable JAMES MUNRO, M.P., Prime Minister and Treasurer;

The Honorable DUNCAN GILLIES, M.P., formerly Prime Minister and Treasurer;

The Honorable ALFRED DEAKIN, M.P., formerly Chief Secretary;

The Honorable HENRY JOHN WRIXON, Q.C., M.P., formerly Attorney-General;

The Honorable Lieutenant-Colonel WILLIAM COLLARD SMITH, M.P., formerly Minister of Education;

The Honorable HENRY CUTHBERT, M.L.C., formerly Minister of Justice;

The Honorable NICHOLAS FITZGERALD, M.L.C.

QUEENSLAND

QUEENSLAND .....The Honorable Sir SAMUEL WALKER GRIFFITH, K.C.M.G., Q.C., M.P., Chief Secretary and Prime Minister;

The Honorable Sir THOMAS MCILWRAITH, K.C.M.G., LL.D., M.P., Colonial Treasurer;

The Honorable JOHN MURTAGH MACROSSAN, M.P., formerly Secretary for Mines and Colonial Secretary;

The Honorable ARTHUR RUTLEDGE, M.P., formerly Attorney-General;

The Honorable THOMAS MACDONALD-PATERSON, M.L.C., formerly Postmaster-General;

The Honorable ANDREW JOSEPH THYNNE, M.L.C., formerly Minister of Justice;

JOHN DONALDSON, Esquire, M.P., formerly Postmaster-General and Secretary for Public Instruction.

SOUTH AUSTRALIA.....The Honorable THOMAS PLAYFORD, M.P., Treasurer and Prime Minister;

The Honorable Sir JOHN COX BRAY, K.C.M.G., M.P., Chief Secretary;

JOHN ALEXANDER COCKBURN, Esquire, M.D., M.P., formerly Prime Minister and Chief Secretary;

The Honorable Sir JOHN WILLIAM DOWNER, K.C.M.G., Q.C., M.P., formerly Prime Minister;

The Honorable CHARLES CAMERON KINGSTON, Q.C., M.P., formerly Attorney-General;

The Honorable JOHN HANNAH GORDON, M.L.C., formerly Minister of Education and of the Northern Territory;

The Honorable RICHARD CHAFFEY BAKER, C.M.G., M.L.C., formerly Attorney-General and Minister of Justice.

TASMANIA .....The Honorable PHILIP OAKLEY FYSH, M.L.C., Prime Minister and Chief Secretary;

The Honorable ANDREW INGLIS CLARK, M.H.A., Attorney-General;

The Honorable WILLIAM MOORE, President of the Legislative Council;

The Honorable ADYE DOUGLAS, M.L.C., formerly Chief Secretary and Prime Minister;

The Honorable WILLIAM HENRY BURGESS, M.H.A., formerly Treasurer.

NEW ZEALAND .....Sir GEORGE GREY, K.C.B., formerly Governor, and more recently Prime Minister;

Sir HARRY ALBERT ATKINSON, K.C.M.G., Speaker of the Legislative Council, late Prime Minister and Colonial Treasurer;

Captain WILLIAM RUSSELL RUSSELL, M.H.R., formerly Colonial Secretary and Minister of Justice and Defence.

WESTERN

WESTERN AUSTRALIA..The Honorable JOHN FORREST, C.M.G., M.P., Prime Minister and Treasurer;

The Honorable WILLIAM EDWARD MARMION, M.P., Commissioner of Crown Lands;

The Honorable Sir JAMES GEORGE LEE-STEERE, Kt., M.P., Speaker of the Legislative Assembly;

The Honorable JOHN ARTHUR WRIGHT, M.L.C.;

The Honorable JOHN WINTHROP HACKETT, M.L.C.;

ALEXANDER FORREST, Esquire, M.P.;

WILLIAM THORLEY LOTON, Esquire, M.P.

The PRESIDENT took the Chair, pursuant to adjournment.

LETTER FROM THE CHAMBER OF COMMERCE, MELBOURNE.

The Secretary, by direction of the President, read to the Convention the following letter from the Chamber of Commerce, Melbourne:—

"57, Queen-street, Melbourne, 13 March, 1891.

"To the Hon. the President of the Federal Convention of Australasia, Sydney,—

"Sir,

"We have the honor, on behalf and at the request of the Members "of Council of the Melbourne Chamber of Commerce, to tender to the "Members of the Convention the assurance of the profound sense entertained "by the mercantile community of Melbourne of the importance attaching to "the deliberations of the Convention, and of their far-reaching consequences.

"The Members of the Chamber trust that the Convention will be influenced "and guided by wise and patriotic counsels, and that on all the great issues "which will come under their consideration the conclusions arrived at may "tend to the consolidation of Australasian interests, the fuller development of "our varied resources, and the firmer foundation of all the institutions of our "civilization on a national basis, in harmony amongst ourselves as Colonies, and "always in truest touch with the heart of the great British Empire.

"We have the honor to be,

"Sir,

"Your obedient servants,

"HENRY G. TURNER,

"President.

"C. HALLETT,

"Secretary."

FEDERAL CONSTITUTION.

On the Order of the Day being read by the Secretary for the further consideration in Committee of the Whole of the following Resolutions,—

"That in order to establish and secure an enduring foundation for the structure "of a Federal Government, the principles embodied in the Resolutions "following be agreed to:—

"(1.) That the powers and privileges and territorial rights of the several existing "Colonies shall remain intact, except in respect to such surrenders as may "be agreed upon as necessary and incidental to the power and authority of "the National Federal Government.

"(2.) That the trade and intercourse between the Federated Colonies, whether "by means of land carriage or coastal navigation, shall be absolutely free.

"(3.) That the power and authority to impose Customs duties shall be "exclusively lodged in the Federal Government and Parliament, subject "to such disposal of the revenues thence derived as shall be agreed upon.

"(4.) That the Military and Naval Defence of Australia shall be entrusted to "Federal Forces, under one command.

"Subject

"Subject to these and other necessary conditions, this Convention approves of the "framing of a Federal Constitution, which shall establish,—

"(1.) A Parliament, to consist of a Senate and a House of Representatives, the "former consisting of an equal number of members from each Province, to "be elected by a system which shall provide for the retirement of one-third "of the members every years, so securing to the body itself a perpetual "existence combined with definite responsibility to the electors, the latter to "be elected by districts formed on a population basis, and to possess the "sole power of originating and amending all Bills appropriating revenue "or imposing taxation.

"(2.) A Judiciary, consisting of a Federal Supreme Court, which shall constitute "a High Court of Appeal for Australia, under the direct authority of the "Sovereign, whose decisions as such shall be final.

"(3.) An Executive, consisting of a Governor-General, and such persons as may "from time to time be appointed as his advisers, such persons sitting in "Parliament, and whose term of office shall depend upon their possessing "the confidence of the House of Representatives expressed by the support "of the majority,"—

The PRESIDENT left the Chair, and the Convention resolved itself into a Committee of the Whole for such further consideration of the Resolutions.

In Committee of the Whole :—

The Honorable J. P. ABBOTT in the Chair.

Question again stated, that the Resolution (3), as read, be agreed to,—

(3.) "That" "the power and authority to impose "Customs" "duties" shall be exclusively lodged in the Federal Government and Parliament, subject to such disposal of the revenues thence derived as shall be agreed upon,—

upon which Mr. DEAKIN had moved the insertion after the word "Customs" of the words "and Excise."

Question again proposed,—That the words proposed to be inserted be so inserted.

Mr. DEAKIN, by leave, withdrew his proposed amendment.

Mr. GORDON then moved, That all the words after the first word "That" be omitted, with a view to the insertion in their place of the words "the following "Resolutions with reference to the trade and commerce of the Federated Colonies be "agreed to :—

"(1.) That the Customs duties imposed by the Federated Colonies upon goods im- "ported from places outside such Colonies shall be uniform, and shall be "fixed by the Federal Government, and that such Excise duties as may be "agreed upon shall be similarly fixed.

"(2.) That trade between the Federated Colonies shall be absolutely free.

"(3.) That all bounties for manufacture or production shall be offered only by "the Federal Parliament, and that all bounties now offered by any of the "Federated Colonies for manufacture or production shall be withdrawn.

"(4.) That upon all railway lines, which in the opinion of the Federal Govern- "ment are lines affecting trade between any two or more of the Federated "Colonies, a uniform charge for carriage to be fixed by the Federal Govern- "ment shall prevail.

"(5.) That the expenses of the Federal Government shall be apportioned "annually between the Colonies, in proportion to their respective popula- "tions."

Debate ensued.

Mr. GORDON, by leave, withdrew his proposed amendment.

Mr. DEAKIN then moved the insertion after the word "duties" of the words "and duties of Excise upon goods the subject of Customs duties"

Amendment agreed to.

Mr.

Mr. GORDON moved the insertion after the last amendment of the words "and to offer bounties."

Amendment agreed to.

Resolution, as amended,—

(3.) That the power and authority to impose Customs duties and duties of Excise upon goods the subject of Customs duties, and to offer bounties, shall be exclusively lodged in the Federal Government and Parliament, subject to such disposal of the revenues thence derived as shall be agreed upon,—

then put and agreed to.

Resolution (2), *as postponed*, again proposed, as follows :—

(2.) That the trade and intercourse between the Federated Colonies, whether by means of land carriage or coastal navigation, shall be absolutely free.

Resolution, as proposed, put and agreed to.

Resolution (4) proposed, as follows :—

(4.) That the Military and Naval Defence of Australia shall be entrusted to Federal Forces, under one command.

Resolution, as proposed, put and agreed to.

Second Preamble :—

Subject to these and other necessary conditions, this Convention approves of the framing of a Federal Constitution which shall establish,—

put and agreed to.

Resolution (1) proposed, as follows :—

(1.) A Parliament, to consist of "a Senate and a House of Representatives, the former" consisting of an equal number of members from each "Province," to be elected by a system which shall provide for the "retirement" of "one-third" of the members "every years," so securing to the body itself a perpetual existence combined with definite responsibility to the electors, the latter to be elected by districts formed on a population basis, and to possess the sole power of originating "and amending" all Bills appropriating revenue or imposing taxation.

Mr. BAKER moved the omission of the words "a Senate and House of Representatives, the former" with a view to the insertion in their place of the words "two Chambers, the one"

Debate ensued.

Amendment negatived.

Dr. COCKBURN moved the omission of the word "Province," with a view to the insertion in its place of the word "Colony."

Amendment agreed to.

Dr. COCKBURN moved the insertion, before the word "retirement," of the word "periodical."

Amendment agreed to.

Dr. COCKBURN moved the omission of the words "one third," with a view to the insertion of the word "portion."

Amendment negatived.

Mr. BARTON moved the omission of the words "every years."

Amendment agreed to.

Sir JOHN DOWNER moved the omission of the words "and amending."

Debate ensued.

Amendment agreed to.

Sir JOHN DOWNER moved the addition to the Resolution of the following words,—"The 'Senate' to have the power of rejecting in whole or in part any of such last-mentioned Bills."

Debate ensued.

Mr.

Mr. WRIXON moved, That the proposed amendment be amended by omitting all the words after "Senate," with a view to the insertion in their place of the words "shall have equal power with the House of Representatives in respect to all Bills, except money Bills, Bills dealing with Duties of Customs and Excise, and the Annual Appropriation Bill, and these it shall be entitled to reject but not to amend. The Act of Union shall provide that it shall not be lawful to include in the Annual Appropriation Bill any matter or thing other than the Votes of Supply for the ordinary Service of the year."

Debate continued.

On motion of Mr. BARTON, the Chairman left the Chair to report progress, and ask leave to sit again to-morrow.

The PRESIDENT resumed the Chair, and the CHAIRMAN OF COMMITTEES reported progress and obtained leave to sit again to-morrow.

NOTICES OF MOTIONS.

Mr. W. H. SUTTOR gave Notices of Motions for the appointment of certain Committees.

ADJOURNMENT.

Mr. MCMILLAN moved, That the Convention do now adjourn.

Question put and passed.

The PRESIDENT thereupon left the Chair at twenty-five minutes before six o'clock, and the Convention stood adjourned until to-morrow at eleven o'clock.

HENRY PARKES,
President.

F. W. WEBB,
Secretary to the National Australasian Convention.

THE PROCEEDINGS

OF THE

NATIONAL AUSTRALASIAN CONVENTION.

HELD IN THE PARLIAMENT HOUSE, SYDNEY, NEW SOUTH WALES.

No. 12.

TUESDAY, 17TH MARCH, 1891.

Delegates Present:

NEW SOUTH WALES...The Honorable Sir HENRY PARKES, G.C.M.G., M.P., Colonial Secretary and Prime Minister;

The Honorable WILLIAM MCMILLAN, M.P., Colonial Treasurer;

The Honorable JOSEPH PALMER ABBOTT, M.P., Speaker of the Legislative Assembly;

GEORGE RICHARD DIBBS, Esquire, M.P., formerly Colonial Secretary and Prime Minister;

The Honorable WILLIAM HENRY SUTTOR, M.L.C., Vice-President of the Executive Council;

The Honorable EDMUND BARTON, Q.C., M.L.C., formerly Speaker;

The Honorable Sir PATRICK ALFRED JENNINGS, K.C.M.G., M.L.C., formerly Prime Minister and Colonial Treasurer.

VICTORIA.....The Honorable JAMES MUNRO, M.P., Prime Minister and Treasurer;

The Honorable DUNCAN GILLIES, M.P., formerly Prime Minister and Treasurer;

The Honorable ALFRED DEAKIN, M.P., formerly Chief Secretary;

The Honorable HENRY JOHN WRIXON, Q.C., M.P., formerly Attorney-General;

The Honorable Lieutenant-Colonel WILLIAM COLLARD SMITH, M.P., formerly Minister of Education;

The Honorable HENRY CUTHBERT, M.L.C., formerly Minister of Justice;

The Honorable NICHOLAS FITZGERALD, M.L.C.

QUEENSLAND

QUEENSLAND .....The Honorable Sir SAMUEL WALKER GRIFFITH, K.C.M.G., Q.C., M.P., Chief Secretary and Prime Minister;

The Honorable Sir THOMAS MCILWRAITH, K.C.M.G., LL.D., M.P., Colonial Treasurer;

The Honorable JOHN MURTAGH MACROSSAN, M.P., formerly Secretary for Mines and Colonial Secretary;

The Honorable ARTHUR RUTLEDGE, M.P., formerly Attorney-General;

The Honorable THOMAS MACDONALD-PATERSON, M.L.C., formerly Postmaster-General;

The Honorable ANDREW JOSEPH THYNNE, M.L.C., formerly Minister of Justice;

JOHN DONALDSON, Esquire, M.P., formerly Postmaster-General and Secretary for Public Instruction.

SOUTH AUSTRALIA.....The Honorable THOMAS PLAYFORD, M.P., Treasurer and Prime Minister;

The Honorable Sir JOHN COX BRAY, K.C.M.G., M.P., Chief Secretary;

JOHN ALEXANDER COCKBURN, Esquire, M.D., M.P., formerly Prime Minister and Chief Secretary;

The Honorable Sir JOHN WILLIAM DOWNER, K.C.M.G., Q.C., M.P., formerly Prime Minister;

The Honorable CHARLES CAMERON KINGSTON, Q.C., M.P., formerly Attorney-General;

The Honorable JOHN HANNAH GORDON, M.L.C., formerly Minister of Education and of the Northern Territory;

The Honorable RICHARD CHAFFEY BAKER, C.M.G., M.L.C., formerly Attorney-General and Minister of Justice.

TASMANIA .....The Honorable PHILIP OAKLEY FYSH, M.L.C., Prime Minister and Chief Secretary;

The Honorable ANDREW INGLIS CLARK, M.H.A., Attorney-General;

The Honorable WILLIAM MOORE, President of the Legislative Council;

The Honorable ADYE DOUGLAS, M.L.C., formerly Chief Secretary and Prime Minister;

The Honorable WILLIAM HENRY BURGESS, M.H.A., formerly Treasurer.

NEW ZEALAND .....Sir GEORGE GREY, K.C.B., formerly Governor, and more recently Prime Minister;

Sir HARRY ALBERT ATKINSON, K.C.M.G., Speaker of the Legislative Council, late Prime Minister and Colonial Treasurer;

Captain WILLIAM RUSSELL RUSSELL, M.H.R., formerly Colonial Secretary and Minister of Justice and Defence.

WESTERN AUSTRALIA..The Honorable JOHN FORREST, C.M.G., M.P., Prime Minister and Treasurer;

The Honorable WILLIAM EDWARD MARMION, M.P., Commissioner of Crown Lands;

The Honorable Sir JAMES GEORGE LEE-STEERE, Kt., M.P., Speaker of the Legislative Assembly;

The Honorable JOHN ARTHUR WRIGHT, M.L.C.;

The Honorable JOHN WINTHROP HACKETT, M.L.C.;

ALEXANDER FORREST, Esquire, M.P.;

WILLIAM THORLEY LOTON, Esquire, M.P.

The PRESIDENT took the Chair, pursuant to adjournment.

TELEGRAM FROM THE BRISBANE CHAMBER OF COMMERCE.

The Secretary, by direction of the President, read to the Convention the following telegram from the Brisbane Chamber of Commerce :—

Telegram from Brisbane, March 16th, 1891, addressed to Sir S. W. Griffith, Vice-President, Federal Convention, Sydney.

"Copy of Resolutions posted by the Committee of the Brisbane Chamber of "Commerce.

"1. That the Australian Federal Convention now sitting in Sydney is a "marked event in the unfolding of Australian National life.

"2. That 'One People one Destiny' is the ideal of a noble aspiration, "which in the hands of men already distinguished by great public services "inspires a loyal confidence that it will find practical expression in a lasting "Australian Constitution.

"3. That these Resolutions be signed by the Chairman of the Committee, "and transmitted to Sir Samuel W. Griffith, with the request that he will be "good enough to hand them to the veteran statesman and President of the "Convention.

"J. P. DE WINTON,

"Vice-President, Brisbane Chamber of Commerce, and "Chairman of the Committee."

FEDERAL CONSTITUTION.

On the Order of the Day being read by the Secretary for the further consideration in Committee of the Whole of the following Resolutions :—

"That in order to establish and secure an enduring foundation for the structure "of a Federal Government, the principles embodied in the Resolutions "following be agreed to :—

"(1.) That the powers and privileges and territorial rights of the several exist- "ing Colonies shall remain intact, except in respect to such surrenders as "may be agreed upon as necessary and incidental to the power and "authority of the National Federal Government.

"(2.) That the trade and intercourse between the Federated Colonies, whether "by means of land carriage or coastal navigation, shall be absolutely free.

"(3.) That the power and authority to impose Customs duties shall be exclu- "sively lodged in the Federal Government and Parliament, subject to "such disposal of the revenues thence derived as shall be agreed upon.

"(4.) That the Military and Naval Defence of Australia shall be entrusted to "Federal Forces, under one command,

"Subject

"Subject to these and other necessary conditions, this Convention approves of "the framing of a Federal Constitution, which shall establish,—

"(1.) A Parliament, to consist of a Senate and a House of Representatives, the "former consisting of an equal number of members from each Province, to "be elected by a system which shall provide for the retirement of one-third "of the members every years, so securing to the body itself a perpetual "existence combined with definite responsibility to the electors; the latter "to be elected by districts formed on a population basis, and to possess the "sole power of originating and amending all Bills appropriating revenue "or imposing taxation.

"(2.) A Judiciary, consisting of a Federal Supreme Court, which shall constitute "a High Court of Appeal for Australia, under the direct authority of the "Sovereign, whose decisions as such shall be final.

"(3.) An Executive, consisting of a Governor-General, and such persons as may "from time to time be appointed as his advisers, such persons sitting in "Parliament, and whose term of office shall depend upon their possessing "the confidence of the House of Representatives expressed by the support "of the majority,"—

The PRESIDENT left the Chair, and the Convention resolved itself into a Committee of the Whole for such further consideration of the Resolutions.

In Committee of the Whole:—

The Honorable J. P. ABBOTT in the Chair.

Question again stated, that the Resolution (1) as amended be agreed to,—

(1.) A Parliament, to consist of a Senate and a House of Representatives, the former consisting of an equal number of members from each Colony, to be elected by a system which shall provide for the periodical retirement of one-third of the members, so securing to the body itself a perpetual existence combined with definite responsibility to the electors, the latter to be elected by districts formed on a population basis, and to possess the sole power of originating all Bills appropriating revenue or imposing taxation,—

upon which Sir JOHN DOWNER had moved the addition to the Resolution of the following words,—"The 'Senate' to have the power of rejecting in whole or in part any of such last-mentioned Bills,"—

and Mr. WRIXON had moved, That the proposed amendment be amended by omitting all the words after "Senate," with a view to the insertion in their place of the words "shall have equal power with the House of Representatives in respect to all Bills, except money Bills, Bills dealing with Duties of Customs and Excise, and the Annual Appropriation Bill, and these it shall be entitled to reject but not to amend. The Act of Union shall provide that it shall not be lawful to include in the Annual Appropriation Bill any matter or thing other than the Votes of Supply for the ordinary Service of the year."

Question again proposed,—That the words proposed to be omitted stand part of the proposed amendment.

The Debate was resumed.

With the approval of the Convention, the CHAIRMAN left the Chair, which was taken by the Honorable EDMUND BARTON.

The Honorable J. P. ABBOTT resumed the Chair.

Mr. WRIXON, by leave, withdrew his proposed amendment upon Sir John Downer's proposed amendment.

Sir JOHN DOWNER then, by leave, withdrew his proposed amendment.

Resolution,

Resolution, as amended,—

(1.) A Parliament, to consist of a Senate and a House of Representatives, the former consisting of an equal number of members from each Colony, to be elected by a system which shall provide for the periodical retirement of one-third of the members, so securing to the body itself a perpetual existence combined with definite responsibility to the electors, the latter to be elected by districts formed on a population basis, and to possess the sole power of originating all Bills appropriating revenue or imposing taxation,—

then put and agreed to.

Resolution (2) proposed, as follows:—

(2.) A Judiciary, consisting of a Federal Supreme Court, which shall constitute a High Court of Appeal for Australia, under the direct authority of the Sovereign, whose decisions as such shall be final.

On motion of Sir JOHN DOWNER, *by consent*, the Resolution was *postponed* until after Resolution (3).

On motion of Mr. BAKER, the Chairman left the Chair to report progress, and ask leave to sit again to-morrow.

The PRESIDENT resumed the Chair, and the CHAIRMAN OF COMMITTEES reported progress and obtained leave to sit again to-morrow.

NOTICES OF MOTIONS.

Mr. W. H. SUTTOR withdrew his previous Notices of Motions for the appointment of certain Committees, and gave fresh Notices in an amended form.

ADJOURNMENT.

Mr. MCMILLAN moved, That the Convention do now adjourn.

Question put and passed.

The PRESIDENT thereupon left the Chair at fourteen minutes past five o'clock, and the Convention stood adjourned until to-morrow at eleven o'clock.

HENRY PARKES,
President.

F. W. WEBB,
Secretary to the National Australasian Convention.

THE PROCEEDINGS

OF THE

NATIONAL AUSTRALASIAN CONVENTION.

HELD IN THE PARLIAMENT HOUSE, SYDNEY, NEW SOUTH WALES.

No. 13.

WEDNESDAY, 18TH MARCH, 1891.

Delegates Present:

NEW SOUTH WALES ...The Honorable Sir HENRY PARKES, G.C.M.G., M.P., Colonial Secretary and Prime Minister;

The Honorable WILLIAM MCMILLAN, M.P., Colonial Treasurer;

The Honorable JOSEPH PALMER ABBOTT, M.P., Speaker of the Legislative Assembly;

GEORGE RICHARD DIBBS, Esquire, M.P., formerly Colonial Secretary and Prime Minister;

The Honorable WILLIAM HENRY SUTTOR, M.L.C., Vice-President of the Executive Council;

The Honorable EDMUND BARTON, Q.C., M.L.C., formerly Speaker;

The Honorable Sir PATRICK ALFRED JENNINGS, K.C.M.G., M.L.C., formerly Prime Minister and Colonial Treasurer.

VICTORIA.....The Honorable JAMES MUNRO, M.P., Prime Minister and Treasurer;

The Honorable DUNCAN GILLIES, M.P., formerly Prime Minister and Treasurer;

The Honorable ALFRED DEAKIN, M.P., formerly Chief Secretary;

The Honorable HENRY JOHN WRIXON, Q.C., M.P., formerly Attorney-General;

The Honorable Lieutenant-Colonel WILLIAM COLLARD SMITH, M.P., formerly Minister of Education;

The Honorable HENRY CUTHBERT, M.L.C., formerly Minister of Justice;

The Honorable NICHOLAS FITZGERALD, M.L.C.

QUEENSLAND

QUEENSLAND .....The Honorable Sir SAMUEL WALKER GRIFFITH, K.C.M.G., Q.C., M.P., Chief Secretary and Prime Minister;

The Honorable Sir THOMAS MCILWRAITH, K.C.M.G., LL.D., M.P., Colonial Treasurer;

The Honorable JOHN MURTAGH MACROSSAN, M.P., formerly Secretary for Mines and Colonial Secretary;

The Honorable ARTHUR RUTLEDGE, M.P., formerly Attorney-General;

The Honorable THOMAS MACDONALD-PATERSON, M.L.C., formerly Postmaster-General;

The Honorable ANDREW JOSEPH THYNNE, M.L.C., formerly Minister of Justice;

JOHN DONALDSON, Esquire, M.P., formerly Postmaster-General and Secretary for Public Instruction.

SOUTH AUSTRALIA.....The Honorable THOMAS PLAYFORD, M.P., Treasurer and Prime Minister;

The Honorable Sir JOHN COX BRAY, K.C.M.G., M.P., Chief Secretary;

JOHN ALEXANDER COCKBURN, Esquire, M.D., M.P., formerly Prime Minister and Chief Secretary;

The Honorable Sir JOHN WILLIAM DOWNER, K.C.M.G., Q.C., M.P., formerly Prime Minister;

The Honorable CHARLES CAMERON KINGSTON, Q.C., M.P., formerly Attorney-General;

The Honorable JOHN HANNAH GORDON, M.L.C., formerly Minister of Education and of the Northern Territory;

The Honorable RICHARD CHAFFEY BAKER, C.M.G., M.L.C., formerly Attorney-General and Minister of Justice.

TASMANIA .....The Honorable PHILIP OAKLEY FYSH, M.L.C., Prime Minister and Chief Secretary;

The Honorable ANDREW INGLIS CLARK, M.H.A., Attorney-General;

The Honorable WILLIAM MOORE, President of the Legislative Council;

The Honorable ADYE DOUGLAS, M.L.C., formerly Chief Secretary and Prime Minister;

The Honorable WILLIAM HENRY BURGESS, M.H.A., formerly Treasurer.

NEW ZEALAND .....Sir GEORGE GREY, K.C.B., formerly Governor, and more recently Prime Minister;

Sir HARRY ALBERT ATKINSON, K.C.M.G., Speaker of the Legislative Council, late Prime Minister and Colonial Treasurer;

Captain WILLIAM RUSSELL RUSSELL, M.H.R., formerly Colonial Secretary and Minister of Justice and Defence.

WESTERN AUSTRALIA ..The Honorable JOHN FORREST, C.M.G., M.P., Prime Minister and Treasurer;

The Honorable WILLIAM EDWARD MARMION, M.P., Commissioner of Crown Lands;

The Honorable Sir JAMES GEORGE LEE-STEERE, Kt., M.P., Speaker of the Legislative Assembly;

The Honorable JOHN ARTHUR WRIGHT, M.L.C.;

The Honorable JOHN WINTHROP HACKETT, M.L.C.;

ALEXANDER FORREST, Esquire, M.P.;

WILLIAM THORLEY LOTON, Esquire, M.P.

The PRESIDENT took the Chair, pursuant to adjournment.

FEDERAL CONSTITUTION.

On the Order of the Day being read by the Secretary for the further consideration in Committee of the Whole of the following Resolutions:—

"That in order to establish and secure an enduring foundation for the structure "of a Federal Government, the principles embodied in the Resolutions "following be agreed to:—

"(1.) That the powers and privileges and territorial rights of the several existing "Colonies shall remain intact, except in respect to such surrenders as may "be agreed upon as necessary and incidental to the power and authority of "the National Federal Government.

"(2.) That the trade and intercourse between the Federated Colonies, whether "by means of land carriage or coastal navigation, shall be absolutely free.

"(3.) That the power and authority to impose Customs duties shall be "exclusively lodged in the Federal Government and Parliament, subject "to such disposal of the revenues thence derived as shall be agreed upon.

"(4.) That the Military and Naval Defence of Australia shall be entrusted to "Federal Forces, under one command.

"Subject to these and other necessary conditions, this Convention approves of the "framing of a Federal Constitution, which shall establish,—

"(1.) A Parliament, to consist of a Senate and a House of Representatives, the "former consisting of an equal number of members from each Province, to "be elected by a system which shall provide for the retirement of one-third "of the members every . . years, so securing to the body itself a perpetual "existence combined with definite responsibility to the electors, the latter to "be elected by districts formed on a population basis, and to possess the "sole power of originating and amending all Bills appropriating revenue or "imposing taxation.

"(2.) A Judiciary, consisting of a Federal Supreme Court, which shall constitute "a High Court of Appeal for Australia, under the direct authority of the "Sovereign, whose decisions as such shall be final.

"(3.) An Executive, consisting of a Governor-General and such persons as may "from time to time be appointed as his advisers, such persons sitting in "Parliament, and whose term of office shall depend upon their possessing "the confidence of the House of Representatives expressed by the suppor "of the majority,"—

The PRESIDENT left the Chair, and the Convention resolved itself into a Committee of the Whole for such further consideration of the Resolutions.

In

In Committee of the Whole :—

The Honorable J. P. ABBOTT in the Chair.

Resolution (3) proposed, as follows :—

(3.) An Executive, consisting of a Governor-General, and such persons as may from time to time be appointed as his "advisers," such persons sitting in Parliament, and whose term of office shall depend upon their possessing the confidence of the House of Representatives expressed by the support of the majority.

Mr. BAKER moved the omission of all the words after the word "advisers"

Debate ensued.

Amendment agreed to.

Resolution, as amended,—

(3.) An Executive, consisting of a Governor-General, and such persons as may from time to time be appointed as his advisers.

then put and agreed to.

Resolution (2), *as postponed*, again proposed, as follows :—

(2.) A Judiciary, consisting of a Federal Supreme Court, which shall constitute a High Court of Appeal for "Australia" under the direct authority of the Sovereign, whose decisions as such shall be final.

Mr. WRIXON moved the omission of all the words after the word "Australia"

Debate ensued.

Amendment agreed to.

Resolution, as amended,—

(2.) A Judiciary, consisting of a Federal Supreme Court, which shall constitute a High Court of Appeal for Australia.

then put and agreed to.

Mr. BARTON moved the following, to stand as Resolution (2) :—

(2.) No new State shall be formed by separation from another State, nor shall any State be formed by the junction of two or more States or parts of States, without the consent of the Legislatures of the States concerned, as well as of the Federal Parliament.

Debate ensued.

Resolution, as proposed, put and agreed to.

Sir GEORGE GREY moved the following new Resolution, to follow Resolution (4) :—

The inhabitants of each of the States of Federated Australasia ought to be allowed to choose, and if they see fit from time to time to vary, the form of State Government under which they desire to live. Provision should therefore be made in the Federal Constitution which will enable the people of each State to adopt, by the vote of the majority of voters, their own form of State Constitution.

Sir HENRY PARKES submitted, as a *point of order*, that the proposed Resolution was outside the powers given to the Delegates on their appointment to this Convention.

Debate ensued.

Sir HENRY PARKES, by leave, withdrew the *point of order*.

Resolution, as proposed, by leave withdrawn.

Sir GEORGE GREY then moved the following new Resolution, to follow Resolution (4) :—

That provision should be made in the Federal Constitution which will enable each State to make, "vary, or annul its Constitution."

Debate ensued.

Sir JOHN BRAY moved the omission of the words "vary or annul its Constitution," with a view to the insertion in their place of the words "such amendments in its Constitution as may be necessary for the purposes of the Federation."

Amendment agreed to.

Resolution,

Resolution, as amended,—

That provision should be made in the Federal Constitution which will enable each State to make such amendments in its Constitution as may be necessary for the purposes of the Federation.

then put and agreed to.

Mr. THYNNE moved the following, to stand as Resolution (4) of the second series :—

A system for submitting amendments of the Constitution for approval by the electors of the several States, and prescribing the necessary majorities.

Debate ensued.

Resolution, by leave, withdrawn.

Preamble, *as postponed*, again proposed as follows :—

That in order to establish and secure an enduring foundation for the structure of a Federal Government, the principles embodied in the Resolutions following be agreed to,—

then put and agreed to.

On motion of Mr. W. H. SUTTOR, the Chairman left the Chair to report the Resolutions to the Convention.

The PRESIDENT resumed the Chair.

The CHAIRMAN OF COMMITTEES then reported from the Committee the following Resolutions :—

That in order to establish and secure an enduring foundation for the structure of a Federal Government, the principles embodied in the Resolutions following be agreed to :—

(1.) That the powers and privileges and territorial rights of the several existing Colonies shall remain intact, except in respect to such surrenders as may be agreed upon as necessary and incidental to the power and authority of the National Federal Government.

(2.) No new State shall be formed by separation from another State, nor shall any State be formed by the junction of two or more States or parts of States, without the consent of the Legislatures of the States concerned, as well as of the Federal Parliament.

(3.) That the trade and intercourse between the Federated Colonies, whether by means of land carriage or coastal navigation, shall be absolutely free.

(4.) That the power and authority to impose Customs duties and duties of Excise upon goods the subject of Customs duties and to offer bounties shall be exclusively lodged in the Federal Government and Parliament, subject to such disposal of the revenues thence derived as shall be agreed upon.

(5.) That the Military and Naval Defence of Australia shall be entrusted to Federal Forces, under one command.

(6.) That provision should be made in the Federal Constitution which will enable each State to make such amendments in its Constitution as may be necessary for the purposes of the Federation.

Subject to these and other necessary conditions, this Convention approves of the framing of a Federal Constitution which shall establish,—

(1.) A Parliament, to consist of a Senate and a House of Representatives, the former consisting of an equal number of members from each Colony, to be elected by a system which shall provide for the periodical retirement of one-third of the members, so securing to the body itself a perpetual existence combined with definite responsibility to the electors, the latter to be elected by districts formed on a population basis, and to possess the sole power of originating all Bills appropriating revenue or imposing taxation.

(2.)

(2.) A Judiciary, consisting of a Federal Supreme Court, which shall constitute a High Court of Appeal for Australia.

(3.) An Executive, consisting of a Governor-General, and such persons as may from time to time be appointed as his advisers.

On motion of Mr. W. H. SUTTOR, the Resolutions were adopted.

APPOINTMENT OF COMMITTEES.

Mr. W. H. SUTTOR moved, pursuant to *amended* Notice,—

(1.) That the Resolutions reported to this Convention by Committee of the Whole be referred to two Committees—the one for consideration of Constitutional Machinery and the Distribution of Functions and Powers; the other for consideration of Provisions relating to Finance, Taxation, and Trade Regulation—the first-named Committee to consist of two members from each of the several Delegations, the last-named Committee to consist of one member from each. The members to be chosen by the several Delegations.

(2.) That the last-named Committee be instructed to specially consider Resolutions Nos. 3 and 4 on Trade and Intercourse, and on Customs Taxation, with a view to their being carried into effect upon lines just to the several Colonies, and that it be a further instruction to the said Committee to lay its conclusions before the Committee on Constitutional Machinery, Functions, and Powers.

(3.) That, in addition to the Committees above-mentioned, a Committee be appointed to consider the question of the establishment of a Federal Judiciary, its powers and its functions, and to report to the Committee on Constitutional Machinery in the same manner as the Committee on Finance is directed to report; such Committee to consist of one member from each Delegation.

(4.) That upon the result of the deliberations of the said Committees, the Committee on Constitutional Machinery, Functions, and Powers do prepare and submit to this Convention a Bill for the establishment of a Federal Constitution; such Bill to be prepared as speedily as is consistent with careful consideration.

Debate ensued.

Question put and passed.

The Delegates then proceeded to choose the members for the three Committees.

The several Delegations having handed in the names of the members chosen by them, the PRESIDENT announced the same, as follows:—

Committee on Constitutional Machinery and the Distribution of Functions and Powers.

New South Wales	Sir Henry Parkes. Mr. Barton.
Victoria	Mr. Gillies. Mr. Deakin.
Queensland...	Sir Samuel Griffith. Mr. Thynne.
South Australia	Mr. Playford. Sir John Downer.
Tasmania	Mr. Clark. Mr. Douglas.
New Zealand	Sir George Grey. Captain Russell.
Western Australia...	Mr. John Forrest. Sir James Lee-Steere.

Committee

Committee on Provisions relating to Finance, Taxation, and Trade Regulations :—

New South Wales	Mr. McMillan.
Victoria	Mr. Munro.
Queensland	Sir Thomas McIlwraith.
South Australia	Sir John Bray.
Tasmania	Mr. Burgess.
New Zealand	Sir Harry Atkinson.
Western Australia	Mr. Marmion.

Committee on establishment of a Federal Judiciary, its Powers and its Functions :—

New South Wales	Mr. Dibbs.
Victoria	Mr. Wrixon.
Queensland	Mr. Rutledge.
South Australia	Mr. Kingston.
Tasmania	Mr. Clark.
New Zealand	Sir Harry Atkinson.
Western Australia	Mr. Hackett.

Sir SAMUEL GRIFFITH, *by consent*, moved, without Notice, That in the event of the absence of any member of a Committee the Delegation by which he was chosen be empowered to choose another member in his stead.

Question put and passed.

Mr. J. P. ABBOTT, *by consent*, moved, without Notice, That the various Committees have leave to sit at any time.

Question put and passed.

Mr. BARTON, *by consent*, moved, without Notice, That in any of the Committees appointed by this Convention a majority do form a quorum.

Question put and passed.

The PRESIDENT then appointed the first meeting of the three Committees to take place at eleven o'clock to-morrow.

ADJOURNMENT.

Mr. MCMILLAN, *by consent*, moved, That the Convention do now adjourn until Tuesday next.

Question put and passed.

The PRESIDENT thereupon left the Chair at seventeen minutes past five o'clock, and the Convention stood adjourned until Tuesday next at eleven o'clock.

HENRY PARKES,
President.

F. W. WEBB,
Secretary to the National Australasian Convention.

THE PROCEEDINGS

OF THE

NATIONAL AUSTRALASIAN CONVENTION.

HELD IN THE PARLIAMENT HOUSE, SYDNEY, NEW SOUTH WALES.

No. 14.

TUESDAY, 24TH MARCH, 1891.

Delegates Present:

NEW SOUTH WALES ...The Honorable Sir HENRY PARKES, G.C.M.G., M.P., Colonial Secretary and Prime Minister;

The Honorable WILLIAM MCMILLAN, M.P., Colonial Treasurer;

The Honorable JOSEPH PALMER ABBOTT, M.P., Speaker of the Legislative Assembly;

GEORGE RICHARD DIBBS, Esquire, M.P., formerly Colonial Secretary and Prime Minister;

The Honorable WILLIAM HENRY SUTTOR, M.L.C., Vice-President of the Executive Council;

The Honorable EDMUND BARTON, Q.C., M.L.C., formerly Speaker;

The Honorable Sir PATRICK ALFRED JENNINGS, K.C.M.G., M.L.C., formerly Prime Minister and Colonial Treasurer.

VICTORIA.....The Honorable JAMES MUNRO, M.P., Prime Minister and Treasurer;

The Honorable DUNCAN GILLIES, M.P., formerly Prime Minister and Treasurer;

The Honorable ALFRED DEAKIN, M.P., formerly Chief Secretary;

The Honorable HENRY JOHN WRIXON, Q.C., M.P., formerly Attorney-General;

The Honorable Lieutenant-Colonel WILLIAM COLLARD SMITH, M.P., formerly Minister of Education;

The Honorable HENRY CUTHBERT, M.L.C., formerly Minister of Justice.

QUEENSLAND .....The Honorable Sir SAMUEL WALKER GRIFFITH, K.C.M.G., Q.C., M.P., Chief Secretary and Prime Minister;

The Honorable JOHN MURTAGH MACROSSAN, M.P., formerly Secretary for Mines and Colonial Secretary;

The Honorable ARTHUR RUTLEDGE, M.P., formerly Attorney-General;

The Honorable ANDREW JOSEPH THYNNE, M.L.C., formerly Minister of Justice;

JOHN DONALDSON, Esquire, M.P., formerly Postmaster-General and Secretary for Public Instruction.

SOUTH AUSTRALIA.....The Honorable THOMAS PLAYFORD, M.P., Treasurer and Prime Minister;

The Honorable Sir JOHN COX BRAY, K.C.M.G., M.P., Chief Secretary;

JOHN ALEXANDER COCKBURN, Esquire, M.D., M.P., formerly Prime Minister and Chief Secretary;

The Honorable Sir JOHN WILLIAM DOWNER, K.C.M.G., Q.C., M.P., formerly Prime Minister;

The Honorable CHARLES CAMERON KINGSTON, Q.C., M.P., formerly Attorney-General;

The Honorable JOHN HANNAH GORDON, M.L.C., formerly Minister of Education and of the Northern Territory;

The Honorable RICHARD CHAFFEY BAKER, C.M.G., M.L.C., formerly Attorney-General and Minister of Justice.

TASMANIA .....The Honorable ANDREW INGLIS CLARK, M.H.A., Attorney-General;

The Honorable WILLIAM MOORE, President of the Legislative Council;

The Honorable ADYE DOUGLAS, M.L.C., formerly Chief Secretary and Prime Minister;

The Honorable WILLIAM HENRY BURGESS, M.H.A., formerly Treasurer.

NEW ZEALAND .....Sir GEORGE GREY, K.C.B., formerly Governor, and more recently Prime Minister;

Sir HARRY ALBERT ATKINSON, K.C.M.G., Speaker of the Legislative Council, late Prime Minister and Colonial Treasurer;

Captain WILLIAM RUSSELL RUSSELL, M.H.R., formerly Colonial Secretary and Minister of Justice and Defence.

WESTERN AUSTRALIA..The Honorable JOHN FORREST, C.M.G., M.P., Prime Minister and Treasurer;

The Honorable WILLIAM EDWARD MARMION, M.P., Commissioner of Crown Lands;

The Honorable Sir JAMES GEORGE LEE-STEERE, Kt., M.P., Speaker of the Legislative Assembly;

The Honorable JOHN ARTHUR WRIGHT, M.L.C.;

The Honorable JOHN WINTHROP HACKETT, M.L.C.;

ALEXANDER FORREST, Esquire, M.P.;

WILLIAM THORLEY LOTON, Esquire, M.P.

The PRESIDENT took the Chair, pursuant to adjournment.

TELEGRAM

Telegram from Sir Bryan O'Loghlen, Melbourne.

The Secretary, by direction, read to the Convention a telegram which the President had received from Sir Bryan O'Loghlen, of Melbourne.

Sir John Bray enquired whether the telegram should appear in the Proceedings of the Convention.

The President explained that, according to previous practice, the telegram should appear.

Whereupon Sir John Bray moved, That the telegram, just read by the Secretary, be not recorded.

Debate ensued.

Question put and passed.

Letter from Mr. Justice Richmond, of the Supreme Court of New Zealand.

The President stated that he had received a letter from Mr. Justice Richmond, of the Supreme Court of New Zealand, offering suggestions with reference to the proposed Australian Judiciary and Court of Appeal.

Mr. Clark moved, That the letter be printed, together with the observations written by him thereon, as Chairman of the Judiciary Committee.

Debate ensued.

Question put and passed.

Committee on Constitutional Machinery and the Distribution of Functions and Powers.

Sir Samuel Griffith stated that the Committee on Constitutional Machinery and the Distribution of Functions and Powers had not been able to conclude its labours, and requested a further adjournment of the Convention. He also called attention to the improper publication, by the daily press, of certain information as to the proceedings of the Committees appointed by the Convention.

The President stated that every precaution had been taken by the Secretary and officers assisting him to prevent such improper publicity, for which they were not in any way responsible.

Adjournment.

Mr. J. P. Abbott, *by consent*, moved, That the Convention do now adjourn until Tuesday next, at half-past two o'clock, p.m.

Debate ensued.

Motion, by leave, withdrawn.

Committee on Constitutional Machinery and the Distribution of Functions and Powers.

Mr. John Forrest, *by consent*, moved, without notice, That a copy of the Report of the Committee on Constitutional Machinery, and the Distribution of Functions and Powers so soon as prepared, be forwarded by the President to each Delegate to this Convention.

Debate ensued.

Motion, by leave, withdrawn.

ADJOURNMENT.

Mr. J. P. ABBOTT, *by consent*, moved, That the Convention at its rising this day do adjourn until Tuesday next, at half-past two o'clock, p.m.

Question put and passed.

On motion of Mr. MCMILLAN, the President left the Chair at eight minutes before twelve o'clock, and the Convention stood adjourned until Tuesday next at half-past two o'clock p.m.

HENRY PARKES,
President.

F. W. WEBB,
Secretary to the National Australasian Convention.

THE PROCEEDINGS

OF THE

NATIONAL AUSTRALASIAN CONVENTION.

HELD IN THE PARLIAMENT HOUSE, SYDNEY, NEW SOUTH WALES.

No. 15.

TUESDAY, 31ST MARCH, 1891.

Delegates Present:

NEW SOUTH WALES ...The Honorable Sir HENRY PARKES, G.C.M.G., M.P., Colonial Secretary and Prime Minister;

The Honorable WILLIAM MCMILLAN, M.P., Colonial Treasurer;

The Honorable JOSEPH PALMER ABBOTT, M.P., Speaker of the Legislative Assembly;

GEORGE RICHARD DIBBS, Esquire, M.P., formerly Colonial Secretary and Prime Minister;

The Honorable WILLIAM HENRY SUTTOR, M.L.C., Vice-President of the Executive Council;

The Honorable EDMUND BARTON, Q.C., M.L.C., formerly Speaker;

The Honorable Sir PATRICK ALFRED JENNINGS, K.C.M.G., M.L.C., formerly Prime Minister and Colonial Treasurer.

VICTORIA.....The Honorable JAMES MUNRO, M.P., Prime Minister and Treasurer;

The Honorable DUNCAN GILLIES, M.P., formerly Prime Minister and Treasurer;

The Honorable ALFRED DEAKIN, M.P., formerly Chief Secretary;

The Honorable HENRY JOHN WRIXON, Q.C., M.P., formerly Attorney-General;

The Honorable Lieutenant-Colonel WILLIAM COLLARD SMITH, M.P., formerly Minister of Education;

The Honorable HENRY CUTHBERT, M.L.C., formerly Minister of Justice.

QUEENSLAND

QUEENSLAND .....The Honorable Sir SAMUEL WALKER GRIFFITH, K.C.M.G., Q.C., M.P., Chief Secretary and Prime Minister;
The Honorable ARTHUR RUTLEDGE, M.P., formerly Attorney-General;
The Honorable THOMAS MACDONALD-PATERSON, M.L.C., formerly Postmaster-General;
The Honorable ANDREW JOSEPH THYNNE, M.L.C., formerly Minister of Justice;
JOHN DONALDSON, Esquire, M.P., formerly Postmaster-General and Secretary for Public Instruction.

SOUTH AUSTRALIA .....The Honorable THOMAS PLAYFORD, M.P., Treasurer and Prime Minister;
The Honorable Sir JOHN COX BRAY, K.C.M.G., M.P., Chief Secretary;
JOHN ALEXANDER COCKBURN, Esquire, M.D., M.P., formerly Prime Minister and Chief Secretary;
The Honorable Sir JOHN WILLIAM DOWNER, K.C.M.G., Q.C., M.P., formerly Prime Minister;
The Honorable CHARLES CAMERON KINGSTON, Q.C., M.P., formerly Attorney-General;
The Honorable JOHN HANNAH GORDON, M.L.C., formerly Minister of Education and of the Northern Territory;
The Honorable RICHARD CHAFFEY BAKER, C.M.G., M.L.C., formerly Attorney-General and Minister of Justice.

TASMANIA .....The Honorable PHILIP OAKLEY FYSH, M.L.C., Prime Minister and Chief Secretary;
The Honorable BOLTON STAFFORD BIRD, M.H.A., Treasurer;
The Honorable ANDREW INGLIS CLARK, M.H.A., Attorney-General;
The Honorable WILLIAM MOORE, President of the Legislative Council;
The Honorable WILLIAM HENRY BURGESS, M.H.A., formerly Treasurer;
The Honorable NICHOLAS JOHN BROWN, M.H.A., formerly Minister of Lands and Works.

NEW ZEALAND .....Sir GEORGE GREY, K.C.B., formerly Governor, and more recently Prime Minister;
Sir HARRY ALBERT ATKINSON, K.C.M.G., Speaker of the Legislative Council, late Prime Minister and Colonial Treasurer;
Captain WILLIAM RUSSELL RUSSELL, M.H.R., formerly Colonial Secretary and Minister of Justice and Defence.

WESTERN AUSTRALIA..The Honorable JOHN FORREST, C.M.G., M.P., Prime Minister and Treasurer;
The Honorable WILLIAM EDWARD MARMION, M.P., Commissioner of Crown Lands;
The Honorable Sir JAMES GEORGE LEE-STEERE, Kt., M.P., Speaker of the Legislative Assembly;
The Honorable JOHN ARTHUR WRIGHT, M.L.C.;
The Honorable JOHN WINTHROP HACKETT, M.L.C.;
ALEXANDER FORREST, Esquire, M.P.;
WILLIAM THORLEY LOTON, Esquire, M.P.

The PRESIDENT took the Chair, pursuant to adjournment.

TELEGRAM

TELEGRAM FROM SIR BRYAN O'LOGHLEN, MELBOURNE.

The PRESIDENT stated that he had received a further telegram from Sir Bryan O'Loghlen, of Melbourne, and in view of the decision of the Convention that the previous telegram should not be recorded, he had directed the Secretary to acknowledge the receipt of this telegram, and inform Sir Bryan O'Loghlen that it would not be laid before the Convention.

ADDRESS FROM THE UNITED LICENSED VICTUALLERS' ASSOCIATION OF NEW SOUTH WALES.

The Secretary, by direction of the President, read to the Convention the following Address of congratulation from the Members of the United Licensed Victuallers' Association of New South Wales :—

"To Sir Henry Parkes G.C.M.G., President, and the Honorable Members of "the Federal Convention,—

"May it please the Members of your Honorable Convention,—

"We the Members of the United Licensed Victuallers' Association "of New South Wales, approach your Honorable Convention with sentiments "of the deepest respect.

"We desire to give expression to our sincere congratulations upon the "assembling in Sydney of a body of such eminent statesmen to consider "questions so fraught with momentous issues to the Australian Nation, as are "involved in the great work of Federation.

"We also express a hope that whatever decisions may be arrived at "by your Honorable Convention they will be designed for the best interests of "the people of the whole of the Colonies; and that from the foundation being "laid to-day there may arise a superstructure which shall give practical effect "to the now historic aspiration, 'One People, One Destiny.'

"Signed on behalf of the members of the United Licensed Victuallers' "Association of New South Wales,—

"FREDERICK ALBERT ALLEN, President.

"J. HUNT,
"THOS. KEARY,
"JAMES H. RAINFORD,
"JAMES P. KAVANAGH,
} Vice-Presidents.

"T. F. SWEENEY, Treasurer.

"F. BEVILL, General Secretary."

DEATH OF THE HONORABLE JOHN MURTAGH MACROSSAN, M.P., ONE OF THE DELEGATES FROM QUEENSLAND.

Mr. MCMILLAN, *by consent*, moved without Notice, That the Members of the Convention desire to record the expression of their deep regret at the death of the Honorable JOHN MURTAGH MACROSSAN, one of the Delegates from Queensland, and their mournful sense of the great loss which the Convention and the whole of Australia has sustained by the sad event.

Sir SAMUEL GRIFFITH and Sir PATRICK JENNINGS having addressed the Convention,—

Question put and carried unanimously.

Whereupon Mr. MCMILLAN, *by consent*, moved without Notice, That a copy of the Resolution just adopted be sent to the widow of the late Mr. Macrossan.

Question put and passed.

DRAFT OF BILL TO CONSTITUTE THE COMMONWEALTH OF AUSTRALIA.

Sir SAMUEL GRIFFITH, as Chairman, brought up a Report from the Committee on Constitutional Machinery, and the Distribution of Functions and Powers, submitting to the Convention a Draft of a Bill to constitute the Commonwealth of Australia, as prepared by the Committee, together with a copy of the Reports from the Committees on "Provisions relating to Finance, Taxation, and Trade Regulation," and the "Establishment of a Federal Judiciary, its Powers and its Functions," respectively.

Ordered to be printed.

Sir SAMUEL GRIFFITH then, *by consent*, moved, without Notice, That the Draft Bill to constitute the Commonwealth of Australia, brought up by the Constitutional Committee, be referred for the consideration of the Committee of the whole Convention.

Mr. WRIXON moved, That the Debate be now adjourned.

Debate ensued.

Question put and passed.

Ordered, on the motion of Mr. MCMILLAN, that the resumption of the Debate stand an Order of the Day for to-morrow.

ADJOURNMENT.

Mr. MCMILLAN moved, That the Convention do now adjourn.

And Mr. MUNRO having addressed the Convention,—

Question put and passed.

The PRESIDENT thereupon left the Chair at eight minutes before five o'clock, and the Convention stood adjourned until to-morrow at eleven o'clock.

HENRY PARKES,
President.

F. W. WEBB,
Secretary to the National Australasian Convention.

THE PROCEEDINGS

OF THE

NATIONAL AUSTRALASIAN CONVENTION.

HELD IN THE PARLIAMENT HOUSE, SYDNEY, NEW SOUTH WALES.

No. 16.

WEDNESDAY, 1st APRIL, 1891.

Delegates Present:

NEW SOUTH WALES ...The Honorable Sir HENRY PARKES, G.C.M.G., M.P., Colonial Secretary and Prime Minister;

The Honorable WILLIAM MCMILLAN, M.P., Colonial Treasurer;

The Honorable JOSEPH PALMER ABBOTT, M.P., Speaker of the Legislative Assembly;

GEORGE RICHARD DIBBS, Esquire, M.P., formerly Colonial Secretary and Prime Minister;

The Honorable WILLIAM HENRY SUTTOR, M.L.C., Vice-President of the Executive Council;

The Honorable EDMUND BARTON, Q.C., M.L.C., formerly Speaker;

The Honorable Sir PATRICK ALFRED JENNINGS, K.C.M.G., M.L.C., formerly Prime Minister and Colonial Treasurer.

VICTORIA.....The Honorable JAMES MUNRO, M.P., Prime Minister and Treasurer;

The Honorable DUNCAN GILLIES, M.P., formerly Prime Minister and Treasurer;

The Honorable ALFRED DEAKIN, M.P., formerly Chief Secretary;

The Honorable HENRY JOHN WRIXON, Q.C., M.P., formerly Attorney-General;

The Honorable Lieutenant-Colonel WILLIAM COLLARD SMITH, M.P., formerly Minister of Education;

The Honorable HENRY CUTHBERT, M.L.C., formerly Minister of Justice;

The Honorable NICHOLAS FITZGERALD, M.L.C.

QUEENSLAND .....The Honorable Sir SAMUEL WALKER GRIFFITH, K.C.M.G., Q.C., M.P., Chief Secretary and Prime Minister;

The Honorable ARTHUR RUTLEDGE, M.P., formerly Attorney-General;

The Honorable THOMAS MACDONALD-PATERSON, M.L.C., formerly Postmaster-General;

JOHN DONALDSON, Esquire, M.P., formerly Postmaster-General and Secretary for Public Instruction.

SOUTH AUSTRALIA.....The Honorable THOMAS PLAYFORD, M.P., Treasurer and Prime Minister;

The Honorable Sir JOHN COX BRAY, K.C.M.G., M.P., Chief Secretary;

JOHN ALEXANDER COCKBURN, Esquire, M.D., M.P., formerly Prime Minister and Chief Secretary;

The Honorable Sir JOHN WILLIAM DOWNER K.C.M.G., Q.C., M.P., formerly Prime Minister;

The Honorable CHARLES CAMERON KINGSTON, Q.C., M.P., formerly Attorney-General;

The Honorable JOHN HANNAH GORDON, M.L.C., formerly Minister of Education and of the Northern Territory;

The Honorable RICHARD CHAFFEY BAKER, C.M.G., M.L.C., formerly Attorney-General and Minister of Justice.

TASMANIA .....The Honorable PHILIP OAKLEY FYSH, M.L.C., Prime Minister and Chief Secretary;

The Honorable BOLTON STAFFORD BIRD, M.H.A., Treasurer;

The Honorable ANDREW INGLIS CLARK, M.H.A., Attorney-General;

The Honorable WILLIAM MOORE, President of the Legislative Council;

The Honorable ADYE DOUGLAS, M.L.C., formerly Chief Secretary and Prime Minister;

The Honorable WILLIAM HENRY BURGESS, M.H.A., formerly Treasurer;

The Honorable NICHOLAS JOHN BROWN, M.H.A., formerly Minister of Lands and Works.

NEW ZEALAND .....Sir GEORGE GREY, K.C.B., formerly Governor, and more recently Prime Minister;

SIR HARRY ALBERT ATKINSON, K.C.M.G., Speaker of the Legislative Council, late Prime Minister and Colonial Treasurer;

Captain WILLIAM RUSSELL RUSSELL, M.H.R., formerly Colonial Secretary and Minister of Justice and Defence.

WESTERN AUSTRALIA..The Honorable JOHN FORREST, C.M.G., M.P., Prime Minister and Treasurer;

The Honorable WILLIAM EDWARD MARMION, M.P., Commissioner of Crown Lands;

The Honorable Sir JAMES GEORGE LEE-STEERE, Kt., M.P., Speaker of the Legislative Assembly;

The Honorable JOHN ARTHUR WRIGHT, M.L.C.;

The Honorable JOHN WINTHROP HACKETT, M.L.C.;

ALEXANDER FORREST, Esquire, M.P.;

WILLIAM THORLEY LOTON, Esquire, M.P.

The PRESIDENT took the Chair, pursuant to adjournment.

NOTICE

Notice of Motion.

Sir George Grey gave notice of his intention to move that the Bill "To constitute the Commonwealth of Australia" should be submitted to a Plebiscite of the people of Australia, at which each voter should give a single vote.

Draft of Bill to Constitute the Commonwealth of Australia.

On the Order of the Day being read by the Secretary for the resumption of the adjourned Debate, on the motion of Sir Samuel Griffith:—

"That the Draft Bill to constitute the Commonwealth of Australia brought up "by the Constitutional Committee, be referred for the consideration of a "Committee of the Whole Convention,"—

The Debate was resumed by Mr. Wrixon.

Mr. Baker and Mr. Clark also addressed the Convention.

Question put and passed.

Whereupon, on motion of Mr. W. H. Suttor, the President left the Chair, and the Convention resolved itself into a Committee of the Whole accordingly.

In Committee of the Whole.

The Honorable J. P. Abbott in the Chair.

Preamble postponed.

Clause 1,—

This Act may be cited as "The Constitution of the 'Commonwealth' of Australia." *(Read.)* Short Title.

Mr. Munro moved the omission of the word "Commonwealth" with a view to the insertion in its place of the words "Federated States"

Debate ensued.

Question put,—That the word proposed to be omitted stand part of the Clause.

The Committee divided.

Ayes, 26.		Noes, 13.
Sir Harry Atkinson,	Sir George Grey,	Mr. Baker,
Mr. Barton,	Sir Samuel Griffith,	Mr. Cuthbert,
Mr. Bird,	Sir Patrick Jennings,	Mr. Dibbs,
Mr. Brown,	Mr. Kingston,	Sir John Downer,
Mr. Burgess,	Mr. Macdonald-Paterson,	Mr. FitzGerald,
Mr. Clark,	Mr. McMillan,	Mr. John Forrest,
Dr. Cockburn,	Mr. Moore,	Mr. Gillies,
Mr. Deakin,	Sir Henry Parkes,	Sir James Lee-Steere,
Mr. Donaldson,	Mr. Playford,	Mr. Loton,
Mr. Douglas,	Captain Russell,	Mr. Marmion,
Mr. Alexander Forrest,	Mr. Rutledge,	Mr. Munro,
Mr. Fysh,	Lieut.-Colonel Smith,	Mr. Wright,
Mr. Gordon,	Mr. W. H. Suttor.	Mr. Wrixon.

Clause, as read, agreed to.

Clause 2,—

The provisions of this Act referring to Her Majesty the Queen extend also to the Heirs and Successors of Her Majesty, "Kings and Queens" of the United Kingdom of Great Britain and Ireland. *(Read.)* Application of provisions referring to the Queen.

And the Clause having been amended, on motion of Mr. Rutledge, by omitting the words "Kings and Queens" and inserting in their place the words "in the Sovereignty"—

Clause, as amended, agreed to.

Clauses 3, 4, 5, and 6 read and agreed to.

Clause

Clause 7,—

The Constitution and laws of the Commonwealth binding.

The Constitution established by this Act, and all Laws made by the Parliament of the Commonwealth in pursuance of the powers conferred by the Constitution, and all Treaties made by the Commonwealth, shall, according to their tenor, be binding on the Courts, Judges, and people of every State, and of every part of the Commonwealth, anything in the laws of any State to the contrary notwithstanding; and the Laws and Treaties of the Commonwealth shall be in force on board of all British ships whose last port of clearance "or" port of destination is in the Commonwealth. (*Read.*)

And the Clause having been amended, on motion of Mr. RUTLEDGE, by inserting after the word "or" the word "whose"—

Clause, as amended, agreed to.

Clause 8 read and agreed to.

Chapter I, Clause 1, read and agreed to.

Chapter I, Clause 2,—

Governor-General.

"The Queen may, from time to time, appoint" a Governor-General who shall be Her Majesty's Representative in the Commonwealth, and who shall have and may exercise in the Commonwealth during "Her Majesty's" pleasure, and subject to the provisions of this Constitution, such powers and functions as "Her Majesty may deem necessary or expedient" to assign to him. (*Read.*)

Sir GEORGE GREY moved the omission of the words "The Queen may, from time to time, appoint" with a view to the insertion in their place of the words "There shall be"

Debate ensued.

Question put,—That the words proposed to be omitted stand part of the Clause.

The Commitee divided.

AYES, 35.		NOES, 3.
Sir Harry Atkinson,	Mr. Gordon,	Dr. Cockburn,
Mr. Baker,	Sir Samuel Griffith,	Sir George Grey,
Mr. Barton,	Mr. Hackett,	Mr. Kingston.
Mr. Bird,	Sir Patrick Jennings,	
Mr. Brown,	Mr. Loton,	
Mr. Burgess,	Mr. Macdonald-Paterson,	
Mr. Clark,	Mr. Marmion,	
Mr. Cuthbert,	Mr. Moore,	
Mr. Deakin,	Mr. Munro,	
Mr. Dibbs,	Sir Henry Parkes,	
Mr. Donaldson,	Mr. Playford,	
Mr. Douglas,	Captain Russell,	
Sir John Downer,	Mr. Rutledge,	
Mr. FitzGerald,	Lieut.-Colonel Smith,	
Mr. Alexander Forrest,	Mr. W. H. Suttor,	
Mr. John Forrest,	Mr. Wright,	
Mr. Fysh,	Mr. Wrixon.	
Mr. Gillies,		

And the Clause having been amended, on motion of Sir SAMUEL GRIFFITH, by omitting the words "Her Majesty's" and inserting in their place the words "the Queen's"; and by omitting the words "Her Majesty may deem necessary or expedient" and inserting in their place the words "the Queen may think fit"—

Clause, as amended, agreed to.

Chapter I, Clause 3,—

Salary of Governor-General.

The Annual Salary of the Governor-General shall be fixed by the Parliament from time to time, "but shall not be less than" "Ten" thousand pounds, and "the same" shall be payable to the Queen out of the Consolidated Revenue Fund of the Commonwealth. The Salary of a Governor-General shall not be "diminished" during his continuance in office. (*Read.*)

Sir

Sir JOHN BRAY moved the omission of the words "but shall not be less than" with a view to the insertion in their place of the words "and until so fixed shall be"

Debate ensued.

Question put,—That the words proposed to be omitted stand part of the Clause.

The Committee divided.

AYES, 24.		NOES, 12.
Mr. Baker,	Sir Samuel Griffith,	Sir Harry Atkinson,
Mr. Barton,	Mr. Hackett,	Mr. Bird,
Mr. Brown,	Sir Patrick Jennings,	Sir John Bray,
Mr. Burgess,	Mr. Macdonald-Paterson,	Dr. Cockburn,
Mr. Clark,	Mr. McMillan,	Mr. Deakin,
Mr. Cuthbert,	Mr. Munro,	Mr. Fysh,
Mr. Dibbs,	Sir Henry Parkes,	Mr. Gordon,
Mr. Donaldson,	Captain Russell,	Sir George Grey,
Mr. Douglas,	Mr. Rutledge,	Mr. Kingston,
Sir John Downer,	Lieut.-Colonel Smith,	Mr. Loton,
Mr. Alexander Forrest,	Mr. W. H. Suttor,	Mr. Moore,
Mr. Gillies,	Mr. Wrixon.	Mr. Playford.

Sir GEORGE GREY, moved the omission of the word "Ten" with a view to the insertion in its place of the word "Six"

Amendment negatived.

On motion of Mr. BARTON, the words "the same" were omitted.

Mr. DEAKIN moved the omission of the word "diminished" with a view to the insertion of the word "altered"

Debate ensued.

Amendment negatived.

Clause as amended agreed to.

Chapter I, Clauses 4, 5, 6, and 7, read and agreed to.

Chapter I, Clause 8,—

The "privileges," immunities, and powers, to be held, enjoyed, and exercised by the Senate and by the House of Representatives respectively, and by the Members thereof, shall be such as are from time to time declared by the Parliament, and until "such definition" shall be those held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom and the Members thereof at the date of the establishment of the Commonwealth. (*Read.*) Privileges, &c., of Houses.

Mr. DOUGLAS moved the insertion after the word "privileges" of the word "and"

Amendment negatived.

And the Clause having been amended, on motion of Sir SAMUEL GRIFFITH, by omitting the words "such definition" and inserting in their place the word "declared"—

Clause, as amended, agreed to.

Chapter I, Clause 9,—

The Senate shall be composed of "eight" members for each State, directly chosen by the Houses of the Parliament of the several States during a Session thereof, and each Senator shall have one vote. The term for which a Senator is chosen shall be six years. (*Read.*) Senate.

Mr. MUNRO moved the omission of the word "eight" with a view to the insertion in its place of the word "six"

Debate ensued.

On motion of Sir HARRY ATKINSON, the Chairman left the Chair to report progress, and ask leave to sit again.

The PRESIDENT resumed the Chair, and the CHAIRMAN reported progress and obtained leave to sit again to-morrow.

NOTICE

NOTICE OF MOTION.

Mr. DEAKIN gave notice of a motion to alter the hour of the meeting of the Convention to 10 o'clock a.m.

ADJOURNMENT.

Mr. MCMILLAN moved, That the Convention do now adjourn.

Debate ensued.

Question put and passed.

The PRESIDENT thereupon left the Chair at three minutes past six o'clock, and the Convention stood adjourned until to-morrow at eleven o'clock.

HENRY PARKES,
President.

F. W. WEBB,
Secretary to the National Australasian Convention.

THE PROCEEDINGS

OF THE

NATIONAL AUSTRALASIAN CONVENTION.

HELD IN THE PARLIAMENT HOUSE, SYDNEY, NEW SOUTH WALES.

No. 17.

THURSDAY, 2ND APRIL, 1891.

Delegates Present:

NEW SOUTH WALES ...The Honorable Sir HENRY PARKES, G.C.M.G., M.P., Colonial Secretary and Prime Minister;

The Honorable WILLIAM MCMILLAN, M.P., Colonial Treasurer;

The Honorable JOSEPH PALMER ABBOTT, M.P., Speaker of the Legislative Assembly;

GEORGE RICHARD DIBBS, Esquire, M.P., formerly Colonial Secretary and Prime Minister;

The Honorable WILLIAM HENRY SUTTOR, M.L.C., Vice-President of the Executive Council;

The Honorable EDMUND BARTON, Q.C., M.L.C., formerly Speaker;

The Honorable Sir PATRICK ALFRED JENNINGS, K.C.M.G., M.L.C., formerly Prime Minister and Colonial Treasurer.

VICTORIA.....The Honorable JAMES MUNRO, M.P., Prime Minister and Treasurer;

The Honorable DUNCAN GILLIES, M.P., formerly Prime Minister and Treasurer;

The Honorable ALFRED DEAKIN, M.P., formerly Chief Secretary;

The Honorable HENRY JOHN WRIXON, Q.C., M.P., formerly Attorney-General;

The Honorable Lieutenant-Colonel WILLIAM COLLARD SMITH, M.P., formerly Minister of Education;

The Honorable HENRY CUTHBERT, M.L.C., formerly Minister of Justice;

The Honorable NICHOLAS FITZGERALD, M.L.C.

QUEENSLAND

QUEENSLAND .....The Honorable Sir SAMUEL WALKER GRIFFITH, K.C.M.G., Q.C., M.P., Chief Secretary and Prime Minister;

The Honorable ARTHUR RUTLEDGE, M.P., formerly Attorney-General;

The Honorable THOMAS MACDONALD-PATERSON, M.L.C., formerly Postmaster-General;

JOHN DONALDSON, Esquire, M.P., formerly Postmaster-General and Secretary for Public Instruction.

SOUTH AUSTRALIA.....The Honorable THOMAS PLAYFORD, M.P., Treasurer and Prime Minister;

The Honorable Sir JOHN COX BRAY, K.C.M.G., M.P., Chief Secretary;

JOHN ALEXANDER COCKBURN, Esquire, M.D., M.P., formerly Prime Minister and Chief Secretary;

The Honorable Sir JOHN WILLIAM DOWNER, K.C.M.G., Q.C., M.P., formerly Prime Minister;

The Honorable CHARLES CAMERON KINGSTON, Q.C., M.P., formerly Attorney-General;

The Honorable JOHN HANNAH GORDON, M.L.C., formerly Minister of Education and of the Northern Territory;

The Honorable RICHARD CHAFFEY BAKER, C.M.G., M.L.C., formerly Attorney-General and Minister of Justice.

TASMANIA .....The Honorable PHILIP OAKLEY FYSH, M.L.C., Prime Minister and Chief Secretary;

The Honorable BOLTON STAFFORD BIRD, M.H.A., Treasurer;

The Honorable ANDREW INGLIS CLARK, M.H.A., Attorney-General;

The Honorable WILLIAM MOORE, President of the Legislative Council;

The Honorable ADYE DOUGLAS, M.L.C., formerly Chief Secretary and Prime Minister;

The Honorable WILLIAM HENRY BURGESS, M.H.A., formerly Treasurer;

The Honorable NICHOLAS JOHN BROWN, M.H.A., formerly Minister of Lands and Works.

NEW ZEALAND .....Sir GEORGE GREY, K.C.B., formerly Governor, and more recently Prime Minister;

Sir HARRY ALBERT ATKINSON, K.C.M.G., Speaker of the Legislative Council, late Prime Minister and Colonial Treasurer;

Captain WILLIAM RUSSELL RUSSELL, M.H.R., formerly Colonial Secretary and Minister of Justice and Defence.

WESTERN AUSTRALIA..The Honorable JOHN FORREST, C.M.G., M.P., Prime Minister and Treasurer;

The Honorable WILLIAM EDWARD MARMION, M.P., Commissioner of Crown Lands;

The Honorable JOHN ARTHUR WRIGHT, M.L.C.;

The Honorable JOHN WINTHROP HACKETT, M.L.C.;

ALEXANDER FORREST, Esquire, M.P.;

WILLIAM THORLEY LOTON, Esquire, M.P.

The PRESIDENT took the Chair, pursuant to adjournment.

DRAFT

DRAFT OF BILL TO CONSTITUTE THE COMMONWEALTH OF AUSTRALIA.

On the Order of the Day being read by the Secretary for the further consideration in Committee of the Whole of the Draft of Bill to Constitute the Commonwealth of Australia,—

The PRESIDENT left the Chair, and the Convention resolved itself into a Committee of the Whole for such further consideration.

In Committee of the Whole:—

The Honorable J. P. ABBOTT in the Chair.

Chapter I, Clause 9,—

The Senate shall be composed of "eight" members for each State, "directly chosen by the Houses of the Parliament of the several States during a Session thereof," and each Senator shall have one vote. "The term for which a Senator is chosen shall be six years." (*Further considered.*) Senate.

Upon which Mr. MUNRO had moved the omission of the word "eight" with a view to the insertion in its place of the word "six"

Amendment negatived.

Mr. KINGSTON moved the omission of the words "directly chosen by the Houses of the Parliament of the several States during a Session thereof,"

Debate ensued.

Question put,—That the words proposed to be omitted stand part of the Clause.

The Committee divided.

AYES, 34.		NOES, 6.
Sir Harry Atkinson,	Mr. Gillies,	Dr. Cockburn,
Mr. Baker,	Sir Samuel Griffith,	Mr. Deakin,
Mr. Barton,	Mr. Hackett,	Mr. Gordon,
Mr. Bird,	Sir Patrick Jennings,	Sir George Grey,
Sir John Bray,	Mr. Loton,	Mr. Kingston,
Mr. Brown,	Mr. Macdonald-Paterson,	Mr. Munro.
Mr. Burgess,	Mr. Marmion,	
Mr. Clark,	Mr. McMillan,	
Mr. Cuthbert,	Mr. Moore,	
Mr. Dibbs,	Sir Henry Parkes,	
Mr. Donaldson,	Mr. Playford,	
Mr. Douglas,	Captain Russell,	
Sir John Downer,	Mr. Rutledge,	
Mr. FitzGerald,	Lieut.-Colonel Smith,	
Mr. Alexander Forrest,	Mr. W. H. Suttor,	
Mr. John Forrest,	Mr. Wrixon,	
Mr. Fysh,	Mr. Wright.	

And the Clause having been amended, on motion of Sir SAMUEL GRIFFITH, by omitting the words, "The term for which a Senator is chosen shall be six years." and inserting in their place the words,—

"The Senators shall be chosen for a term of six years.

The names of the Senators chosen in each State shall be certified by the Governor to the Governor-General."

Clause, as amended, agreed to.

Chapter I, Clause 10,—

The Parliament of the Commonwealth may make laws prescribing a uniform manner of choosing the Senators. Subject to "any such law" the Parliament of each State may determine the time, place, and manner of choosing the Senators for that State by the Houses of Parliament thereof. (*Read.*) Mode of election of Senators.

And the Clause having been amended, on motion of Sir SAMUEL GRIFFITH, by omitting the words "any such law" and inserting in their place the words "such laws, if any,"

Clause, as amended, agreed to.

Chapter 1, Clause 11, read and agreed to.

Chapter 1, Clause 12,—

Retirement of Senators.

As soon as practicable after the Senate "is" assembled "in consequence of the first election" the Senators chosen for each State shall be divided by lot into two classes. The places of the Senators of the first class shall be vacated at the expiration of the third year, and the places of those of the second class at the expiration of the sixth year, from the commencement of their term of service as herein declared, so that one-half may be chosen every third year.

"The" term of service of a Senator shall begin on and be reckoned from the first day of January next succeeding the day of his election, except in the case of the first election, when it shall be reckoned from the first day of January preceding the day of his election. The election of Senators to fill the places of "retiring Senators" shall be made in the year preceding the day on which the retiring Senators are to retire. (*Read.*)

And the Clause having been amended, on motion of Mr. BAKER, by inserting after the word "is" the word "first," and omitting the words "in consequence of the first election"; and, on motion of Sir JOHN BRAY, by inserting before "The" the words "For the purposes of this section"; and, on motion of Sir SAMUEL GRIFFITH, by omitting the words "retiring Senators" and inserting in their place the words "Senators retiring by rotation,"—

Clause, as amended, agreed to.

Chapter I, Clause 13,—

How vacancies filled.

If the place of a Senator becomes vacant during the recess of the Parliament of the State which he represented "the Governor of the State, by and with the advice of the Executive Council thereof, may appoint a Senator to fill such vacancy until the next Session of the Parliament of the State, when" the Houses of Parliament shall choose a Senator to fill the vacancy. (*Read.*)

Mr. BARTON moved the omission of the words "the Governor of the State, by and with the advice of the Executive Council thereof, may appoint a Senator to fill such vacancy until the next Session of the Parliament of the State, when"

Debate ensued.

Amendment negatived.

Clause, as read, agreed to.

Chapter I, Clause 14, read and agreed to.

Chapter I, Clause 15,—

Qualifications of Senator.

The qualifications of a Senator shall be as follows:—

(1) He must be of the full age of thirty years, and must, when chosen, be an elector entitled to vote in some State at the election of Members of the House of Representatives of the Commonwealth, "and must have been" for "five" years at the least a resident within the limits of the Commonwealth as existing at the time when he is chosen;

(2) He must be either a natural born subject of the Queen, or a subject of the Queen naturalised by or under a Law of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Parliament of one of the said Colonies, or of the Parliament of the Commonwealth or of a State. (*Read.*)

Mr. DOUGLAS moved the omission of the words "and must have been"

Debate ensued.

Amendment negatived.

Mr. JOHN FORREST moved the omission of the word "five" with a view to the insertion in its place of the word "three"

Debate ensued.

Amendment negatived.

And the Clause having been amended, on motion of Mr. CUTHBERT, by the addition to the Clause of the words "at least five years before he is chosen,"—

Clause, as amended, agreed to.

Chapter

Chapter I, Clause 16,—

The Senate shall, at its first meeting and before proceeding to the despatch of any other business, choose a Senator to be the President of the Senate; and as often as the office of President becomes vacant the Senate "shall" choose "another" Senator to be the President; and the President shall preside at all meetings of the Senate; and the choice of the President shall be made known to the Governor-General "by a deputation of the Senate." Election of President of the Senate.

The President may be removed from office by a vote of the Senate. He may resign his office; and upon his ceasing to be a Senator his office shall become vacant. (*Read.*)

And the Clause having been amended, on motion of Sir SAMUEL GRIFFITH, by inserting after the word "shall" the word "again"; and by omitting the word "another" and inserting in its place the word "a"—

Sir JOHN BRAY moved the omission of the words "by a deputation of the Senate."

Debate ensued.

Amendment negatived.

Clause, as amended, agreed to.

Chapter I, Clauses 17, 18, 19, 20, 21, 22, 23, and 24, read and agreed to.

Chapter I, Clause 25.

"The" qualification of electors of Members of the House of Representatives shall be in each State that which is prescribed by the law of the State as the qualification for electors of the more numerous House of the Parliament of the State. (*Read.*) Qualification of electors.

Mr. BARTON moved the insertion, before the first word "The" of the words "The Parliament of the Commonwealth may make laws prescribing a uniform qualification of electors of Members of the House of Representatives. Until the Parliament of the Commonwealth otherwise provides"

Debate ensued.

Amendment negatived.

Dr. COCKBURN moved the addition to the Clause of the words "But no property qualification shall be necessary for electors of the House of Representatives, and each elector shall have a vote for one Electoral District only."

Question put,—That the words proposed to be added be so added.

The Committee divided.

AYES, 9.	NOES, 28.	
Sir Harry Atkinson,	Mr. Baker,	Sir Samuel Griffith,
Dr. Cockburn,	Mr. Bird,	Mr. Hackett,
Mr. Deakin,	Sir John Bray,	Sir Patrick Jennings,
Mr. Dibbs,	Mr. Brown,	Mr. Loton,
Mr. Gordon,	Mr. Clark,	Mr. Macdonald-Paterson,
Sir George Grey,	Mr. Cuthbert,	Mr. Marmion,
Mr. Kingston,	Mr. Donaldson,	Mr. Moore,
Mr. Munro,	Mr. Douglas,	Sir Henry Parkes,
Lieut.-Colonel Smith.	Sir John Downer,	Mr. Playford,
	Mr. FitzGerald,	Captain Russell,
	Mr. Alexander Forrest,	Mr. Rutledge,
	Mr. John Forrest,	Mr. W. H. Suttor,
	Mr. Fysh,	Mr. Wright,
	Mr. Gillies,	Mr. Wrixon.

Clause, as read, agreed to.

Chapter I, Clauses 26 and 27, read and agreed to.

Chapter I, Clause 28,—

The number of Members to be "returned" by each State at the first election shall be as follows: [*To be determined according to latest statistical returns at the date of the passing of this Act.*] (*Read.*) Representatives in first Parliament.

And

And the Clause having been amended, on motion of Sir SAMUEL GRIFFITH, by omitting the word "returned" and inserting in its place the word "chosen"—

Clause, as amended, agreed to.

Chapter 1, Clauses 29, 30, and 31, read and agreed to.

Chapter 1, Clause 32,—

Qualifications of Member of House of Representatives.

The qualifications of a Member of the House of Representatives shall be as follows:—

(1) He must be of the full age of twenty-one years, and must when elected be an elector entitled to vote in some State at the election of Members of the House of "Representatives";

(2) He must be either a natural born subject of the Queen, or a subject of the Queen naturalised by or under a law of the Parliament of Great Britain and Ireland, or of the Parliament of one of the said Colonies, or of the Parliament of the Commonwealth or of a State. (*Read.*)

Mr. DEAKIN moved the insertion, after the word "Representatives" of the words "and must have been for three years at least a resident within the limits of the Commonwealth, as existing, at the time when he is elected"

Debate ensued.

Question put,—That the words proposed to be inserted be so inserted.

The Committee divided.

AYES, 20.		NOES, 18.	
Mr. Baker,	Mr. FitzGerald,	Sir Harry Atkinson,	Sir Samuel Griffith,
Mr. Burgess,	Mr. Hackett,	Mr. Barton,	Mr. Gordon,
Mr. Clark,	Mr. Loton,	Mr. Brown,	Sir Patrick Jennings,
Dr. Cockburn,	Mr. Macdonald-Paterson,	Mr. Bird,	Mr. Kingston,
Mr. Cuthbert,	Mr. Moore,	Mr. Douglas,	Mr. Marmion,
Mr. Deakin,	Mr. Munro,	Sir John Downer,	Mr. Playford,
Mr. Dibbs,	Sir Henry Parkes,	Mr. John Forrest,	Captain Russell,
Mr. Donaldson,	Mr. Rutledge,	Mr. Gillies,	Mr. W. H. Suttor,
Mr. Alexander Forrest,	Lieut.-Colonel Smith,	Sir George Grey,	Mr. Wright.
Mr. Fysh,	Mr. Wrixon.		

And the Clause having been further amended, on motion of Mr. CUTHBERT, by the addition to the Clause of the words "at least three years before he is elected"

Clause, as amended, agreed to.

Chapter I, Clause 33, read and agreed to.

Chapter I, Clause 34,—

Election of Speaker of House of Representatives.

The House of Representatives shall, at its first meeting after every General Election, and before proceeding to the despatch of any other business, choose a Member to be the Speaker of the House, and as often as the office of Speaker becomes vacant the House shall "forthwith proceed to" choose "another" Member to be Speaker; and the Speaker shall preside at all meetings of the House of Representatives; and the choice of a Speaker shall be made known to the Governor-General by a deputation of the House. The Speaker may be removed from office by a vote of the House, or may resign his office. (*Read.*)

And the Clause having been amended, on motion of Sir SAMUEL GRIFFITH, by omitting the words "forthwith proceed to" and inserting in their place the word "again"; and by omitting the word "another" and inserting in its place the word "a"—

Clause, as amended, agreed to.

Chapter I, Clauses 35 and 36, read and agreed to.

Chapter I, Clause 37,—

Disqualification of Members.

The place of a Member of the House of Representatives shall become vacant if for "one whole" Session of the Parliament he, without permission of the House of Representatives entered on its journals, fails to give his attendance in the House. (*Read.*)

Mr. GORDON moved the omission of the words "one whole" with a view to the insertion in their place of the words "four consecutive weeks during a"

Debate

Debate ensued.

Amendment negatived.

Clause, as read, agreed to.

Chapter I, Clause 38,—

Upon the happening of a vacancy in the House of Representatives, the Speaker shall, "upon a resolution of the House," issue his writ for the election of a new Member. Issue of new writs.

In the case of a vacancy by death or resignation happening when the Parliament is not in session, or during an adjournment of the House for a period of which a part longer than seven days is unexpired, the Speaker, or if there is no Speaker, or he is absent from the Commonwealth, the Governor-General shall issue, or cause to be issued, a writ without such resolution. (*Read.*)

Dr. COCKBURN moved the omission of the words "upon a resolution of the "House,"

Amendment negatived.

Clause, as read, agreed to.

Chapter I, Clauses 39 and 40, read and agreed to.

Chapter I, Clause 41,—

Every House of Representatives shall continue for three years from the day appointed "for the" "return of the writs for choosing" the House and no longer, subject nevertheless to be sooner dissolved by the Governor-General. (*Read.*) Duration of House of Representatives.

Sir JOHN BRAY moved the insertion after the words "for the" of the words "first meeting of"

Debate ensued.

Question put,—That the words proposed to be inserted be so inserted.

The Committee divided.

AYES, 18.		NOES, 17.	
Sir Harry Atkinson,	Mr. Kingston,	Mr. Baker,	Mr. Alexander Forrest,
Sir John Bray,	Mr. Marmion,	Mr. Barton,	Mr. Fysh,
Mr. Brown,	Mr. Moore,	Mr. Bird,	Sir Samuel Griffith,
Mr. Burgess,	Mr. Munro,	Mr. Clark,	Sir Patrick Jennings,
Mr. Donaldson,	Captain Russell,	Dr. Cockburn,	Mr. Loton,
Mr. FitzGerald,	Mr. Rutledge,	Mr. Deakin,	Sir Henry Parkes,
Mr. John Forrest,	Lieut.-Colonel Smith,	Mr. Dibbs,	Mr. Playford,
Mr. Gillies,	Mr. Wright,	Mr. Douglas,	Mr. W. H. Suttor.
Sir George Grey,	Mr. Wrixon.	Sir John Downer,	

And the Clause having been further amended, on motion of Sir JOHN BRAY, by omitting the words "return of the writs for choosing"; and by the addition to the Clause of the words "The Parliament shall be called together not later than thirty days after the day appointed for the return of the writs for a general election."

Clause, as amended, agreed to.

Chapter 1, Clauses 42, 43, and 44 read and agreed to.

Chapter 1, Clause 45,—

Each Member of the Senate and House of Representatives shall receive an annual allowance "for his services," the amount of which shall be fixed by the Parliament from time to time. Until other provision is made in that behalf by the Parliament, the amount of such annual allowance shall be five hundred pounds. (*Read.*) Allowance to Members.

Mr. MARMION moved the omission of the words "for his services,"

Debate ensued.

On motion of Mr. GILLIES, the Chairman left the Chair to report progress, and ask leave to sit again.

The PRESIDENT resumed the Chair, and the CHAIRMAN reported progress and obtained leave to sit again to-morrow.

HOUR

HOUR OF MEETING.

Mr. DEAKIN moved, pursuant to notice, That the hour of meeting of the Convention be ten o'clock a.m.

Debate ensued.

On motion of Mr. CLARK, the Debate was adjourned until to-morrow.

ADJOURNMENT.

Sir PATRICK JENNINGS moved, That the Convention do now adjourn.

Debate ensued.

Question put and passed.

The PRESIDENT thereupon left the Chair at twenty-eight minutes before seven o'clock, and the Convention stood adjourned until to-morrow at eleven o'clock.

HENRY PARKES,
President.

F. W. WEBB,
Secretary to the National Australasian Convention.

THE PROCEEDINGS

OF THE

NATIONAL AUSTRALASIAN CONVENTION.

HELD IN THE PARLIAMENT HOUSE, SYDNEY, NEW SOUTH WALES.

No. 18.

FRIDAY, 3RD APRIL, 1891.

Delegates Present:

NEW SOUTH WALES ...The Honorable Sir HENRY PARKES, G.C.M.G., M.P., Colonial Secretary and Prime Minister;

The Honorable WILLIAM MCMILLAN, M.P., Colonial Treasurer;

The Honorable JOSEPH PALMER ABBOTT, M.P., Speaker of the Legislative Assembly;

GEORGE RICHARD DIBBS, Esquire, M.P., formerly Colonial Secretary and Prime Minister;

The Honorable WILLIAM HENRY SUTTOR, M.L.C., Vice-President of the Executive Council;

The Honorable EDMUND BARTON, Q.C., M.L.C., formerly Speaker;

The Honorable Sir PATRICK ALFRED JENNINGS, K.C.M.G., M.L.C., formerly Prime Minister and Colonial Treasurer.

VICTORIA.....The Honorable JAMES MUNRO, M.P., Prime Minister and Treasurer;

The Honorable DUNCAN GILLIES, M.P., formerly Prime Minister and Treasurer;

The Honorable ALFRED DEAKIN, M.P., formerly Chief Secretary;

The Honorable HENRY JOHN WRIXON, Q.C., M.P., formerly Attorney-General;

The Honorable Lieutenant-Colonel WILLIAM COLLARD SMITH, M.P., formerly Minister of Education;

The Honorable HENRY CUTHBERT, M.L.C., formerly Minister of Justice;

The Honorable NICHOLAS FITZGERALD, M.L.C.

QUEENSLAND

QUEENSLAND .....The Honorable Sir SAMUEL WALKER GRIFFITH, K.C.M.G., Q.C., M.P., Chief Secretary and Prime Minister;

The Honorable ARTHUR RUTLEDGE, M.P., formerly Attorney-General;

The Honorable THOMAS MACDONALD-PATERSON, M.L.C., formerly Postmaster-General;

The Honorable ANDREW JOSEPH THYNNE, M.L.C., formerly Minister of Justice;

JOHN DONALDSON, Esquire, M.P., formerly Postmaster-General and Secretary for Public Instruction.

SOUTH AUSTRALIA .....The Honorable THOMAS PLAYFORD, M.P., Treasurer and Prime Minister;

The Honorable Sir JOHN COX BRAY, K.C.M.G., M.P., Chief Secretary;

JOHN ALEXANDER COCKBURN, Esquire, M.D., M.P., formerly Prime Minister and Chief Secretary;

The Honorable Sir JOHN WILLIAM DOWNER, K.C.M.G., Q.C., M.P., formerly Prime Minister;

The Honorable CHARLES CAMERON KINGSTON, Q.C., M.P., formerly Attorney-General;

The Honorable JOHN HANNAH GORDON, M.L.C., formerly Minister of Education and of the Northern Territory;

The Honorable RICHARD CHAFFEY BAKER, C.M.G., M.L.C., formerly Attorney-General and Minister of Justice.

TASMANIA .....The Honorable PHILIP OAKLEY FYSH, M.L.C., Prime Minister and Chief Secretary;

The Honorable BOLTON STAFFORD BIRD, M.H.A., Treasurer;

The Honorable ANDREW INGLIS CLARK, M.H.A., Attorney-General;

The Honorable WILLIAM MOORE, President of the Legislative Council;

The Honorable ADYE DOUGLAS, M.L.C., formerly Chief Secretary and Prime Minister;

The Honorable WILLIAM HENRY BURGESS, M.H.A., formerly Treasurer;

The Honorable NICHOLAS JOHN BROWN, M.H.A., formerly Minister of Lands and Works.

NEW ZEALAND .....Sir GEORGE GREY, K.C.B., formerly Governor, and more recently Prime Minister;

Sir HARRY ALBERT ATKINSON, K.C.M.G., Speaker of the Legislative Council, late Prime Minister and Colonial Treasurer;

Captain WILLIAM RUSSELL RUSSELL, M.H.R., formerly Colonial Secretary and Minister of Justice and Defence.

WESTERN AUSTRALIA..The Honorable JOHN FORREST, C.M.G., M.P., Prime Minister and Treasurer;

The Honorable WILLIAM EDWARD MARMION, M.P., Commissioner of Crown Lands;

The Honorable JOHN ARTHUR WRIGHT, M.L.C.;

The Honorable JOHN WINTHROP HACKETT, M.L.C.;

ALEXANDER FORREST, Esquire, M.P.;

WILLIAM THORLEY LOTON, Esquire, M.P.

The PRESIDENT took the Chair, pursuant to adjournment.

DRAFT

DRAFT OF BILL TO CONSTITUTE THE COMMONWEALTH OF AUSTRALIA.

On the Order of the Day being read by the Secretary for the further consideration in Committee of the Whole of the Draft of Bill to Constitute the Commonwealth of Australia,—

The PRESIDENT left the Chair, and the Convention resolved itself into a Committee of the Whole for such further consideration.

In Committee of the Whole :—

The Honorable J. P. ABBOTT in the Chair.

Chapter I, Clause 45,—

Each member of the Senate and House of Representatives shall receive an annual allowance "for his services," the amount of which shall be fixed by the Parliament from time to time. Until other provision is made in that behalf by the Parliament the amount of such annual allowance shall be five hundred pounds. (*Further considered.*) Allowance to Members.

Upon which Mr. MARMION had moved the omission of the words "for his services,"

Amendment negatived.

Clause, as read, agreed to.

Chapter I, Clause 46,—

Any person—

(1) Who has taken an oath or made a declaration or acknowledgment of allegiance, obedience, or adherence to a Foreign Power, or has done any act whereby he has become a subject or citizen or entitled to the rights or privileges of a subject or a citizen of a Foreign Power; or Disqualification

(2) Who is an undischarged bankrupt or insolvent, or a public defaulter; or

(3) Who "is" attainted of treason, or convicted of felony or of any infamous crime;

shall be incapable of being chosen or of sitting as a Senator or Member of the House of Representatives until the disability is removed by a grant of a discharge, or the "expiration" of the sentence, or a pardon, or release, or otherwise. (*Read.*)

Mr. WRIXON moved the omission of the word "is," in sub-section (3), with a view to the insertion in its place of the words "has been"

Debate ensued.

Question put,—That the word proposed to be omitted stand part of the Clause.

The Committee divided.

AYES, 27.		NOES, 9.
Sir Harry Atkinson,	Sir Samuel Griffith,	Mr. Cuthbert,
Mr. Bird,	Mr. Hackett,	Mr. Donaldson,
Sir John Bray,	Mr. Kingston,	Mr. FitzGerald,
Mr. Brown,	Mr. Marmion,	Mr. Alexander Forrest,
Mr. Clark,	Mr. McMillan,	Mr. Gillies,
Dr. Cockburn,	Mr. Moore,	Mr. Loton,
Mr. Deakin,	Sir Henry Parkes,	Mr. Macdonald-Paterson,
Mr. Dibbs,	Mr. Playford,	Mr. Munro,
Mr. Douglas,	Mr. Rutledge,	Mr. Wrixon.
Sir John Downer,	Captain Russell,	
Mr. John Forrest,	Lieut.-Colonel Smith,	
Mr. Fysh,	Mr. W. H. Suttor,	
Mr. Gordon,	Mr. Thynne.	
Sir George Grey,		

And the Clause having been amended, on motion of Sir SAMUEL GRIFFITH, by inserting after the word "expiration" the words "or remission"

Clause, as amended, agreed to.

Chapter I, Clause 47, read and agreed to.

Chapter I, Clause 48,—

Disqualifying contractors and persons interested in contracts.

Any person who directly or indirectly himself, or by any person in trust for him, or for his use or benefit, or on his account, undertakes, executes, holds, or enjoys, in the whole or in part, any agreement for or on account of the Public Service of the Commonwealth, shall be incapable of being chosen or of sitting as a Senator or Member of the House of Representatives while he executes, holds, or enjoys the agreement, or any part or share of it, or any benefit or emolument arising from it.

If any person, being a Senator or Member of the House of Representatives, enters into any such agreement, or having entered into it continues to hold it, his place shall "be declared by the Senate or the House of Representatives, as the case may be, to be vacant, and thereupon the same shall become and be vacant accordingly:"

Proviso exempting member of trading companies.

But this section does not extend to any agreement made, entered into, or accepted, by an incorporated company consisting of more than twenty persons if the agreement is made, entered into, or accepted for the general benefit of the company. (*Read.*)

And the Clause having been amended, on motion of Sir SAMUEL GRIFFITH, by omitting the words "be declared by the Senate or the House of Representatives, as the case may be, to be vacant, and thereupon the same shall become and be vacant accordingly:" and inserting in their place the words "thereupon become vacant:"—

Clause, as amended, agreed to.

Chapter I, Clause 49,—

Place to become vacant on accepting office of profit.

If a Senator or Member of the House of Representatives accepts any office of profit under the Crown, not being one of the offices of State held during the pleasure of the Governor-General, and the holders of which are by this Constitution declared to be capable of being chosen and of sitting as Members of either House of Parliament, or accepts any pension payable out of any of the revenues of the Commonwealth during the pleasure of the Crown, his place shall thereupon become vacant, and no person holding any such office, except as aforesaid, or holding or enjoying any such pension, shall be capable of being chosen or of sitting as a Member of either House of the Parliament.

But this provision does not apply to officers of the Military or Naval Forces who are not in the receipt of annual pay. (*Read.*)

Debate ensued.

Clause postponed.

Chapter I, Clauses 50 and 51, read and agreed to.

Chapter I, Clause 52,—

Legislative powers of the Parliament.

The Parliament shall, subject to the provisions of this Constitution, have full power and authority to make all such Laws as it thinks necessary for the peace, order, and good government of the Commonwealth, with respect to all or any of the matters following, that is to say:—

1. The regulation of Trade and Commerce with other Countries, and among the several States;
2. Customs and Excise and bounties, but so that duties of Customs and Excise and bounties shall be uniform throughout the Commonwealth, and that no tax or duty shall be imposed on any goods exported from one State to another;
3. Raising "money" by any other mode or system of taxation; but so that all such taxation shall be uniform throughout the Commonwealth;
4. Borrowing money on the public credit of the Commonwealth;
5. Postal and Telegraphic Services;
6. The Military and Naval Defence of the Commonwealth and the several States, and the calling out of the Forces to execute and maintain the laws of the Commonwealth, or of any State or part of the Commonwealth;
7. Navigation and Shipping;
8. Ocean Beacons and Buoys, and Ocean Light-houses and Light-ships;
9. Quarantine;

10. Fisheries in Australian waters beyond territorial limits;
11. Census and Statistics;
12. Currency Coinage and Legal Tender;
13. Banking, the Incorporation of Banks, and the Issue of Paper Money;
14. Weights and Measures;
15. Bills of Exchange and Promissory Notes;
16. Bankruptcy and Insolvency;
17. Copyrights and Patents of Inventions, Designs, and Trade Marks;
18. Naturalization and Aliens;
19. The Status in the Commonwealth of Foreign Corporations, and of Corporations formed in any State or part of the Commonwealth;
20. Marriage and Divorce;
21. The Service and Execution of the Civil and Criminal Process and Judgments of the Courts of one State or part of the Commonwealth in another State, or part of the Commonwealth;
22. The recognition of the Laws, the Public Records, and the Judicial Proceedings, of one State or part of the Commonwealth in another State or part of the Commonwealth;
23. Immigration and Emigration;
24. The Influx of Criminals;
25. External affairs and Treaties;
26. The relations of the Commonwealth to the Islands of the Pacific;
27. River Navigation with respect to the common purposes of two or more States, or parts of the Commonwealth;
28. The control of Railways with respect to transport for the purposes of the "Commonwealth";
29. Matters referred to the Parliament of the Commonwealth by the Parliament or Parliaments of any State or States, but so that any such Law shall extend only to the State or States by whose Parliament or Parliaments the matter was referred, and to such other States as may afterwards adopt the Law;
30. The exercise within the Commonwealth, at the request or with the concurrence of the Parliaments of all the States concerned, of any Legislative powers with respect to the affairs of the territory of the Commonwealth, or any part of it, which can at the date of the establishment of this Constitution be exercised only by the Parliament of the United Kingdom or by the Federal Council of Australasia, but always subject to the provisions of this Constitution;
31. Any matters necessary or incidental for carrying into execution the foregoing powers and any other powers vested by this Constitution in the Parliament or Executive Government of the Commonwealth or in any department or officer thereof. (*Read.*)

By the unanimous desire of the Committee the CHAIRMAN proposed the first paragraph, and the sub-sections, separately.

Mr. DIBBS moved the insertion after the word "money" in sub-section 3, of the words "if required for Defence purposes in time of war,"

Amendment negatived.

And the Clause having been amended, on motion of Sir SAMUEL GRIFFITH, by inserting the words "7. Munitions of war;" to stand as a new sub-section,—

Mr. GORDON moved the insertion after the word "Commonwealth" in sub-section 28, of the words "and the regulation of traffic and traffic charges upon railways in any State in all cases in which such regulations are required for freedom of Trade and Commerce, and to prevent any undue preference to any particular locality within the Commonwealth, or to any description of traffic;"

Debate ensued.

Question put,—That the words proposed to be inserted be so inserted.

The

The Committee divided.

Ayes, 11.		Noes, 21.	
Mr. Baker,		Mr. Bird,	Mr. Loton,
Sir John Bray,		Mr. Burgess,	Mr. Marmion,
Dr. Cockburn,		Mr. Clark,	Mr. McMillan,
Mr. Deakin,		Mr. Cuthbert,	Mr. Munro,
Mr. Dibbs,		Mr. Donaldson,	Sir Henry Parkes,
Sir John Downer,		Mr. Douglas,	Mr. Rutledge,
Mr. Gordon,		Mr. FitzGerald,	Captain Russell,
Sir George Grey,		Mr. Alexander Forrest,	Mr. W. H. Suttor,
Mr. Kingston,		Mr. John Forrest,	Mr. Thynne,
Mr. Playford,		Mr. Gillies,	Mr. Wrixon.
Lieut.-Colonel Smith.		Sir Samuel Griffith,	

Mr. Clark moved the insertion after the same word "Commonwealth" of the words "and the prevention of discriminating rates being charged for railway services by any State company or person so as to give any preference or advantage to any particular person or class of persons or to any locality or any particular description of traffic;"

Amendment negatived.

Mr. Baker moved the insertion after the same word "Commonwealth" of the words "The altering of the gauge of any line of railway and the establishing a uniform gauge in any State or States;"

Amendment negatived.

Clause, as amended, agreed to.

Chapter I, Clause 53,—

Exclusive powers of the Parliament.

The Parliament shall, also, subject to the provisions of this Constitution, have exclusive "legislative" power to make all such laws as it thinks necessary for the peace, order, and good government of the Commonwealth with respect to the following matters:—

1. The affairs of people of any race with respect to whom it is deemed necessary to make special laws not applicable to the general community; but so that this power shall not extend to authorise legislation with respect to "the" aboriginal native race in Australia and the Maori race in New Zealand;
2. The government of any territory which may by surrender of any State or States and the acceptance of the Parliament become the seat of Government of the Commonwealth, and the exercise of like authority over all places acquired by the Commonwealth, with the consent of the Parliament of the State in which such places are situate, for the construction of forts, magazines, arsenals, dockyards, quarantine stations, or for any other purposes of general concern;
3. Matters relating to any Department or Departments of the Public Service the control of which is by this Constitution transferred to the Executive Government of the Commonwealth;
4. Such other matters as are by this Constitution declared to be within the exclusive powers of the Parliament. (*Read.*)

And the Clause having been amended, on motion of Sir Samuel Griffith, by omitting the word "legislative"; and by inserting after the word "the" in sub-section (1), the words "affairs of the",—

Clause, as amended, agreed to.

Chapter I, Clause 54,—

Money Bills.

"Laws" appropriating "any part of the public revenue," or imposing any tax or impost shall originate in the House of Representatives. (*Read.*)

Mr. Wrixon moved the omission of the word "Laws" with a view to the insertion in its place of the word "Bills."

Debate ensued.

Amendment negatived.

Mr. Baker moved the omission of the words "any part of the public revenue," with a view to the insertion in their place of the words "the necessary supplies for the ordinary annual services of the Government,"

Debate ensued.

Question put,—That the words proposed to be omitted stand part of the Clause.

The

The Committee divided.

Ayes, 24.		Noes, 7.
Mr. Barton,	Sir Patrick Jennings,	Mr. Baker,
Mr. Bird,	Mr. Kingston,	Dr. Cockburn,
Mr. Burgess,	Mr. Loton,	Mr. Douglas,
Mr. Clark,	Mr. McMillan,	Mr. John Forrest,
Mr. Cuthbert,	Mr. Moore,	Mr. Gordon,
Mr. Deakin,	Mr. Munro,	Mr. Hackett,
Mr. Dibbs,	Sir Henry Parkes,	Mr. Thynne.
Mr. Donaldson,	Mr. Playford,	
Mr. FitzGerald,	Mr. Rutledge,	
Mr. Alexander Forrest,	Lieut.-Colonel Smith,	
Mr. Gillies,	Mr. W. H. Suttor,	
Sir Samuel Griffith,	Mr. Wrixon.	

Clause, as read, agreed to.

Chapter I, Clause 55,—

Appropriation and Tax Bills.

(1) The Senate shall have equal power with the House of Representatives in respect of all proposed Laws, "except Laws imposing taxation and Laws appropriating the necessary supplies for the ordinary annual services of the Government, which the Senate may affirm or reject, but may not amend. But the Senate may not amend any proposed Law in such a manner as to increase any proposed charge or burden on the people."

(2) Laws imposing taxation shall deal with the imposition of taxation only.

(3) Laws imposing taxation except Laws imposing duties of Customs on imports shall deal with one subject of taxation only.

(4) The expenditure for services other than the ordinary annual services of the Government shall not be authorised by the same Law as that which appropriates the supplies for such ordinary annual services, but shall be authorised by a separate Law or Laws.

(5) In the case of a proposed Law which the Senate may not amend, the Senate may at any stage return it to the House of Representatives with a message requesting the omission or amendment of any items or provisions therein. And the House of Representatives may, if it thinks fit, make such omissions or amendments, or any of them, with or without modifications. (*Read.*)

Mr. Baker moved the omission from sub-section (1) of the following words "except Laws imposing taxation and Laws appropriating the necessary supplies for the ordinary annual services of the Government, which the Senate may affirm or reject, but may not amend. But the Senate may not amend any proposed Law in such a manner as to increase any proposed charge or burden on the people."

Debate ensued.

On motion of Sir John Bray, the Chairman left the Chair to report progress and ask leave to sit again.

The President resumed the Chair, and the Chairman reported progress and obtained leave to sit again on Monday next.

Adjournment.

Mr. McMillan moved, That the Convention do now adjourn.

And Mr. Brown having addressed the Convention,—

Question put and passed.

The President thereupon left the Chair at sixteen minutes past six o'clock, and the Convention stood adjourned until Monday next at eleven o'clock.

HENRY PARKES,
President.

F. W. WEBB,
Secretary to the National Australasian Convention.

THE PROCEEDINGS

OF THE

NATIONAL AUSTRALASIAN CONVENTION.

HELD IN THE PARLIAMENT HOUSE, SYDNEY, NEW SOUTH WALES.

No. 19.

MONDAY, 6TH APRIL, 1891.

Delegates Present:

NEW SOUTH WALES ...The Honorable Sir HENRY PARKES, G.C.M.G., M.P., Colonial Secretary and Prime Minister;

The Honorable WILLIAM MCMILLAN, M.P., Colonial Treasurer;

The Honorable JOSEPH PALMER ABBOTT, M.P., Speaker of the Legislative Assembly;

GEORGE RICHARD DIBBS, Esquire, M.P., formerly Colonial Secretary and Prime Minister;

The Honorable WILLIAM HENRY SUTTOR, M.L.C., Vice-President of the Executive Council;

The Honorable EDMUND BARTON, Q.C., M.L.C., formerly Speaker;

The Honorable Sir PATRICK ALFRED JENNINGS, K.C.M.G., M.L.C., formerly Prime Minister and Colonial Treasurer.

VICTORIA.....The Honorable JAMES MUNRO, M.P., Prime Minister and Treasurer;

The Honorable DUNCAN GILLIES, M.P., formerly Prime Minister and Treasurer;

The Honorable ALFRED DEAKIN, M.P., formerly Chief Secretary;

The Honorable HENRY JOHN WRIXON, Q.C., M.P., formerly Attorney-General;

The Honorable Lieutenant-Colonel WILLIAM COLLARD SMITH, M.P., formerly Minister of Education;

The Honorable HENRY CUTHBERT, M.L.C., formerly Minister of Justice;

The Honorable NICHOLAS FITZGERALD, M.L.C.

QUEENSLAND

QUEENSLAND .....The Honorable Sir SAMUEL WALKER GRIFFITH, K.C.M.G., Q.C., M.P., Chief Secretary and Prime Minister;

The Honorable Sir THOMAS MCILWRAITH, K.C.M.G., LL.D., M.P., Colonial Treasurer;

The Honorable ARTHUR RUTLEDGE, M.P., formerly Attorney-General;

The Honorable THOMAS MACDONALD-PATERSON, M.L.C., formerly Postmaster-General;

The Honorable ANDREW JOSEPH THYNNE, M.L.C., formerly Minister of Justice;

JOHN DONALDSON, Esquire, M.P., formerly Postmaster-General and Secretary for Public Instruction.

SOUTH AUSTRALIA .....The Honorable THOMAS PLAYFORD, M.P., Treasurer and Prime Minister;

The Honorable Sir JOHN COX BRAY, K.C.M.G., M.P., Chief Secretary;

JOHN ALEXANDER COCKBURN, Esquire, M.D., M.P., formerly Prime Minister and Chief Secretary;

The Honorable Sir JOHN WILLIAM DOWNER, K.C.M.G., Q.C., M.P., formerly Prime Minister;

The Honorable CHARLES CAMERON KINGSTON, Q.C., M.P., formerly Attorney-General;

The Honorable JOHN HANNAH GORDON, M.L.C., formerly Minister of Education and of the Northern Territory;

The Honorable RICHARD CHAFFEY BAKER, C.M.G., M.L.C., formerly Attorney-General and Minister of Justice.

TASMANIA .....The Honorable PHILIP OAKLEY FYSH, M.L.C., Prime Minister and Chief Secretary;

The Honorable BOLTON STAFFORD BIRD, M.H.A., Treasurer;

The Honorable ANDREW INGLIS CLARK, M.H.A., Attorney-General;

The Honorable WILLIAM MOORE, President of the Legislative Council;

The Honorable ADYE DOUGLAS, M.L.C., formerly Chief Secretary and Prime Minister;

The Honorable WILLIAM HENRY BURGESS, M.H.A., formerly Treasurer.

NEW ZEALAND .....Sir GEORGE GREY, K.C.B., formerly Governor, and more recently Prime Minister.

Sir HARRY ALBERT ATKINSON, K.C.M.G., Speaker of the Legislative Council, late Prime Minister and Colonial Treasurer;

Captain WILLIAM RUSSELL RUSSELL, M.H.R., formerly Colonial Secretary and Minister of Justice and Defence.

WESTERN AUSTRALIA..The Honorable JOHN FORREST, C.M.G., M.P., Prime Minister and Treasurer;

The Honorable WILLIAM EDWARD MARMION, M.P., Commissioner of Crown Lands;

The Honorable JOHN WINTHROP HACKETT, M.L.C.;

ALEXANDER FORREST, Esquire, M.P.;

WILLIAM THORLEY LOTON, Esquire, M.P.

The PRESIDENT took the Chair, pursuant to adjournment.

LETTER

LETTER FROM THE TUCKURIMBA PROGRESS COMMITTEE.

The Secretary, by direction of the President, read to the Convention the following letter from the Secretary of the Tuckurimba Progress Committee :—

"Tuckurimba, 27th March, 1891.

"The Hon. Sir Henry Parkes, President of the Federal Conference,—

"Sir,

"As Secretary of the Tuckurimba Progress Committee, I feel very "much gratified to have to forward to you the following resolution, which "was unanimously adopted at our meeting, very largely and representatively "attended, on the 24th instant :—

"That this Committee desire to convey to the Federal Conference, through "its President, the hope that its deliberations may result in the "forming of a United Australian Nation: and that this resolution be "sent, by our Secretary, to the President of the Federal Conference "now sitting at Sydney.

"I have the honor to be,

"Sir,

"Your obedient servant,

"HENRY M. M'CAUGHEY."

DRAFT OF BILL TO CONSTITUTE THE COMMONWEALTH OF AUSTRALIA.

On the Order of the Day being read by the Secretary for the further consideration in Committee of the Whole of the Draft of Bill to Constitute the Commonwealth of Australia,—

The PRESIDENT left the Chair, and the Convention resolved itself into a Committee of the Whole for such further consideration.

In Committee of the Whole :—

The Honorable J. P. ABBOTT in the Chair.

Chapter I, Clause 55,—

(1) The Senate shall have equal power with the House of Representatives, in respect of all proposed Laws, "'except' Laws imposing taxation and Laws appropriating the necessary supplies for the ordinary annual services of the 'Government,' which the Senate may affirm or reject, but may not amend. But the Senate may not amend any proposed Law in such a manner as to increase any proposed charge or burden on the people." Appropriation and Tax Bills

(2) Laws imposing taxation shall deal with the imposition of taxation only.

(3) Laws imposing taxation except Laws imposing duties of Customs on imports shall deal with one subject of taxation only.

(4) The expenditure for services other than the ordinary annual services of the Government shall not be authorised by the same Law as that which appropriates the supplies for such ordinary annual services, but shall be authorised by a separate Law or Laws.

(5) In the case of a proposed Law which the Senate may not amend, the Senate may at any stage return it to the House of Representatives with a message requesting the omission or amendment of any items or provisions therein. And the House of Representatives may, if it thinks fit, make such omissions or amendments, or any of them, with or without modifications. (*Further considered.*)

Upon which, Mr. BAKER had moved the omission from sub-section (1) of the following words "except Laws imposing taxation and Laws appropriating the necessary supplies for the ordinary annual services of the Government, which the Senate may affirm or reject, but may not amend. But the Senate may not amend any proposed Law in such a manner as to increase any proposed charge or burden on the people."

Debate resumed by Mr. THYNNE and continued.

Amendment, by leave, withdrawn.

Mr. BAKER moved the omission from sub-section (1) of the word 'except'

Debate ensued.

Question put,—That the word proposed to be omitted stand part of the Clause.

The Committee divided.

AYES, 22.		NOES, 16.	
Mr. Bird,	Mr. Kingston,	Mr. Baker,	Mr. Loton,
Sir John Bray,	Mr. Macdonald-Paterson,	Mr. Burgess,	Mr. Marmion,
Mr. Clark,	Sir Thomas McIlwraith,	Dr. Cockburn,	Mr. Moore,
Mr. Cuthbert,	Mr. McMillan,	Mr. Dibbs,	Captain Russell,
Mr. Deakin,	Mr. Munro,	Mr. Donaldson,	Mr. Thynne.
Mr. FitzGerald,	Sir Henry Parkes,	Mr. Douglas,	
Mr. Fysh,	Mr. Playford,	Sir John Downer,	
Mr. Gillies,	Mr. Rutledge,	Mr. Alexander Forrest,	
Sir Samuel Griffith,	Lieut.-Colonel Smith,	Mr. John Forrest,	
Mr. Hackett,	Mr. W. H. Suttor,	Mr. Gordon,	
Sir Patrick Jennings,	Mr. Wrixon.	Sir George Grey,	

Mr. MCMILLAN moved the insertion after the word 'Government' in sub-section (1) of the words,—

"(2) In respect of Laws appropriating the necessary supplies for the ordinary annual services of the Government, the Senate shall have the power to affirm or reject, but not to amend.

"(3) In respect of Laws imposing taxation the Senate shall have the power to amend, but if any proposed Law imposing taxation is amended by the Senate, and is afterwards returned to the Senate by the House of Representatives, the Senate shall not have the power to send the proposed Law again to the House of Representatives with any amendment in it to which the House of Representatives has not agreed, but shall either affirm or reject it."

Debate ensued.

Amendment negatived.

Mr. WRIXON moved the addition to the Clause of the following sub-section,—

"(6) If the House of Representatives decline to make any such omission or amendment, the Senate may request a joint meeting of the members of the two Houses, which shall thereupon be held, and the question shall be determined by a majority of the Members present at such meeting."

Debate ensued.

Amendment negatived.

Clause, as read, agreed to.

Chapter I, Clause 56,—

Recommendation of money votes.

It shall not be lawful for the House of Representatives to pass any vote, resolution, or Law for the appropriation of any part of the public revenue, "or of the produce of any tax or impost," to any purpose that has not been first recommended to that House by message of the Governor-General in the Session in which the vote, resolution, or Law, is proposed. *(Read.)*

Sir JOHN BRAY moved the omission of the words "or of the produce of any tax or impost,"

Debate ensued.

Amendment negatived.

Clause, as read, agreed to.

Chapter I, Clause 57, read and agreed to.

Chapter I, Clause 58,—

Disallowance by Order in Council of Law assented to by Governor-General.

When the Governor-General assents to a Law in the Queen's name he shall by the first convenient opportunity send an authentic copy to the Queen, and if the Queen in Council within "two" years after receipt thereof thinks fit to disallow the Law, such disallowance being made known by the Governor-General, by speech or message, to each of the Houses of the Parliament, or by proclamation, shall annul the Law from and after the day when the disallowance is so made known. *(Read.)*

Dr.

Dr. COCKBURN moved the omission of the word "two" with a view to the insertion in its place of the word "one."

Debate ensued.

Amendment negatived.

Dr. COCKBURN moved the addition to the Clause of the following proviso,—"Provided that such disallowance shall be exercised on such subjects only as affect Imperial Interests and are specified in Schedule B."

Amendment negatived.

Clause, as read, agreed to.

Chapter I, Clause 59, read and agreed to.

Chapter II, Clauses 1, 2, and 3, read and agreed to.

Chapter II, Clause 4,—

Ministers of State may sit in Parliament.

For the administration of the Executive government of the Commonwealth, the Governor-General may, from time to time, appoint Officers to administer such Departments of State of the Commonwealth as the Governor-General in Council may from time to time establish, and such Officers shall hold office during the pleasure of the "Governor-General," and shall be capable of being chosen and of sitting as Members of either House of the Parliament.

Such Officers shall be Members of the Federal Executive Council. (*Read.*)

Sir JOHN BRAY moved the insertion after the word "Governor-General," of the words "and not less than two of such officers shall be members of the Senate,"

Debate ensued.

Amendment negatived.

And the Clause having been amended, on motion of Sir SAMUEL GRIFFITH, by the addition to the Clause of the words "and shall be the Queen's Ministers of State for the Commonwealth.",—

Clause, as amended, agreed to.

Chapter II, Clause 5, read and agreed to.

Chapter II, Clause 6,—

Salaries of Ministers.

"There" shall be payable to the Queen, out of the Consolidated Revenue Fund of the Commonwealth, for the salaries of such officers, "a sum not less than" fifteen thousand pounds per annum.' (*Read.*)

And the Clause having been amended, on motion of Sir SAMUEL GRIFFITH, by inserting before the first word "There" the words "Until other provision is made by the Parliament"; and by omitting the words "a sum not less than" and inserting in their place the words "the sum of",—

Clause, as amended, agreed to.

Chapter II, Clause 7, read and agreed to.

Chapter II, Clause 8,—

Authority of Executive.

The Executive power and authority of the Commonwealth shall "extend to" all matters with respect to which the Legislative powers of the Parliament may be exercised, excepting only matters, being within the Legislative powers of a State, with respect to which the Parliament of that State for the time being exercises such powers. (*Read.*)

And the Clause having been amended, on motion of Sir SAMUEL GRIFFITH, by omitting all the words after "extend to" and inserting in their place the words "the execution of the provisions of this Constitution, and the Laws of the Commonwealth.",—

Clause, as amended, agreed to.

Chapter II, Clause 9 read and agreed to.

Chapter II, Clause 10,—

Immediate assumption of control of certain departments.

The control of the following departments of the Public Service shall be at once assigned to and assumed and taken over by the Executive Government of the Commonwealth, and the Commonwealth shall assume the obligations of "all or" any State or States with respect to such matters, that is to say—

Customs and Excise,
"Posts and Telegraphs,"
Military and Naval Defence,
"Ocean Beacons and Buoys, and Ocean Lighthouses and Lightships,"
Quarantine. (*Read.*)

And the Clause having been amended, on motion of Sir SAMUEL GRIFFITH, by omitting the words "all or",—

Mr. DOUGLAS moved the omission of the words "Posts and Telegraphs,"; and subsequently the omission of the words "Ocean Beacons and Buoys, and Ocean Lighthouses, and Lightships,".

Amendments negatived.

Clause, as amended, agreed to.

Chapter II, Clause 11,—

Powers under existing Law to be exercised by Governor-General with advice of Executive Council, or alone as the case may be.

All powers and functions which are at the date of the establishment of the Commonwealth vested in the Governor of a Colony with or without the advice of his Executive Council, or in any officer or "person" in a Colony, shall, so far as the same continue in existence and need to be exercised in relation to the government of the Commonwealth, with respect to any matters which under this Constitution pass to the Executive Government of the Commonwealth, vest in the Governor-General, with the advice of the Federal Executive Council, or in the "officer" exercising similar powers or functions in or under the Executive Government of the Commonwealth. (*Read.*)

And the Clause having been amended, on motion of Sir SAMUEL GRIFFITH, by omitting the word "person" and inserting in its place the word "authority"; and by inserting after the word "officer" the words "or authority",—

Clause, as amended, agreed to.

Chapter III, Clause 1,—

Supreme Court of Australia and Inferior Courts.

The Parliament of the Commonwealth shall have power to establish a Court, which shall be called the Supreme Court of Australia, and shall consist of a Chief Justice, and so many other Justices, not less than four, as the Parliament from time to time prescribes. The Parliament may also from time to time, subject to the provisions of this Constitution, establish other Courts. (*Read.*)

Mr. KINGSTON moved the addition to the Clause of the words, "including Courts of Conciliation and Arbitration for the settlement of industrial disputes."

Debate ensued.

Question put,—That the words proposed to be added be so added.

The Committee divided.

AYES, 12.	NOES, 25.	
Sir Harry Atkinson,	Mr. Baker,	Sir Patrick Jennings,
Mr. Burgess,	Mr. Barton,	Mr. Loton,
Dr. Cockburn,	Mr. Bird,	Mr. Macdonald-Paterson,
Mr. Cuthbert,	Mr. Clark,	Mr. Marmion,
Mr. Deakin,	Mr. Donaldson,	Sir Thomas McIlwraith,
Mr. Dibbs,	Mr. Douglas,	Mr. McMillan,
Mr. Fysh,	Sir John Downer,	Mr. Moore,
Mr. Kingston,	Mr. FitzGerald,	Sir Henry Parkes,
Mr. Munro,	Mr. Alexander Forrest,	Mr. Rutledge,
Mr. Playford,	Mr. John Forrest,	Mr. W. H. Suttor,
Captain Russell,	Mr. Gillies,	Mr. Thynne,
Lieut.-Colonel Smith.	Sir Samuel Griffith,	Mr. Wrixon.
	Mr. Hackett,	

Clause, as read, agreed to.

Chapter III, Clauses 2, 3, 4, and 5 read and agreed to. Chapter

Chapter III, Clause 6,—

Notwithstanding the provisions of the two last preceding sections, or of any law made by the Parliament of the Commonwealth in pursuance thereof, the Queen may in any case "in which the public interests of the Commonwealth, or of any State, or of any other part of the Queen's Dominions, are concerned," grant leave to appeal to Herself in Council against any judgment of the Supreme Court of Australia. (*Read.*) Power of the Queen to allow appeal to Herself in certain cases.

Mr. WRIXON moved the omission of the words "in which the public interests of the Commonwealth, or of any State, or of any other part of the Queen's Dominions, are concerned,"

Debate ensued.

Question put,—That the words proposed to be omitted stand part of the Clause.

The Committee divided.

AYES, 19.		NOES, 17.	
Mr. Barton,	Sir Patrick Jennings,	Sir Harry Atkinson,	Mr. Loton,
Mr. Bird,	Mr. Kingston,	Mr. Baker,	Mr. Marmion,
Mr. Clark,	Sir Thomas McIlwraith,	Mr. Burgess,	Mr. Moore,
Dr. Cockburn,	Mr. McMillan,	Mr. Cuthbert,	Mr. Munro,
Mr. Deakin,	Sir Henry Parkes,	Mr. Dibbs,	Captain Russell,
Mr. Donaldson,	Mr. Playford,	Mr. Douglas,	Mr. W. H. Suttor,
Sir John Downer,	Mr. Rutledge,	Mr. FitzGerald,	Mr. Wrixon.
Mr. Fysh,	Lieut.-Colonel Smith,	Mr. Alexander Forrest,	
Sir George Grey,	Mr. Thynne.	Mr. John Forrest,	
Sir Samuel Griffith,		Mr. Gillies,	

Clause, as read, agreed to.

Chapter III, Clause 7,—

The Parliament of the Commonwealth may from time to time define the jurisdiction of the Courts of the Commonwealth, other than the Supreme Court of Australia, which jurisdiction may be exclusive, or may be concurrent with that of the Courts of the States. But "exclusive" jurisdiction shall not be conferred on a Court except in respect of the following matters, or some of them, that is to say:— Extent of power of Federal Courts.

(1) Cases arising under this Constitution;
(2) Cases arising under any Laws made by the Parliament of the Commonwealth, or under any treaty made by the Commonwealth with another country;
(3) Cases of Admiralty and Maritime jurisdiction;
(4) Cases affecting the Public Ministers, Consuls, or other Representatives of other countries;
(5) Cases in which the Commonwealth, or a person suing or being sued on behalf of the Commonwealth, is a party;
(6) Cases in which a Writ of Mandamus or Prohibition is sought against an Officer of the Commonwealth;
(7) Controversies between States;
(8) Controversies relating to the same subject matter claimed under the laws of different States. (*Read.*)

And the Clause having been amended, on motion of Sir JOHN DOWNER, by omitting the word "exclusive",—

Clause, as amended, agreed to.

Chapter III, Clause 8,—

In all cases affecting Public Ministers, Consuls, or other Representatives of other Countries, and in all cases in which the Commonwealth, or any person suing or being sued on behalf of the Commonwealth, is a party, or in which a Writ of Mandamus or Prohibition is sought against an Officer of the Commonwealth, and in all cases of controversies between States, the Supreme Court of Australia shall have original as well as appellate jurisdiction. Original jurisdiction.

The Parliament may confer original jurisdiction on the Supreme Court of Australia in such other "cases" as it thinks fit. (*Read.*) Additional original jurisdiction may be conferred.

And

And the Clause having been amended, on motion of Sir SAMUEL GRIFFITH, by omitting the word "cases" and inserting in its place the words "of the cases enumerated in the last preceding section"

Clause, as amended, agreed to.

Chapter III, Clause 9 read and agreed to.

Chapter III, Clause 10,—

Number of Judges.

The jurisdiction of the Supreme Court, or of any other Court of the Commonwealth, may be exercised by such number of Judges as the Parliament "may by law" prescribe. (*Read.*)

And the Clause having been amended, on motion of Sir SAMUEL GRIFFITH, by omitting the words "may by law",—

Clause, as amended, agreed to.

Chapter III, Clause 11 read and agreed to.

On motion of Sir SAMUEL GRIFFITH, the Chairman left the Chair to report progress and ask leave to sit again.

The PRESIDENT resumed the Chair, and the CHAIRMAN reported progress and obtained leave to sit again to-morrow.

ADJOURNMENT.

Mr. MCMILLAN moved, That the Convention do now adjourn.

Debate ensued.

Question put and passed.

The PRESIDENT thereupon left the Chair at eight minutes past six o'clock, and the Convention stood adjourned until to-morrow at eleven o'clock.

HENRY PARKES,
President.

F. W. WEBB,
Secretary to the National Australasian Convention.

THE PROCEEDINGS

OF THE

NATIONAL AUSTRALASIAN CONVENTION.

HELD IN THE PARLIAMENT HOUSE, SYDNEY, NEW SOUTH WALES.

No. 20.

TUESDAY, 7TH APRIL, 1891.

Delegates Present:

NEW SOUTH WALES ...The Honorable Sir HENRY PARKES, G.C.M.G., M.P., Colonial Secretary and Prime Minister;

The Honorable WILLIAM MCMILLAN, M.P., COLONIAL Treasurer;

GEORGE RICHARD DIBBS, Esquire, M.P., formerly Colonial Secretary and Prime Minister;

The Honorable WILLIAM HENRY SUTTOR, M.L.C., Vice-President of the Executive Council;

The Honorable EDMUND BARTON, Q.C., M.L.C., formerly Speaker;

The Honorable Sir PATRICK ALFRED JENNINGS, K.C.M.G., M.L.C., formerly Prime Minister and Colonial Treasurer.

VICTORIA.....The Honorable JAMES MUNRO, M.P., Prime Minister and Treasurer;

The Honorable DUNCAN GILLIES, M.P., formerly Prime Minister and Treasurer;

The Honorable ALFRED DEAKIN, M.P., formerly Chief Secretary;

The Honorable HENRY JOHN WRIXON, Q.C., M.P., formerly Attorney-General;

The Honorable Lieutenant-Colonel WILLIAM COLLARD SMITH, M.P., formerly Minister of Education;

The Honorable HENRY CUTHBERT, M.L.C., formerly Minister of Justice;

The Honorable NICHOLAS FITZGERALD, M.L.C.

QUEENSLAND

QUEENSLAND .....The Honorable Sir SAMUEL WALKER GRIFFITH, K.C.M.G., Q.C., M.P., Chief Secretary and Prime Minister;

The Honorable Sir THOMAS MCILWRAITH, K.C.M.G., LL.D., M.P., Colonial Treasurer;

The Honorable ARTHUR RUTLEDGE, M.P., formerly Attorney-General;

The Honorable THOMAS MACDONALD-PATERSON, M.L.C., formerly Postmaster-General;

The Honorable ANDREW JOSEPH THYNNE, M.L.C., formerly Minister of Justice;

JOHN DONALDSON, Esquire, M.P., formerly Postmaster-General and Secretary for Public Instruction.

SOUTH AUSTRALIA.....The Honorable THOMAS PLAYFORD, M.P., Treasurer and Prime Minister;

The Honorable Sir JOHN COX BRAY, K.C.M.G., M.P., Chief Secretary;

JOHN ALEXANDER COCKBURN, Esquire, M.D., M.P., formerly Prime Minister and Chief Secretary;

The Honorable Sir JOHN WILLIAM DOWNER, K.C.M.G., Q.C., M.P., formerly Prime Minister;

The Honorable CHARLES CAMERON KINGSTON, Q.C., M.P., formerly Attorney-General;

The Honorable JOHN HANNAH GORDON, M.L.C., formerly Minister of Education and of the Northern Territory;

The Honorable RICHARD CHAFFEY BAKER, C.M.G., M.L.C., formerly Attorney-General and Minister of Justice.

TASMANIA .....The Honorable PHILIP OAKLEY FYSH, M.L.C., Prime Minister and Chief Secretary;

The Honorable BOLTON STAFFORD BIRD, M.H.A., Treasurer;

The Honorable ANDREW INGLIS CLARK, M.H.A., Attorney-General;

The Honorable WILLIAM MOORE, President of the Legislative Council;

The Honorable ADYE DOUGLAS, M.L.C., formerly Chief Secretary and Prime Minister;

The Honorable WILLIAM HENRY BURGESS, M.H.A., formerly Treasurer.

NEW ZEALAND .....Sir GEORGE GREY, K.C.B., formerly Governor, and more recently Prime Minister;

Sir HARRY ALBERT ATKINSON, K.C.M.G., Speaker of the Legislative Council, late Prime Minister and Colonial Treasurer;

Captain WILLIAM RUSSELL RUSSELL, M.H.R., formerly Colonial Secretary and Minister of Justice and Defence.

WESTERN AUSTRALIA..The Honorable JOHN FORREST, C.M.G., M.P., Prime Minister and Treasurer;

The Honorable WILLIAM EDWARD MARMION, M.P., Commissiner of Crown Lands;

The Honorable JOHN WINTHROP HACKETT, M.L.C.;

ALEXANDER FORREST, Esquire, M.P.;

WILLIAM THORLEY LOTON, Esquire, M.P.

The PRESIDENT took the Chair, pursuant to adjournment.

DEPUTY

DEPUTY CHAIRMAN OF COMMITTEES OF THE WHOLE.

Mr. BARTON, *by consent*, moved, without notice, That the Honorable William Moore do take the Chair in Committee of the whole Convention for this day only.

The motion having been seconded by Mr. W. H. SUTTOR, was put and carried unanimously.

DRAFT OF BILL TO CONSTITUTE THE COMMONWEALTH OF AUSTRALIA.

On the Order of the Day being read by the Secretary for the further consideration in Committee of the Whole of the Draft of Bill to Constitute the Commonwealth of Australia,—

The PRESIDENT left the Chair, and the Convention resolved itself into a Committee of the Whole for such further consideration.

In Committee of the Whole :—

The Honorable WILLIAM MOORE in the Chair.

Chapter IV, Clauses 1 and 2 read and agreed to.

Chapter IV, Clause 3,—

No money shall be drawn from the Treasury of the Commonwealth except under appropriations made by law. (*Read.*) Money to be appropriated by law.

Mr. THYNNE moved the addition to the Clause of the words "and for purposes authorised by this Constitution."

Amendment negatived.

Clause, as read, agreed to.

Chapter IV, clause 4,—

The Parliament of the Commonwealth shall have the sole power and authority, subject to the provisions of this Constitution, to impose Customs duties, and duties of Excise upon goods for the time being the subject of Customs duties, and to grant bounties upon the production or export of goods. Power to levy duties of Customs and Excise and offer bounties.

But this exclusive power shall not come into force until uniform duties of Customs have been imposed by the Parliament of the Commonwealth.

"Upon" the imposition of uniform duties of Customs by the Parliament of the Commonwealth all laws of the several States imposing duties of Customs or duties of Excise upon goods the subject of Customs duties, and all such laws offering bounties upon the production or export of goods, shall cease to have effect.

The control and collection of duties of Customs and Excise and the payment of bounties shall nevertheless pass to the Executive Government of the Commonwealth upon the establishment of the Commonwealth. (*Read.*)

Debate ensued.

Mr. DIBBS moved the omission of all the words after the word "Upon" to the end of that paragraph, with a view to the insertion in their place of the words "the Constitution becoming law, and the Commonwealth being established, the tariff now existing in the province of Victoria shall be the tariff of the Commonwealth until otherwise dealt with by the Parliament."

Amendment negatived.

Clause, as read, agreed to.

Chapter IV, Clause 5,—

Upon the establishment of the Commonwealth, all officers employed by the Government of any State in any Department of the Public Service the control of which is by this Constitution assigned to the Commonwealth, shall become subject to the control of the Executive Government of the Commonwealth. But all existing rights of any such officers shall be preserved. (*Read.*) Transfer of officers.

Mr. GORDON moved the addition to the Clause of the words "but the Commonwealth shall not be responsible for any pensions agreed to be paid by the States."

Amendment negatived.

Clause, as read, agreed to.

Chapter

Chapter IV, Clauses 6, 7, and 8 read and agreed to.

Chapter IV, Clause 9,—

Apportionment of surplus revenue.

The Revenue of the Commonwealth shall be applied in the first instance in the payment of the expenditure of the "Commonwealth," and the surplus "shall" be returned to the several "States" in proportion to the amount of Revenue raised therein respectively, subject to the following provisions:—

(1) As to duties of Customs or Excise, provision shall be made for ascertaining, as nearly as may be, the amount of duties collected in each State or part of the Commonwealth in respect of dutiable goods which are afterwards exported to another State or part of the Commonwealth, and the amount of "such" "duties" shall be taken to have been collected in the State or part to which the goods have been so exported, and shall be added to the duties actually collected in that State or part, and deducted from the duties collected in the State or part of the Commonwealth from which the goods were exported:

(2) As to the proceeds of direct taxes, the amount contributed or raised in respect of income earned in any State or part of the Commonwealth, or arising from property situated in any State or part of the Commonwealth, and the amount contributed or raised in respect of property situated in any State or part of the Commonwealth, shall be taken to have been raised in that State or part:

(3) "Until uniform duties of Customs have been imposed," the amount of any bounties paid to any of the people of a State or part of the Commonwealth shall be deducted from the amount of the surplus to be returned to that State or part:

Such return shall be made monthly, or at such shorter intervals as may be convenient. (*Read.*)

Sir THOMAS MCILWRAITH moved the insertion after the word "Commonwealth," of the words "which shall be charged to the several States in proportion to the numbers of their people,"

Debate ensued.

Question put,—That the words proposed to be inserted be so inserted.

The Committee divided.

AYES, 21.		NOES, 14.	
Mr. Barton,	Sir Patrick Jennings,	Mr. Baker,	Sir John Downer,
Mr. Cuthbert,	Mr. Loton,	Mr. Bird,	Mr. Fysh,
Mr. Deakin,	Mr. Macdonald-Paterson,	Sir John Bray,	Mr. Gordon,
Mr. Dibbs,	Mr. Marmion.	Mr. Burgess,	Sir George Grey,
Mr. Donaldson,	Sir Thomas McIlwraith,	Mr. Clark,	Mr. Kingston,
Mr. FitzGerald,	Mr. McMillan,	Dr. Cockburn,	Mr. Playford,
Mr. Alexander Forrest,	Mr. Munro,	Mr. Douglas,	Captain Russell.
Mr. John Forrest,	Mr. Rutledge,		
Mr. Gillies,	Mr. Thynne,		
Sir Samuel Griffith,	Mr. Wrixon.		
Mr. Hackett,			

And the Clause having been further amended, on motion of Mr. MCMILLAN, by inserting after the word "shall" the words "until uniform duties of Customs have been imposed"; and on motion of Sir SAMUEL GRIFFITH, by inserting after the word "States" the words "or parts of the Commonwealth,"; by omitting the word "such" and inserting in its place the word "the"; by inserting after the word "duties" the words "so ascertained"; and by omitting the words "Until uniform duties of Customs have been imposed,"—

Mr. MCMILLAN moved the insertion after sub-section (3) of the words,—

"After uniform duties of Customs have been imposed, the surplus shall be returned to the several States or parts of the 'Commonwealth' in the same manner and proportions until the Parliament otherwise prescribes."

Sir JOHN BRAY moved the omission from the proposed amendment of all the words after the word 'Commonwealth' with a view to the insertion in their place of the words "in such manner and proportion as the Parliament may prescribe."

Amendment

Amendment on the proposed amendment negatived.

Mr. McMillan's amendment then agreed to.

Clause, as amended, agreed to.

Chapter IV, Clause 10 read and agreed to.

Chapter IV, Clause 11,—

Preference shall not be given by any law or regulation of commerce or revenue to the ports of one part of the Commonwealth over those of another part of the Commonwealth, "and vessels bound to or from one part shall not be bound to enter, clear, or pay duty, in another part." (*Read.*)

No preference to one State over another.

And the Clause having been amended, on motion of Sir Samuel Griffith, by omitting the words "and vessels bound to or from one part shall not be bound to enter, clear, or pay duty, in another part."

Clause, as amended, agreed to.

Chapter IV, Clause 12 read and agreed to.

Chapter IV, Clause 13,—

"The Parliament of" the Commonwealth may, with the consent of the Parliaments of all the States, make laws for taking over and consolidating the whole or any part of the public debt of any State or States, but so that a State shall be liable to indemnify the Commonwealth in respect of the amount of a debt taken over, and that the amount of interest payable in respect of a debt shall be deducted and retained from time to time from the share of the Surplus Revenue of the Commonwealth which would otherwise be payable to the State. (*Read.*)

Public debts of States may be consolidated by general consent.

Sir John Bray moved the omission of the words "The Parliament of"

Debate ensued.

Amendment negatived.

Clause, as read, agreed to.

Chapter V, Clause 1,—

All powers which at the date of the establishment of the Commonwealth are vested in the Parliaments of the several Colonies, and which are not by this Constitution exclusively vested in the Parliament of the Commonwealth, "and all powers which" the Parliaments of the several States "are not by this Constitution forbidden to exercise," are reserved to, and shall remain vested in, the Parliaments of the States respectively. (*Read.*)

Continuance of powers of Parliaments of the States.

And the Clause having been amended, on motion of Sir Samuel Griffith, by omitting the words "and all powers which" and inserting in their place the words "or withdrawn from"; and by omitting the words "are not by this Constitution forbidden to exercise,"—

Clause, as amended, agreed to.

Chapter V, Clauses 2, 3, and 4, read and agreed to.

Chapter V, Clause 5,—

All references or communications required by the Constitution of any State or otherwise to be made by the Governor of the State to the Queen shall be made through the Governor-General, as Her Majesty's Representative in the Commonwealth, and the Queen's pleasure shall be made known through him. (*Read.*)

All references to the Queen to be through the Governor-General.

Debate ensued.

On motion of Sir Samuel Griffith, the Deputy Chairman left the Chair to report progress and ask leave to sit again.

The President resumed the Chair, and the Deputy Chairman reported progress and obtained leave to sit again to-morrow.

Adjournment.

ADJOURNMENT.

Mr. McMILLAN moved, That the Convention do now adjourn.

Question put and passed.

The PRESIDENT thereupon left the Chair at twenty-eight minutes before seven o'clock, and the Convention stood adjourned until to-morrow at eleven o'clock.

HENRY PARKES,
President.

F. W. WEBB,
Secretary to the National Australasian Convention.

THE PROCEEDINGS

OF THE

NATIONAL AUSTRALASIAN CONVENTION.

HELD IN THE PARLIAMENT HOUSE, SYDNEY, NEW SOUTH WALES.

No. 21.

WEDNESDAY, 8TH APRIL, 1891.

Delegates Present:

NEW SOUTH WALES...The Honorable Sir HENRY PARKES, G.C.M.G., M.P., Colonial Secretary and Prime Minister;

The Honorable WILLIAM MCMILLAN, M.P., Colonial Treasurer;

The Honorable JOSEPH PALMER ABBOTT, M.P., Speaker of the Legislative Assembly;

GEORGE RICHARD DIBBS, Esquire, M.P., formerly Colonial Secretary and Prime Minister;

The Honorable WILLIAM HENRY SUTTOR, M.L.C., Vice-President of the Executive Council;

The Honorable EDMUND BARTON, Q.C., M.L.C., formerly Speaker;

The Honorable Sir PATRICK ALFRED JENNINGS, K.C.M.G., M.L.C., formerly Prime Minister and Colonial Treasurer.

VICTORIA.....The Honorable JAMES MUNRO, M.P., Prime Minister and Treasurer;

The Honorable DUNCAN GILLIES, M.P., formerly Prime Minister and Treasurer;

The Honorable ALFRED DEAKIN, M.P., formerly Chief Secretary;

The Honorable HENRY JOHN WRIXON, Q.C., M.P., formerly Attorney-General;

The Honorable Lieutenant-Colonel WILLIAM COLLARD SMITH, M.P., formerly Minister of Education;

The Honorable HENRY CUTHBERT, M.L.C., formerly Minister of Justice;

The Honorable NICHOLAS FITZGERALD, M.L.C.

QUEENSLAND

QUEENSLAND .....The Honorable Sir SAMUEL WALKER GRIFFITH, K.C.M.G., Q.C., M.P., Chief Secretary and Prime Minister;

The Honorable Sir THOMAS MCILWRAITH, K.C.M.G., LL.D., M.P., Colonial Treasurer;

The Honorable ARTHUR RUTLEDGE, M.P., formerly Attorney-General;

The Honorable THOMAS MACDONALD-PATERSON, M.L.C., formerly Postmaster-General;

The Honorable ANDREW JOSEPH THYNNE, M.L.C., formerly Minister of Justice;

JOHN DONALDSON, Esquire, M.P., formerly Postmaster-General and Secretary for Public Instruction.

SOUTH AUSTRALIA.....The Honorable THOMAS PLAYFORD, M.P., Treasurer and Prime Minister;

The Honorable Sir JOHN COX BRAY, K.C.M.G., M.P., Chief Secretary;

JOHN ALEXANDER COCKBURN, Esquire, M.D., M.P., formerly Prime Minister and Chief Secretary;

The Honorable Sir JOHN WILLIAM DOWNER, K.C.M.G., Q.C., M.P., formerly Prime Minister;

The Honorable CHARLES CAMERON KINGSTON, Q.C., M.P., formerly Attorney-General;

The Honorable JOHN HANNAH GORDON, M.L.C., formerly Minister of Education and of the Northern Territory;

The Honorable RICHARD CHAFFEY BAKER, C.M.G., M.L.C., formerly Attorney-General and Minister of Justice.

TASMANIA .....The Honorable PHILIP OAKLEY FYSH, M.L.C., Prime Minister and Chief Secretary;

The Honorable BOLTON STAFFORD BIRD, M.H.A., Treasurer;

The Honorable ANDREW INGLIS CLARK, M.H.A., Attorney-General;

The Honorable WILLIAM MOORE, President of the Legislative Council;

The Honorable ADYE DOUGLAS, M.L.C., formerly Chief Secretary and Prime Minister;

The Honorable WILLIAM HENRY BURGESS, M.H.A., formerly Treasurer;

NEW ZEALAND .....Sir GEORGE GREY, K.C.B., formerly Governor, and more recently Prime Minister.

Sir HARRY ALBERT ATKINSON, K.C.M.G., Speaker of the Legislative Council, late Prime Minister and Colonial Treasurer;

Captain WILLIAM RUSSELL RUSSELL, M.H.R., formerly Colonial Secretary and Minister of Justice and Defence.

WESTERN AUSTRALIA..The Honorable JOHN FORREST, C.M.G., M.P., Prime Minister and Treasurer;

The Honorable WILLIAM EDWARD MARMION, M.P., Commissioner of Crown Lands;

The Honorable JOHN WINTHROP HACKETT, M.L.C.;

ALEXANDER FORREST, Esq., M.P.;

WILLIAM THORLEY LOTON, Esquire. M.P.

The PRESIDENT took the Chair, pursuant to adjournment.

DRAFT

DRAFT OF BILL TO CONSTITUTE THE COMMONWEALTH OF AUSTRALIA.

On the Order of the Day being read by the Secretary for the further consideration in Committee of the Whole of the Draft of Bill to Constitute the Commonwealth of Australia,—

The PRESIDENT left the Chair, and the Convention resolved itself into a Committee of the Whole for such further consideration.

In Committee of the Whole:—

The Honorable J. P. ABBOTT in the Chair.

Chapter V, Clause 5,—

All references to the Queen to be through the Governor-General.

All references or communications required by the Constitution of any State or otherwise to be made by the Governor of the State to the Queen shall be made through the Governor-General, as Her Majesty's Representative in the Commonwealth, and the Queen's pleasure shall be made known through him. (*Further considered.*)

Debate resumed by Sir JOHN BRAY and continued.

Question put,—That the Clause, as read, stand part of the Bill.

The Committee divided.

AYES, 22.		NOES, 16.	
Sir Harry Atkinson,	Mr. Hackett,	Mr. Bird,	Mr. Fysh,
Mr. Baker,	Sir Patrick Jennings,	Sir John Bray,	Mr. Gillies,
Mr. Barton,	Mr. Macdonald-Paterson,	Mr. Burgess,	Mr. Kingston,
Mr. Clark,	Mr. McMillan,	Mr. Cuthbert,	Mr. Loton,
Dr. Cockburn,	Mr. Moore,	Mr. Douglas,	Mr. Marmion,
Mr. Deakin,	Mr. Munro,	Sir John Downer,	Captain Russell,
Mr. Dibbs,	Sir Henry Parkes,	Mr. Alexander Forrest,	Lieut.-Colonel Smith,
Mr. Donaldson,	Mr. Playford,	Mr. John Forrest,	Mr. Wrixon.
Mr. FitzGerald,	Mr. Rutledge,		
Sir George Grey,	Mr. W. H. Suttor,		
Sir Samuel Griffith,	Mr. Thynne.		

Chapter V, Clause 6,—

Saving of Constitutions.

Subject to the provisions of this Constitution the Constitutions of the several States of the Commonwealth shall continue as at the date of the establishment of the Commonwealth, until altered by or under the authority of the Parliaments thereof, in accordance with the provisions of their respective Constitutions. (*Read.*)

Mr. GORDON moved the addition to the Clause of the words "but it shall not be necessary to reserve any proposed alteration of the Constitution of any State for the Queen's pleasure to be made known."

Debate ensued.

Question put,—That the words proposed to be added be so added.

The Committee divided.

AYES, 11.	NOES, 27.	
Sir Harry Atkinson,	Mr. Burgess,	Mr. Loton,
Mr. Baker,	Mr. Cuthbert,	Mr. Macdonald-Paterson,
Mr. Bird,	Mr. Deakin,	Mr. Marmion,
Sir John Bray,	Mr. Donaldson,	Mr. McMillan,
Mr. Clark,	Mr. Douglas,	Mr. Moore,
Dr. Cockburn,	Sir John Downer,	Mr. Munro,
Mr. Dibbs,	Mr. FitzGerald,	Sir Henry Parkes,
Mr. Gordon,	Mr. Alexander Forrest,	Captain Russell,
Sir George Grey,	Mr. John Forrest,	Mr. Rutledge,
Mr. Kingston,	Mr. Fysh,	Lieut.-Colonel Smith,
Mr. Playford.	Mr. Gillies,	Mr. W. H. Suttor,
	Sir Samuel Griffith,	Mr. Thynne,
	Mr. Hackett,	Mr. Wrixon.
	Sir Patrick Jennings,	

Sir

Sir GEORGE GREY moved the addition to the Clause of the words "but it shall not be necessary to reserve for the Queen's pleasure any law made by a State."

Question put,—That the words proposed to be added be so added.

The Committee divided.

AYES, 9.	NOES, 30.	
Sir Harry Atkinson,	Sir John Bray,	Mr. Loton,
Mr. Baker,	Mr. Burgess,	Mr. Macdonald-Paterson,
Mr. Bird,	Mr. Cuthbert,	Mr. Marmion,
Mr. Clark,	Mr. Deakin,	Sir Thomas McIlwraith,
Dr. Cockburn,	Mr. Donaldson,	Mr. McMillan,
Mr. Dibbs,	Mr. Douglas,	Mr. Moore,
Mr. Gordon,	Sir John Downer,	Mr. Munro,
Sir George Grey,	Mr. FitzGerald,	Sir Henry Parkes,
Mr. Kingston.	Mr. Alexander Forrest,	Mr. Playford,
	Mr. John Forrest,	Captain Russell,
	Mr. Fysh,	Mr. Rutledge,
	Mr. Gillies,	Lieut.-Colonel Smith,
	Sir Samuel Griffith,	Mr. W. H. Suttor,
	Mr. Hackett,	Mr. Thynne,
	Sir Patrick Jennings,	Mr. Wrixon.

Clause, as read, agreed to.

Chapter V, Clause 7, read and agreed to.

Chapter V, Clause 8,—

Appointment of Governors

The Parliament of a State may make such provisions as it thinks fit as to the manner of appointment of the Governor of the State, and for the tenure of his office, and for his removal from office. (*Read.*)

Debate ensued.

Question put,—That the Clause, as read, stand part of the Bill.

The Committee divided.

AYES, 20.		NOES, 19.	
Mr. Bird,	Sir Samuel Griffith,	Sir Harry Atkinson,	Mr. Hackett,
Sir John Bray,	Sir Patrick Jennings,	Mr. Baker,	Mr. Loton,
Mr. Clark,	Mr. Kingston,	Mr. Burgess,	Mr. Macdonald-Paterson,
Dr. Cockburn,	Mr. Munro,	Mr. Cuthbert,	Mr. Marmion,
Mr. Deakin,	Sir Henry Parkes,	Mr. Douglas,	Sir Thomas McIlwraith,
Mr. Dibbs,	Mr. Playford,	Mr. FitzGerald,	Mr. McMillan,
Mr. Donaldson,	Mr. Rutledge,	Mr. Alexander Forrest,	Mr. Moore,
Sir John Downer,	Lieut.-Colonel Smith,	Mr. John Forrest,	Captain Russell,
Mr. Gordon,	Mr. W. H. Suttor,	Mr. Fysh,	Mr. Wrixon.
Sir George Grey,	Mr. Thynne.	Mr. Gillies,	

Chapter V, Clause 9, read and agreed to.

Chapter V, Clause 10,—

Members of Senate or House of Representatives not to sit in State Legislatures.

A member of the Senate or House of Representatives shall not be capable of "being chosen or of" sitting as a member of any House of the Parliament of a State. (*Read.*)

Mr. BIRD moved the omission of the words "being chosen or of"

Debate ensued.

Amendment negatived.

Question put,—That the Clause, as read, stand part of the Bill.

The Committee divided.

AYES, 25.		NOES, 10.
Mr. Baker,	Sir Samuel Griffith,	Mr. Bird,
Mr. Burgess,	Sir Patrick Jennings,	Sir John Bray,
Mr. Clark,	Mr. Loton,	Dr. Cockburn,
Mr. Cuthbert,	Sir Thomas McIlwraith,	Mr. John Forrest,
Mr. Deakin,	Mr. McMillan,	Mr. Fysh,
Mr. Dibbs,	Mr. Moore,	Mr. Gordon,
Mr. Donaldson,	Mr. Munro,	Mr. Hackett,
Mr. Douglas,	Sir Henry Parkes,	Mr. Kingston,
Sir John Downer,	Captain Russell,	Mr. Marmion,
Mr. FitzGerald,	Mr. Rutledge,	Mr. Playford.
Mr. Alexander Forrest,	Lieut.-Colonel Smith,	
Mr. Gillies,	Mr. Thynne.	
Sir George Grey,		

Chapter

Chapter V, Clauses 11, 12, and 13 read and agreed to.

Chapter V, Clause 14,—

A State shall not, without the consent of the Parliament of the Commonwealth, impose any duty of tonnage, or raise or maintain any military or naval force, or impose any tax on any land or other property belonging to the Commonwealth. (*Read.*) Nor duty of tonnage.

And the Clause having been amended, on motion of Sir SAMUEL GRIFFITH, by adding to the Clause the words "nor shall the Commonwealth impose any tax on any land or property belonging to a State."—

Clause, as amended, agreed to.

Chapter V, Clauses 15, 16, and 17 read and agreed to.

Chapter V, Clause 18,—

Full faith and credit shall be given, "in each State," to the Laws, the Public Acts and Records, and the Judicial Proceedings of "every other State." (*Read.*) Recognition of Acts of State of various States.

And the Clause having been amended, on motion of Sir Samuel Griffith, by omitting the words "in each State," and inserting in their place the words "throughout the Commonwealth"; and by omitting the words "every other State." and inserting in their place the words "the States."—

Clause, as amended, agreed to.

Chapter V, Clauses 19 and 20, read and agreed to.

Chapter VI, Clauses 1, 2, and 3 read and agreed to.

Chapter VI, Clause 4,—

The Parliament of the Commonwealth may, from time to time, with the consent of the Parliament of a State, increase, diminish, or otherwise alter the limits of the State, upon such terms and conditions as may be agreed to, and may, with the like consent, make provision respecting the effect and operation of any such increase or diminution or alteration of territory in relation to any State affected "thereby." (*Read.*) Alteration of limits of States.

And the Clause having been amended, on motion of Sir SAMUEL GRIFFITH, by omitting the word "thereby." and inserting in its place the words "by it."—

Clause, as amended, agreed to.

Chapter VI, Clause 5 read and agreed to.

Chapter VII, Clauses 1 and 2 read and agreed to.

Chapter VIII, Clause 1,—

The provisions of this Constitution shall not be altered except in the following manner:— Mode of amending the Constitution.

Any law for the alteration thereof must be passed by an absolute majority of the Senate and House of Representatives and shall thereupon be submitted to "Conventions, to be elected by" the electors of the several States qualified to vote for the election of Members of the House of Representatives. The Conventions shall be summoned, elected, and held in such manner as the Parliament of the Commonwealth prescribes by law, and shall, when elected, proceed to vote upon the proposed amendment. And if the proposed amendment is approved "by" Conventions of a majority of the States, "it" shall "become law, subject nevertheless to the Queen's power of disallowance." But an amendment by which the proportionate representation of any State in either House of the Parliament of the "Commonwealth" is diminished shall not become law without the consent of the Convention of that State. (*Read.*)

Debate ensued.

Dr. COCKBURN moved the omission of the words "Conventions, to be elected by"

Debate ensued.

Question put,—That the words proposed to be omitted stand part of the Clause.

The

The Committee divided.

Ayes, 19.		Noes, 9.
Mr. Baker,	Sir Patrick Jennings,	Sir John Bray,
Mr. Bird,	Mr. Loton,	Dr. Cockburn,
Mr. Clark,	Mr. Macdonald-Paterson,	Mr. Deakin,
Mr. Donaldson,	Mr. McMillan,	Mr. Dibbs,
Sir John Downer,	Mr. Munro,	Sir George Grey,
Mr. Alexander Forrest,	Sir Henry Parkes,	Mr. Kingston,
Mr. Fysh,	Captain Russell,	Mr. Playford,
Mr. Gillies,	Mr. Rutledge,	Lieut.-Colonel Smith,
Sir Samuel Griffith,	Mr. Wrixon.	Mr. W. H. Suttor.
Mr. Hackett,		

And the Clause having been amended, on motion of Sir Samuel Griffith, by inserting after the word "by" the word "the"; by omitting the word "it" and inserting in its place the words "and if the people of the States whose Conventions approve of the amendment are also a majority of the people of the Commonwealth, the proposed amendment"; by omitting the words "become law, subject nevertheless to the Queen's power of disallowance." and inserting in their place the words "be presented to the Governor-General for the Queen's assent."; by inserting after the word "Commonwealth" the words "or the minimum number of Representatives of a State in the House of Representatives,"—

Clause, as amended, agreed to.

Schedule read and agreed to.

Chapter I, *Postponed Clause* 49,—

Place to become vacant on accepting office of profit.

If a Senator or Member of the House of Representatives accepts any office of profit under the Crown, not being one of the offices of State held during the pleasure of the Governor-General, and the holders of which are by this Constitution declared to be capable of being chosen and of sitting as Members of either House of Parliament, or accepts any pension payable out of any of the revenues of the Commonwealth during the pleasure of the Crown, his place shall thereupon become vacant, and no person holding any such office, except as aforesaid, or holding or enjoying any such pension, shall be capable of being chosen or of sitting as a Member of either House of the Parliament.

"But this provision does not apply to officers of the Military or Naval Forces who are not in the receipt of annual pay." (*Read.*)

And the Clause having been amended, on motion of Sir Samuel Griffith, by omitting the words "But this provision does not apply to Officers of the Military or Naval Forces who are not in receipt of annual pay." and inserting in their place the words "But this provision does not apply to a person who is in receipt only of pay, half-pay, or a pension, as an officer of the Queen's Navy or Army, or who receives a new Commission in the Queen's Navy or Army, or an increase of pay on a new Commission, or who is in receipt only of pay as an Officer or member of the Military or Naval Forces of the Commonwealth and whose services are not wholly employed by the Commonwealth."—

Exceptions.

Clause, as amended, agreed to.

Chapter VII, *New Clause* 3,—

Aborigines of Australia not to be counted in reckoning population.

In reckoning the numbers of the people of a State or other part of the Commonwealth aboriginal natives of Australia shall not be counted. (*Read.*)

Clause, as read, agreed to.

Preamble put and agreed to.

On motion of Sir Samuel Griffith the Chairman left the Chair to report Draft of Bill, with amendments.

The President resumed the Chair, and the Chairman reported the Draft of Bill with amendments.

Mr. J. P. Abbott moved, "That" the report be now adopted.

Sir Samuel Griffith moved, That the question be amended by the omission of all the words after the word "That" with a view to the insertion in their place of the words "the Draft of Bill be recommitted for the reconsideration of clause 8, Chapter I, Clause 52, paragraphs 21, 22, 29, 30, and Clause 53, and Chapter VII, Clause 1.

Amendment agreed to. Whereupon,

Whereupon, on motion of Mr. W. H. SUTTOR, the President left the Chair, and the Convention resolved itself into a Committee of the Whole accordingly.

In Committee of the Whole:—

The Honorable J. P. ABBOTT in the Chair.

(*Recommittal.*)

Clause 8,—

The Constitution of the Commonwealth shall be as follows:— Constitution.

THE CONSTITUTION.

This Constitution is divided into Chapters and parts as follows:— Division of Constitution.

CHAPTER I.—THE "LEGISLATURE:"

PART I.—GENERAL;

PART II.—THE SENATE;

PART III.—THE HOUSE OF REPRESENTATIVES;

PART IV.—PROVISIONS RELATING TO BOTH HOUSES;

PART V.—POWERS OF THE PARLIAMENT:

CHAPTER II.—THE EXECUTIVE GOVERNMENT:

CHAPTER III.—THE FEDERAL JUDICATURE:

CHAPTER IV.—FINANCE AND TRADE:

CHAPTER V.—THE STATES:

CHAPTER VI.—NEW STATES:

CHAPTER VII.—MISCELLANEOUS:

CHAPTER VIII.—AMENDMENT OF THE CONSTITUTION. (*Read.*)

And the clause having been amended, on motion of Sir SAMUEL GRIFFITH, by omitting the word "LEGISLATURE:" and inserting in its place the word "PARLIAMENT:"—

Clause as amended agreed to.

Chapter I, Clause 52:—

The Parliament shall, subject to the provisions of this Constitution, have full power and authority to make all such Laws as it thinks necessary for the peace, order, and good government of the Commonwealth, with respect to all or any of the matters following, that is to say:— Legislative powers of the Parliament.

* * * * * * *

Paragraph 21. The Service and "Execution" of the Civil and Criminal Process and Judgments of the Courts of "one State or part of the Commonwealth in another State, or part of the Commonwealth;" (*Read.*)

And the paragraph having been amended, on motion of Sir SAMUEL GRIFFITH, by inserting after the word "Execution" the words "throughout the Commonwealth"; and by omitting the words "one State or part of the Commonwealth in another State, or part of the Commonwealth;" and inserting in their place the words "the States;"—

Paragraph, as amended, agreed to.

Paragraph 22. The "recognition" of the Laws, the Public Records, and the Judicial Proceedings, of "one State or part of the Commonwealth in another State or part of the Commonwealth;" (*Read.*)

And the paragraph having been amended, on the motion of Sir SAMUEL GRIFFITH, by inserting after the word "recognition" the words "throughout the Commonwealth"; and by omitting the words "one State or part of the Commonwealth in another State, or part of the Commonwealth;" and inserting in their place the words "the States;"—

Paragraph, as amended, agreed to.

* * * * * * *

Paragraph 29. Matters referred to the Parliament of the Commonwealth by the Parliament or Parliaments of any State or States, but so that "any such" Law shall extend only to the State or States by whose Parliament or Parliaments the matter was referred, and to such other States as may afterwards adopt the Law; (*Read.*)

And

And the paragraph having been amended, on motion of Sir SAMUEL GRIFFITH, by omitting the words "any such" and inserting in their place the word "the"—

Paragraph, as amended, agreed to.

Paragraph 30. The exercise within the Commonwealth, at the request or with the concurrence of the Parliaments of all the States concerned, of any Legislative powers with respect to the affairs of the territory of the Commonwealth, or any part of it, which can at the date of the establishment of this Constitution be exercised only by the Parliament of the United Kingdom or by the Federal Council of Australasia, "but always subject to the provisions of this Constitution"; (*Read.*)

And the paragraph having been amended, on motion of Sir SAMUEL GRIFFITH, by omitting the words "but always subject to the provisions of this Constitution";

Paragraph, as amended, agreed to.

* * * * * * *

Clause, as further amended, agreed to.

Chapter I, Clause 53,—

Exclusive powers of the Parliament.

The Parliament shall, also, subject to the provisions of this Constitution, have exclusive power to make "all such" laws "as it thinks necessary" for the peace, order, and good government of the Commonwealth with respect to the following matters:

1. The affairs of people of any race with respect to whom it is deemed necessary to make special laws not applicable to the general community; but so that this power shall not extend to authorise legislation with respect to the affairs of the aboriginal native race in Australia and the Maori race in New Zealand.
2. The government of any territory which may by surrender of any State or States and the acceptance of the Parliament become the seat of Government of the Commonwealth, and the exercise of like authority over all places acquired by the Commonwealth, with the consent of the Parliament of the State in which such places are situate for the construction of forts, magazines, arsenals, dockyards, quarantine stations, or for any other purposes of general concern;
3. Matters relating to any Department or Departments of the Public Service the control of which is by this Constitution transferred to the Executive Government of the Commonwealth;
4. Such other matters as are by this Constitution declared to be within the exclusive powers of the Parliament. (*Read.*)

And the Clause having been amended, on motion of Sir SAMUEL GRIFFITH, by omitting the words "all such"; and by omitting the words "as it thinks necessary"—

Clause, as further amended, agreed to.

Chapter VII, Clause 1,—

Seat of Government

The seat of Government of the Commonwealth shall be "determined by the Parliament."

Until such determination is made the Parliament shall be summoned to meet at such place within the Commonwealth as a majority of the Governors of the States, or, in the event of an equal division of opinion amongst the Governors, as the Governor-General shall direct. (*Read.*)

Mr. DIBBS moved the omission of the words "determined by the Parliament." with a view to the insertion in their place of the words "Sydney, New South Wales."

Question put,—That the words proposed to be omitted stand part of the Clause.

The

The Committee divided.

Ayes, 26.		Noes, 4.
Mr. Baker,	Sir Patrick Jennings,	Sir Harry Atkinson,
Mr. Clark,	Mr. Kingston,	Mr. Dibbs,
Dr. Cockburn,	Mr. Loton,	Mr. Alexander Forrest,
Mr. Cuthbert,	Mr. Macdonald-Paterson,	Sir George Grey.
Mr. Deakin,	Mr. Marmion,	
Mr. Donaldson,	Mr. McMillan,	
Sir John Downer,	Mr. Munro,	
Mr. FitzGerald,	Sir Henry Parkes,	
Mr. John Forest,	Mr. Playford,	
Mr. Gillies,	Mr. Rutledge,	
Mr. Gordon,	Mr. W. H. Suttor,	
Sir Samuel Griffith,	Mr. Thynne,	
Mr. Hackett,	Mr. Wrixon.	

Clause, as read, agreed to.

On motion of Sir Samuel Griffith, the Chairman left the Chair to report Draft of Bill, 2°, with further amendments.

The President resumed the Chair, and the Chairman reported Draft of Bill, 2°, with further amendments.

Ordered, on motion of Sir Samuel Griffith, that the adoption of the report stand an Order of the Day for to-morrow.

Notice of Motion.

Sir Samuel Griffith gave a *Contingent* Notice of Motion relative to the further proceedings required to establish the Constitution of the Commonwealth of Australia.

Hour of Meeting.

The Order of the Day having been read by the Secretary for the resumption of the adjourned Debate, on the motion of Mr. Deakin,—"That the hour of meeting of the Convention be ten o'clock a.m.,"—

On motion of Mr. Deakin the Order was discharged.

Plebiscites for Approval of Bill to Constitute the Commonwealth of Australia.

Sir George Grey moved, pursuant to *amended* Notice, That previously to the Bill "To constitute the Commonwealth of Australia" being laid before the British Parliament, it should be submitted to and adopted by majorities of the Plebiscites of the peoples of the several Colonies at which each voter should give a single vote.

Debate ensued.

Question put.

The Convention divided.

Ayes, 8.	Noes, 21.	
Sir Harry Atkinson,	Mr. J. P. Abbott,	Sir Patrick Jennings,
Dr. Cockburn,	Mr. Baker,	Mr. Loton,
Mr. Deakin,	Mr. Clark,	Mr. Macdonald-Paterson,
Mr. Dibbs,	Mr. Cuthbert,	Mr. Marmion,
Mr. Gordon,	Sir John Downer,	Sir Thomas McIlwraith,
Sir George Grey,	Mr. FitzGerald,	Mr. McMillan,
Lieut.-Colonel Smith,	Mr. Alexander Forrest,	Mr. Munro,
Mr. W. H. Suttor.	Mr. John Forrest,	Mr. Playford,
	Mr. Gillies,	Mr. Rutledge,
	Sir Samuel Griffith,	Mr. Thynne.
	Mr. Hackett,	

Notices of Motions.

Mr. McMillan gave Notices of Motions for authority to distribute copies of Proceedings and Debates of the Convention.

ADJOURNMENT.

Mr. McMILLAN moved, That the Convention do now adjourn.

Question put and passed.

The PRESIDENT thereupon left the Chair, at seventeen minutes past five o'clock, and the Convention stood adjourned until to-morrow at eleven o'clock.

HENRY PARKES,

President.

F. W. WEBB,

Secretary to the National Australasian Convention.

THE PROCEEDINGS

OF THE

NATIONAL AUSTRALASIAN CONVENTION.

HELD IN THE PARLIAMENT HOUSE, SYDNEY, NEW SOUTH WALES.

No. 22.

THURSDAY, 9TH APRIL, 1891.

Delegates Present:

NEW SOUTH WALES...The Honorable Sir HENRY PARKES, G.C.M.G., M.P., Colonial Secretary and Prime Minister;

The Honorable WILLIAM MCMILLAN, M.P., Colonial Treasurer;

The Honorable JOSEPH PALMER ABBOTT, M.P., Speaker of the Legislative Assembly;

GEORGE RICHARD DIBBS, Esquire, M.P., formerly Colonial Secretary and Prime Minister;

The Honorable WILLIAM HENRY SUTTOR, M.L.C., Vice-President of the Executive Council;

The Honorable EDMUND BARTON, Q.C., M.L.C., formerly Speaker;

The Honorable Sir PATRICK ALFRED JENNINGS, K.C.M.G., M.L.C., formerly Prime Minister and Colonial Treasurer.

VICTORIA.....The Honorable JAMES MUNRO, M.P., Prime Minister and Treasurer;

The Honorable DUNCAN GILLIES, M.P., formerly Prime Minister and Treasurer;

The Honorable ALFRED DEAKIN, M.P., formerly Chief Secretary;

The Honorable HENRY JOHN WRIXON, Q.C., M.P., formerly Attorney-General;

The Honorable Lieutenant-Colonel WILLIAM COLLARD SMITH, M.P., formerly Minister of Education;

The Honorable HENRY CUTHBERT, M.L.C., formerly Minister of Justice;

The Honorable NICHOLAS FITZGERALD, M.L.C.

QUEENSLAND

QUEENSLAND ....The Honorable Sir SAMUEL WALKER GRIFFITH, K.C.M.G., Q.C., M.P., Chief Secretary and Prime Minister;

The Honorable Sir THOMAS McILWRAITH, K.C.M.G., LL.D., M.P., Colonial Treasurer;

The Honorable ARTHUR RUTLEDGE, M.P., formerly Attorney-General;

The Honorable THOMAS MACDONALD-PATERSON, M.L.C., formerly Postmaster-General;

The Honorable ANDREW JOSEPH THYNNE, M.L.C., formerly Minister of Justice.

SOUTH AUSTRALIA.....The Honorable THOMAS PLAYFORD, M.P., Treasurer and Prime Minister;

The Honorable Sir JOHN COX BRAY, K.C.M.G., M.P., Chief Secretary;

JOHN ALEXANDER COCKBURN, Esquire, M.D., M.P., formerly Prime Minister and Chief Secretary;

The Honorable Sir JOHN WILLIAM DOWNER, K.C.M.G., Q.C., M.P., formerly Prime Minister;

The Honorable CHARLES CAMERON KINGSTON, Q.C., M.P., formerly Attorney-General;

The Honorable JOHN HANNAH GORDON, M.L.C., formerly Minister of Education and of the Northern Territory;

The Honorable RICHARD CHAFFEY BAKER, C.M.G., M.L.C., formerly Attorney-General and Minister of Justice.

TASMANIA .....The Honorable PHILIP OAKLEY FYSH, M.L.C., Prime Minister and Chief Secretary;

The Honorable ANDREW INGLIS CLARK, M.H.A., Attorney-General.

NEW ZEALAND .....Sir GEORGE GREY, K.C.B., formerly Governor, and more recently Prime Minister;

Sir HARRY ALBERT ATKINSON, K.C.M.G., Speaker of the Legislative Council, late Prime Minister and Colonial Treasurer;

Captain WILLIAM RUSSELL RUSSELL, M.H.R., formerly Colonial Secretary and Minister of Justice and Defence.

WESTERN AUSTRALIA..The Honorable JOHN FORREST, C.M.G., M.P., Prime Minister and Treasurer;

The Honorable WILLIAM EDWARD MARMION, M.P., Commissioner of Crown Lands;

The Honorable JOHN WINTHROP HACKETT, M.L.C.;

ALEXANDER FORREST, Esquire, M.P.;

WILLIAM THORLEY LOTON, Esquire, M.P.

The PRESIDENT took the Chair, pursuant to adjournment.

CONGRATULATORY

Congratulatory Letters to the Convention.

The Secretary, by direction of the President, read to the Convention the following letters of congratulation addressed to the President :—

(1.) Letter from the Sydney Chamber of Commerce.

"Sydney Chamber of Commerce, Sydney, 11 March, 1891.

"The Hon. Sir Henry Parkes, G.C.M.G., President, Australasian Federation "Convention, Sydney, N.S.W.,—

"Sir,

"I have the honor to inform you that at the first meeting of the "Committee of this Chamber since the opening of the Australasian Federation "Convention (held this day) the following resolution was unanimously adopted:—

"That the Sydney Chamber of Commerce cordially welcomes the Delegates "of the Australasian Federal Convention, watches with profound interest "their deliberations, and hopes their labours may eventuate in the increased "commercial prosperity of Federated Australasia.

"I have the honor to be,
"Sir,
"Your obedient servant,
"Henry Charles Mitchell,
"Secretary."

(2.) Letter from the Chamber of Commerce, Suva, Fiji.

"Chamber of Commerce, Suva, Fiji, April 1st, 1891.

"The Hon. Sir Henry Parkes, G.C.M.G., President, and the Honorable "Members of the Federal Convention, Sydney,—

"Gentlemen,

"I have the honor, on behalf of the Suva Chamber of Commerce, to "offer my, and their, sincere congratulations to you as Members of a Convention "assembled for a purpose so important to the welfare of the whole of the "Australasian group.

"Although Fiji has no representative among you, yet no less is she "included among the Colonies of Australasia.

"My Chamber, cognisant and proud of that fact, desire, therefore, to "add their testimony to that of the other Colonies to the importance of the "work you have undertaken, and to mark its sense of the efficient manner in "which it is being conducted.

"Wishing you all success in your onerous undertaking,

"I have the honor to be,
"Gentlemen,
"Your most obedient servant,
"Henry Marks,
"Chairman, Suva Chamber of Commerce."

Draft of Bill to Constitute the Commonwealth of Australia.

The Order of the Day having been read by the Secretary for the adoption of the Report, 2°, from the Committee of the Whole Convention,—

Sir Samuel Griffith moved, That the "Draft of a Bill to Constitute the Commonwealth of Australia," as reported from the Committee of the Whole, be now adopted by the Convention.

Debate ensued.

Question put and passed.

Submission of the Constitution of the Commonwealth of Australia for the Approval of the Colonies.

Sir Samuel Griffith moved, pursuant to notice,—

That this Convention recommends that provision be made by the Parliaments of the several Colonies for submitting for the "approval" of the people of the Colonies "respectively" the Constitution of the Commonwealth of Australia as framed by this Convention.

Sir John Bray moved the omission of the word "approval" with a view to the insertion in its place of the word "consideration"

Debate ensued.

Question put,—That the word proposed to be omitted stand part of the Question.

The Convention divided.

Ayes, 24.		Noes, 7.
Mr. J. P. Abbott,	Mr. Loton,	Sir John Bray,
Mr. Baker,	Mr. Macdonald-Paterson,	Mr. Clark,
Dr. Cockburn,	Mr. Marmion,	Mr. Dibbs,
Mr. Deakin,	Sir Thomas McIlwraith,	Sir John Downer,
Mr. FitzGerald,	Mr. McMillan,	Mr. Fysh,
Mr. Alexander Forrest,	Mr. Munro,	Mr. Kingston,
Mr. John Forrest,	Sir Henry Parkes,	Mr. Wrixon.
Mr. Gillies,	Mr. Playford,	
Mr. Gordon,	Mr. Rutledge,	
Sir George Grey,	Lieut.-Colonel Smith,	
Sir Samuel Griffith,	Mr. W. H. Suttor,	
Sir Patrick Jennings,	Mr. Thynne.	

Sir George Grey moved the insertion after the word "respectively" of the words "at a Plebiscite on the principle of one man one vote"

Amendment negatived.

Original Question put and passed.

Necessary Action to Establish the Constitution of the Commonwealth of Australia.

Sir Samuel Griffith moved, pursuant to Notice,—

That this Convention further recommends that so soon as the Constitution has been adopted by three of the Colonies Her Majesty's Government be requested to take the necessary action to establish the Constitution in respect of those Colonies.

Question put and passed.

Transmission of Proceedings and Debates to the Secretary of State for the Colonies.

Mr. McMillan moved, pursuant to Notice,—

That the President forward copies of the Proceedings and Debates of the Convention to His Excellency the Governor of New South Wales, for transmission to the Right Honorable the Principal Secretary of State for the Colonies.

Question put and passed.

Transmission of Proceedings and Debates to the several Colonies.

Mr. McMillan moved, pursuant to Notice,—

That the President forward copies of the Report of the Proceedings and Debates of the Convention to the Representatives of the Colonies at this Convention, for presentation to their respective Parliaments and for general distribution.

Question put and passed.

VOTE OF THANKS TO THE PRESIDENT, THE VICE-PRESIDENT, AND THE CHAIRMAN OF COMMITTEES OF THE WHOLE.

Mr. MUNRO, *by consent*, moved, without Notice,—

That the thanks of the Convention be given to the Honorable Sir Henry Parkes, G.C.M.G., President, the Honorable Sir Samuel W. Griffith, K.C.M.G., Vice-President, and the Honorable Joseph Palmer Abbott, M.P., Chairman of Committees of the Whole, for the services rendered by them to the Convention.

The motion having been seconded by Mr. PLAYFORD was put and carried unanimously.

Sir HENRY PARKES, Sir SAMUEL GRIFFITH, and Mr. J. P. ABBOTT expressed their acknowledgments for the compliment.

VOTE OF THANKS TO THE SECRETARY, HIS ASSISTANTS, AND THE PARLIAMENTARY REPORTING STAFF.

Mr. MUNRO, *by consent*, moved, without Notice,

That the thanks of the Convention be given to Mr. Frederick William Webb, Secretary, and his Assistants, and also to the members of the Parliamentary Reporting Staff of New South Wales, for their services to the Convention.

The motion having been seconded by Mr. DIBBS, was put and carried unanimously.

The PRESIDENT thanked the Convention, on behalf of Mr. Webb and the officers referred to.

CLOSE OF THE PROCEEDINGS.

THE PRESIDENT, having stated that the business was concluded, declared, at twenty-eight minutes past three o'clock, this Convention dissolved.

Sir HENRY PARKES then invited three cheers for Her Most Gracious Majesty the Queen, which were cordially given.

The Delegates then gave one cheer more for the PRESIDENT.

HENRY PARKES,
President.

F. W. WEBB,
Secretary to the National Australasian Convention.

By direction of Sir HENRY PARKES, the following telegram, which was received after the Convention had been dissolved, was recorded :—

Telegram from Rockhampton to The Honorable Sir Henry Parkes, President of the Federal Convention, Sydney.

"That, on behalf of the Central Queensland Territorial Separation League, "we, the undersigned, respectfully but strongly protest against the restrictive "provision adopted relative to the creation of new States, which makes it "imperative that the consent of the Parliament of the State concerned must "first be obtained. We would point out that in no case has any Australian "Parliament consented to the separation of territory, and that the retention of "such restriction would be an act of gross injustice, as it would effectually "block the creation of any new States.

"JOHN FERGUSON,
President.
"JOHN MURRAY, M.L.A.,
Vice-President.
"GEORGE SILAS CURTIS,
Chairman of Executive Committee.
"SIDNEY WILLIAMS,
Vice-Chairman of Executive Committee.

} Central Queensland Territorial Separation League."

NATIONAL AUSTRALASIAN CONVENTION.

REPORT

FROM THE

COMMITTEE ON CONSTITUTIONAL MACHINERY,

AND THE

DISTRIBUTION OF FUNCTIONS AND POWERS;

TOGETHER WITH APPENDICES.

ORDERED BY THE CONVENTION TO BE PRINTED,
31 *March*, 1891.

SYDNEY: GEORGE STEPHEN CHAPMAN, ACTING GOVERNMENT PRINTER.

1891.

1891.

COMMITTEE ON CONSTITUTIONAL MACHINERY AND THE DISTRIBUTION OF FUNCTIONS AND POWERS.

REPORT.

THE Committee of the National Australasian Convention, appointed on the 18th March, 1891, "*for consideration of Constitutional Machinery, and the distribution of Functions and Powers*";—and who were instructed, "*upon the result of the deliberations of the Committees on 'Provisions relating to Finance, Taxation, and Trade Regulation,' and the 'Establishment of a Federal Judiciary, its powers and its Functions' respectively, to prepare and submit to this Convention a Bill for the establishment of a Federal Constitution, such Bill to be prepared as speedily as is consistent with careful consideration*";—have agreed to the following Report:—

Your Committee having carefully considered the subject referred to them, and also the Reports from the Committees on "Provisions relating to Finance, Taxation, and Trade Regulation," and "Establishment of a Federal Judiciary, its Powers, and its Functions," respectively, now beg to submit to the Convention a Draft of a Bill to constitute the Commonwealth of Australia, as prepared by them, together with a copy of the Reports referred to. *Vide* Appendices A, B, and C.

S. W. GRIFFITH,
Chairman.

Parliament House,
Sydney, 31st March, 1891.

APPENDIX A.

DRAFT OF

A BILL

To constitute the Commonwealth of Australia.

WHEREAS the Australasian Colonies of [*here name the Colonies which have adopted the Constitution*] have by [*here describe the mode by which the assent of the Colonies has been expressed*] agreed to unite in one Federal Commonwealth under the Crown of the United Kingdom of Great Britain and Ireland, and under the Constitution hereby established: And whereas it is expedient to make provision for the admission into the Commonwealth of other Australasian Colonies and Possessions of Her Majesty: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in the present Parliament assembled, and by the authority of the same, as follows:— Preamble.

1. This Act may be cited as "The Constitution of the Commonwealth of Australia." Short title.

2. The provisions of this Act referring to Her Majesty the Queen extend also to the Heirs and Successors of Her Majesty, Kings and Queens of the United Kingdom of Great Britain and Ireland. Application of provisions referring to the Queen.

Constitution of the Commonwealth of Australia.

Power to proclaim Commonwealth of Australasia.

3. It shall be lawful for the Queen, by and with the advice of Her Majesty's Most Honorable Privy Council, to declare by Proclamation that, on and after a day therein appointed, not being later than six months after the passing of this Act, the Colonies of [*here name the Colonies which have adopted the Constitution*] (which said Colonies and Province are hereinafter severally included in the expression "the said Colonies") shall be united in one Federal Commonwealth under the Constitution hereby established, and under the name of "The Commonwealth of Australia"; and on and after that day the said Colonies shall be united in one Federal Commonwealth under that name.

Construction of subsequent provisions of Act.

4. Unless where it is otherwise expressed or implied this Act shall commence and have effect on and from the day so appointed in the Queen's Proclamation; and the name "The Commonwealth of Australia" or "The Commonwealth" shall be taken to mean the Commonwealth of Australia as constituted under this Act.

"States."

5. The term "The States" shall be taken to mean such of the existing Colonies of New South Wales, New Zealand, Queensland, Tasmania, Victoria, and Western Australia, and the Province of South Australia, as for the time being form part of the Commonwealth, and such other States as may hereafter be admitted into the Commonwealth under the Constitution thereof, and each of such Colonies so forming part of the Commonwealth shall be hereafter designated a "State."

Repeal of 48 and 49 Vict., chap. 60.

6. "The Federal Council of Australasia Act, 1885," is hereby repealed, but such repeal shall not affect any laws passed by the Federal Council of Australasia and in force at the date of the establishment of the Constitution of the Commonwealth.

But any such law may be repealed as to any State by the Parliament of the Commonwealth, and may be repealed as to any Colony, not being a State, by the Parliament thereof.

The Constitution and laws of the Commonwealth binding.

7. The Constitution established by this Act, and all Laws made by the Parliament of the Commonwealth in pursuance of the powers conferred by the Constitution, and all Treaties made by the Commonwealth, shall, according to their tenor, be binding on the Courts, Judges, and people of every State, and of every part of the Commonwealth, anything in the laws of any State to the contrary notwithstanding: and the Laws and Treaties of the Commonwealth shall be in force on board of all British ships whose last port of clearance or port of destination is in the Commonwealth.

8. The Constitution of the Commonwealth shall be as follows:— Constitution.

THE CONSTITUTION.

This Constitution is divided into Chapters and parts as follows :— Division of Constitution.

CHAPTER I.—THE LEGISLATURE:
PART I.—GENERAL;
PART II.—THE SENATE;
PART III.—THE HOUSE OF REPRESENTATIVES;
PART IV.—PROVISIONS RELATING TO BOTH HOUSES;
PART V.—POWERS OF THE PARLIAMENT:
CHAPTER II.—THE EXECUTIVE GOVERNMENT:
CHAPTER III.—THE FEDERAL JUDICATURE:
CHAPTER IV.—FINANCE AND TRADE:
CHAPTER V.—THE STATES:
CHAPTER VI.—NEW STATES:
CHAPTER VII.—MISCELLANEOUS:
CHAPTER VIII.—AMENDMENT OF THE CONSTITUTION.

CHAPTER I.

THE LEGISLATURE.

PART I.—GENERAL.

1. The Legislative powers of the Commonwealth shall be vested in a Federal Parliament, which shall consist of Her Majesty, a Senate, and a House of Representatives, and which is hereinafter called "The Parliament." Legislative Powers.

2. The Queen may, from time to time, appoint a Governor-General who shall be Her Majesty's Representative in the Commonwealth, and who shall have and may exercise in the Commonwealth during Her Majesty's pleasure, and subject to the provisions of this Constitution, such powers and functions as Her Majesty may deem necessary or expedient to assign to him. Governor-General.

3. The Annual Salary of the Governor-General shall be fixed by the Parliament from time to time, but shall not be less than Ten thousand pounds, and the same shall be payable to the Queen out of the Consolidated Revenue Fund of the Commonwealth. The Salary of a Governor-General shall not be diminished during his continuance in office. Salary of Governor-General.

4. The provisions of this Constitution, relating to the Governor-General extend and apply to the Governor-General for the time being or other the Chief Executive Officer or Administrator of the Government of the Commonwealth, by whatever title he is designated. Application of provisions relating to Governor-General.

5. Every Member of the Senate, and every Member of the House of Representatives, shall before taking his seat therein make and subscribe before the Governor-General, or some person authorized by him, an Oath or Affirmation of Allegiance in the form set forth in the Schedule to this Constitution. Oath of Allegiance. Schedule.

Governor-General to fix times and places for holding Session of Parliament.

Power of dissolution of House of Representatives.

First Session of Parliament.

6. The Governor-General may appoint such times for holding the first and every other Session of the Parliament, as he may think fit, giving sufficient notice thereof, and may also from time to time, by proclamation or otherwise, prorogue the said Parliament, and may in like manner dissolve the House of Representatives.

The Parliament shall be called together not later than six months after the date of the establishment of the Commonwealth.

Yearly Session of Parliament.

7. There shall be a Session of the Parliament once at least in every year, so that twelve months shall not intervene between the last sitting of the Parliament in one Session, and its first sitting in the next Session.

Privileges, &c., of Houses.

8. The privileges, immunities, and powers, to be held, enjoyed, and exercised by the Senate and by the House of Representatives respectively, and by the Members thereof, shall be such as are from time to time declared by the Parliament, and until such definition shall be those held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom and the Members thereof at the date of the establishment of the Commonwealth.

PART II.—THE SENATE.

Senate.

9. The Senate shall be composed of eight members for each State, directly chosen by the Houses of the Parliament of the several States during a Session thereof, and each Senator shall have one vote.

The term for which a Senator is chosen shall be six years.

Mode of election of Senators.

10. The Parliament of the Commonwealth may make laws prescribing a uniform manner of choosing the Senators. Subject to any such law the Parliament of each State may determine the time, place, and manner of choosing the Senators for that State by the Houses of Parliament thereof.

Factions of a State to choose Senators not to prevent business.

11. The failure of any State to provide for its representation in the Senate shall not affect the power of the Senate to proceed to the dispatch of business.

Retirement of Senators.

12. As soon as practicable after the Senate is assembled in consequence of the first election the Senators chosen for each State shall be divided by lot into two classes. The places of the Senators of the first class shall be vacated at the expiration of the third year, and the places of those of the second class at the expiration of the sixth year, from the commencement of their term of service as herein declared, so that one-half may be chosen every third year.

The term of service of a Senator shall begin on and be reckoned from the first day of January next succeeding the day of his election, except in the case of the first election, when it shall be reckoned from the first day of January preceding the day of his election. The election of Senators to fill the places of retiring Senators shall be made in the year preceding the day on which the retiring Senators are to retire.

How vacancies filled.

13. If the place of a Senator becomes vacant during the recess of the Parliament of the State which he represented the Governor of the State, by and with the advice of the Executive Council thereof, may appoint a Senator to fill such vacancy until the next Session of the Parliament of the State, when the Houses of Parliament shall choose a Senator to fill the vacancy.

Tenure of Seats of Senators elected to Senate owing to vacancies.

14. If the place of a Senator becomes vacant before the expiration of the term of service for which he was chosen, the Senator chosen to fill his place shall hold the same only during the unexpired portion of the term for which the previous Senator was chosen.

Qualifications of Senator.

15. The qualifications of a Senator shall be as follows:—

(1) He must be of the full age of thirty years, and must, when chosen, be an elector entitled to vote in some State at the election of Members of the House of Representatives of the Commonwealth, and must have been for five years at the least a resident within the limits of the Commonwealth as existing at the time when he is chosen;

(2) He must be either a natural born subject of the Queen, or a subject of the Queen naturalised by or under a Law of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Parliament of one of the said Colonies, or of the Parliament of the Commonwealth or of a State.

Election of President of the Senate.

16. The Senate shall, at its first meeting and before proceeding to the despatch of any other business, choose a Senator to be the President of the Senate; and as often as the office of President becomes vacant the Senate shall choose another Senator to be the President; and the President shall preside at all meetings of the Senate; and the choice of the President shall be made known to the Governor-General by a deputation of the Senate.

The President may be removed from office by a vote of the Senate. He may resign his office; and upon his ceasing to be a Senator his office shall become vacant.

Absence of President provided for.

17. In case of the absence of the President, the Senate may choose some other Senator to perform the duties of the President during his absence.

Resignation of place in Senate.

18. A Senator may, by writing under his hand addressed to the President, or if there is no President, or the President is absent from the Commonwealth, to the Governor-General, resign his place in the Senate, and thereupon the same shall be vacant.

Disqualification of Senator by absence.

19. The place of a Senator shall become vacant if for one whole Session of the Parliament he, without the permission of the Senate entered on its Journals, fails to give his attendance in the Senate.

Vacancy in Senate to be notified to Governor of State.

20. Upon the happening of a vacancy in the Senate the President, or if there is no President, or the President is absent from the Commonwealth, the Governor-General shall forthwith notify the same to the Governor of the State which the Senator whose place is vacated represented.

Questions as to qualifications and vacancies in Senate.

21. If any question arises respecting the qualification of a Senator or a vacancy in the Senate, the same shall be determined by the Senate.

Quorum of Senate.

22. Until the Parliament otherwise provides, the presence of at least one-third of the whole number of Senators, as provided by this Constitution, shall be necessary to constitute a meeting of the Senate for the exercise of its powers.

Voting in Senate.

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

Part III.—The House of Representatives.

Constitution of House of Representatives.

24. The House of Representatives shall be composed of Members chosen every three years by the people of the several States, according to their respective numbers; and until the Parliament of the Commonwealth otherwise provides, each State shall have one Representative for every thirty thousand of its people:

Provided that in the case of any of the existing Colonies of New South Wales, New Zealand, Queensland, Tasmania, Victoria, and Western Australia, and the Province of South Australia, until the number of the people is such as to entitle the State to four Representatives it shall have four Representatives.

Qualification of electors.

25. The qualification of electors of Members of the House of Representatives shall be in each State that which is prescribed by the law of the State as the qualification for electors of the more numerous House of the Parliament of the State.

Provision for case of persons not allowed to vote.

26. When in any State the people of any race are not entitled by law to vote at elections for the more numerous House of the Parliament of the State, the Representation of that State in the House of Representatives shall be reduced in the proportion which the number of people of that race in the State bears to the whole number of the people of the State.

Mode of calculating number of Members.

27. When upon the apportionment of Representatives it is found that after dividing the number of the people of a State by the number in respect of which a State is entitled to one Representative there remains a surplus greater than one-half of such number, the State shall have one additional Representative.

Representatives in first Parliament.

28. The number of members to be returned by each State at the first election shall be as follows: [*To be determined according to latest statistical returns at the date of the passing of this Act.*]

Periodical reapportionment.

29. A fresh apportionment of Representatives to the States shall be made after each Census of the people of the Commonwealth, which shall be taken at intervals not longer than ten years. But a fresh apportionment shall not take effect until the then next General Election.

Increase of number of House of Representatives.

30. The number of Members of the House of Representatives may be from time to time increased or diminished by the Parliament of the Commonwealth, but so that the proportionate representation of the several States, according to the number of their people, and the minimum number of Members, prescribed by this Constitution, for any State shall be preserved.

Electoral Divisions.

31. The electoral divisions of the several States for the purpose of returning members of the House of Representatives shall be determined from time to time by the Parliaments of the several States.

Qualifications of Member of House of Representatives.

32. The qualifications of a Member of the House of Representatives shall be as follow :—

(1) He must be of the full age of twenty-one years, and must when elected be an elector entitled to vote in some State at the election of members of the House of Representatives;

(2) He must be either a natural born subject of the Queen, or a subject of the Queen naturalised by or under a law of the Parliament of Great Britain and Ireland, or of the Parliament of one of the said Colonies, or of the Parliament of the Commonwealth or of a State.

Disqualification of Senators.

33. A Senator shall not be capable of being elected or of sitting as a Member of the House of Representatives.

Election of Speaker of House of Representatives.

34. The House of Representatives shall, at its first meeting after every General Election, and before proceeding to the despatch of any other business, choose a Member to be the Speaker of the House, and as often as the office of Speaker becomes vacant the House shall forthwith proceed to choose another Member to be Speaker; and the Speaker shall preside at all meetings of the House of Representatives; and the choice of a Speaker shall be made known to the Governor-General by a deputation of the House. The Speaker may be removed from office by a vote of the House, or may resign his office.

Absence of Speaker provided for.

35. In case of the absence of the Speaker, the House of Representatives may choose some other Member to perform the duties of the Speaker during his absence.

Resignation of place in House of Representatives.

36. A Member of the House of Representatives may, by writing under his hand addressed to the Speaker, or if there is no Speaker, or he is absent from the Commonwealth, to the Governor-General, resign his place in the House of Representatives, and thereupon the same shall be vacant.

Disqualification of Members.

37. The place of a Member of the House of Representatives shall become vacant if for one whole Session of the Parliament he, without permission of the House of Representatives entered on its Journals, fails to give his attendance in the House.

Issue of new writs.

38. Upon the happening of a vacancy in the House of Representatives, the Speaker shall, upon a resolution of the House, issue his writ for the election of a new member.

In the case of a vacancy by death or resignation happening when the Parliament is not in session, or during an adjournment of the House for a period of which a part longer than seven days is unexpired, the Speaker, or if there is no Speaker, or he is absent from the Commonwealth, the Governor-General shall issue, or cause to be issued, a writ without such resolution.

Quorum of House of Representatives.

39. Until the Parliament otherwise provides the presence of at least one-third of the whole number of the Members of the House of Representatives shall be necessary to constitute a meeting of the House for the exercise of its powers.

Voting in House of Representatives.

40. Questions arising in the House of Representatives shall be determined by a majority of votes other than that of the Speaker; and when the votes are equal, but not otherwise, the Speaker shall have a casting vote.

Duration of House of Representatives.

41. Every House of Representatives shall continue for three years from the day appointed for the return of the writs for choosing the House and no longer, subject nevertheless to be sooner dissolved by the Governor-General.

Writs for General Election.

42. For the purpose of holding General Elections of Members to serve in the House of Representatives the Governor-General may cause Writs to be issued by such persons, in such form, and addressed to such Returning Officers, as he thinks fit.

Continuance of existing Election Laws until the Parliament otherwise provides.

43. Until the Parliament of the Commonwealth otherwise provides, the laws in force in the several States for the time being, relating to the following matters, namely: The manner of conducting Elections for the more numerous House of the Parliament, the proceedings at such elections, the oaths to be taken by voters, the Returning Officers, their powers and duties, the periods during which Elections may be continued, the execution of new Writs in case of places vacated otherwise than by dissolution, and offences against the laws regulating such Elections, shall respectively apply to Elections in the several States of Members to serve in the House of Representatives.

Questions as to qualifications and vacancies.

44. If any question arises respecting the qualification of a Member or a vacancy in the House of Representatives, the same shall be heard and determined by the House of Representatives.

Part IV.—Provisions relating to both Houses.

Allowance to members.

45. Each member of the Senate and House of Representatives shall receive an annual allowance for his services, the amount of which shall be fixed by the Parliament from time to time. Until other provision is made in that behalf by the Parliament the amount of such annual allowance shall be five hundred pounds.

Disqualification.

46. Any person—

(1) Who has taken an oath or made a declaration or acknowledgment of allegiance, obedience, or adherence to a Foreign Power, or has done any act whereby he has become a subject or citizen or entitled to the rights or privileges of a subject or a citizen of a Foreign Power; or

(2) Who is an undischarged bankrupt or insolvent, or a public defaulter; or

(3) Who is attainted of treason, or convicted of felony or of any infamous crime;

shall be incapable of being chosen or of sitting as a Senator or Member of the House of Representatives until the disability is removed by a grant of a discharge, or the expiration of the sentence, or a pardon, or release, or otherwise.

Place to become vacant on happening of certain disqualifications.

47. If a Senator or Member of the House of Representatives—

(1) Takes an oath or makes a declaration or acknowledgment of allegiance, obedience, or adherence to a Foreign Power, or does any act whereby he becomes a subject or citizen, or entitled to the rights or privileges of a subject or citizen, of a Foreign Power; or

(2) Is adjudged bankrupt or insolvent, or takes the benefit of any law relating to bankrupt or insolvent debtors, or becomes a public defaulter; or

(3) Is attainted of treason or convicted of felony or of any infamous crime;

his place shall thereupon become vacant.

Disqualifying contractors and persons interested in contracts.

48. Any person who directly or indirectly himself, or by any person in trust for him, or for his use or benefit, or on his account, undertakes, executes, holds, or enjoys, in the whole or in part, any agreement for or on account of the Public Service of the Commonwealth, shall be incapable of being chosen or of sitting as a Senator or Member of the House of Representatives while he executes, holds, or enjoys the agreement, or any part or share of it, or any benefit or emolument arising from it :

If any person, being a Senator or Member of the House of Representatives, enters into any such agreement, or having entered into it continues to hold it, his place shall be declared by the Senate or the House of Representatives, as the case may be, to be vacant, and thereupon the same shall become and be vacant accordingly :

Proviso exempting member of trading companies.

But this section does not extend to any agreement made, entered into, or accepted, by an incorporated company consisting of more than twenty persons if the agreement is made, entered into, or accepted for the general benefit of the company.

Place to become vacant on accepting office of profit.

49. If a Senator or Member of the House of Representatives accepts any office of profit under the Crown, not being one of the offices of State held during the pleasure of the Governor-General, and the holders of which are by this Constitution declared to be capable of being chosen and of sitting as Members of either House of Parliament, or accepts any pension payable out of any of the revenues of the Commonwealth during the pleasure of the Crown, his place shall thereupon become vacant, and no person holding any such office, except as aforesaid, or holding or enjoying any such pension, shall be capable of being chosen or of sitting as a Member of either House of the Parliament.

But this provision does not apply to officers of the Military or Naval Forces who are not in the receipt of annual pay.

Penalty for sitting when disqualified.

50. If any person by this Constitution declared to be incapable of sitting in the Senate or House of Representatives sits as a Senator or Member of the House of Representatives, he shall, for every day on which he sits, be liable to pay the sum of one hundred pounds to any person who may sue for it in any Court of competent jurisdiction.

Standing Rules and Orders to be made.

51. The Senate and House of Representatives may from time to time prepare and adopt such Standing Rules and Orders as may appear to them respectively best adapted—

(1) For the orderly conduct of the business of the Senate and House of Representatives respectively.

(2) For the mode in which the Senate and House of Representatives shall confer, correspond, and communicate with each other relative to Votes or proposed Laws adopted by or pending in the Senate or House of Representatives respectively :

(3) For the manner in which Notices of proposed Laws, Resolutions, and other business intended to be submitted to the Senate and House of Representatives respectively may be published for general information :

(4) For the manner in which proposed Laws are to be introduced, passed, numbered, and intituled in the Senate and House of Representatives respectively:
(5) For the proper presentation of any Laws passed by the Senate and House of Representatives to the Governor-General for his assent: and
(6) Generally for the conduct of all business and proceedings of the Senate and House of Representatives severally and collectively.

Part V.—Powers of the Parliament.

Legislative powers of the Parliament.

52. The Parliament shall, subject to the provisions of this Constitution, have full power and authority to make all such Laws as it thinks necessary for the peace, order, and good government of the Commonwealth, with respect to all or any of the matters following, that is to say:—

1. The regulation of Trade and Commerce with other Countries, and among the several States;
2. Customs and Excise and bounties, but so that duties of Customs and Excise and bounties shall be uniform throughout the Commonwealth, and that no tax or duty shall be imposed on any goods exported from one State to another;
3. Raising money by any other mode or system of taxation; but so that all such taxation shall be uniform throughout the Commonwealth;
4. Borrowing money on the public credit of the Commonwealth;
5. Postal and Telegraphic Services;
6. The Military and Naval Defence of the Commonwealth and the several States and the calling out of the forces to execute and maintain the laws of the Commonwealth, or of any State or part of the Commonwealth;
7. Navigation and Shipping;
8. Ocean Beacons and Buoys, and Ocean Light-houses and Light-ships;
9. Quarantine;
10. Fisheries in Australian waters beyond territorial limits;
11. Census and Statistics;
12. Currency Coinage and Legal Tender;
13. Banking, the Incorporation of Banks, and the Issue of paper Money;
14. Weights and Measures;
15. Bills of Exchange and Promissory Notes;
16. Bankruptcy and Insolvency;
17. Copyrights and Patents of Inventions, Designs, and Trade Marks;
18. Naturalization and Aliens;
19. The Status in the Commonwealth of Foreign Corporations, and of Corporations formed in any State or part of the Commonwealth;
20. Marriage and Divorce;
21. The Service and Execution of the Civil and Criminal Process and Judgments of the Courts of one State or part of the Commonwealth in another State, or part of the Commonwealth;
22. The recognition of the Laws, the Public Records, and the Judicial Proceedings, of one State or part of the Commonwealth in another State or part of the Commonwealth;

23. Immigration and Emigration;
24. The influx of Criminals;
25. External affairs and Treaties;
26. The relations of the Commonwealth to the Islands of the Pacific;
27. River Navigation with respect to the common purposes of two or more States, or parts of the Commonwealth;
28. The control of Railways with respect to transport for the purposes of the Commonwealth;
29. Matters referred to the Parliament of the Commonwealth by the Parliament or Parliaments of any State or States, but so that any such Law shall extend only to the State or States by whose Parliament or Parliaments the matter was referred, and to such other States as may afterwards adopt the Law;
30. The exercise within the Commonwealth, at the request or with the concurrence of the Parliaments of all the States concerned, of any Legislative powers with respect to the affairs of the territory of the Commonwealth, or any part of it, which can at the date of the establishment of this Constitution be exercised only by the Parliament of the United Kingdom or by the Federal Council of Australasia, but always subject to the provisions of this Constitution;
31. Any matters necessary or incidental for carrying into execution the foregoing powers and any other powers vested by this Constitution in the Parliament or Executive Government of the Commonwealth or in any department or officer thereof.

Exclusive powers of the Parliament.

53. The Parliament shall, also, subject to the provisions of this Constitution, have exclusive legislative power to make all such laws as it thinks necessary for the peace, order, and good government of the Commonwealth with respect to the following matters:—

1. The affairs of people of any race with respect to whom it is deemed necessary to make special laws not applicable to the general community; but so that this power shall not extend to authorise legislation with respect to the aboriginal native race in Australia and the Maori race in New Zealand;
2. The government of any territory which may by surrender of any State or States and the acceptance of the Parliament become the seat of Government of the Commonwealth, and the exercise of like authority over all places acquired by the Commonwealth, with the consent of the Parliament of the State in which such places are situate, for the construction of forts, magazines, arsenals, dockyards, quarantine stations, or for any other purposes of general concern;
3. Matters relating to any Department or Departments of the Public Service the control of which is by this Constitution transferred to the Executive Government of the Commonwealth;
4. Such other matters as are by this Constitution declared to be within the exclusive powers of the Parliament.

Money Bills.

Money Bills.

54. Laws appropriating any part of the public revenue, or imposing any tax or impost, shall originate in the House of Representatives.

Appropriation and Tax Bills.

55. (1) The Senate shall have equal power with the House of Representatives in respect of all proposed Laws, except Laws imposing taxation and Laws appropriating the necessary supplies for the ordinary annual services of the Government, which the Senate may affirm or reject, but may not amend. But the Senate may not amend any proposed Law in such a manner as to increase any proposed charge or burden on the people.

(2) Laws imposing taxation shall deal with the imposition of taxation only.

(3) Laws imposing taxation except Laws imposing duties of Customs on imports shall deal with one subject of taxation only.

(4) The expenditure for services other than the ordinary annual services of the Government shall not be authorised by the same Law as that which appropriates the supplies for such ordinary annual services, but shall be authorised by a separate Law or Laws.

(5) In the case of a proposed Law which the Senate may not amend, the Senate may at any stage return it to the House of Representatives with a message requesting the omission or amendment of any items or provisions therein. And the House of Representatives may, if it thinks fit, make such omissions or amendments, or any of them, with or without modifications.

Recommendation of money votes.

56. It shall not be lawful for the House of Representatives to pass any vote, resolution, or Law for the appropriation of any part of the public revenue, or of the produce of any tax or impost, to any purpose that has not been first recommended to that House by message of the Governor-General in the Session in which the vote, resolution, or Law, is proposed.

Royal Assent.

Royal assent to Bills.

57. When a Law passed by the Parliament is presented to the Governor-General for the Queen's assent, he shall declare, according to his discretion, but subject to the provisions of this Constitution, either that he assents to it in the Queen's name, or that he withholds assent, or that he reserves the Law for the Queen's pleasure to be made known.

The Governor-General may return to the Parliament any Law so presented to him, and may transmit therewith any amendments which he may desire to be made in such Law, and the Parliament may deal with such proposed amendments as it thinks fit.

Disallowance by Order in Council of Law assented to by Governor-General.

58. When the Governor-General assents to a Law in the Queen's name he shall by the first convenient opportunity send an authentic copy to the Queen, and if the Queen in Council within two years after receipt thereof thinks fit to disallow the Law, such disallowance being made known by the Governor-General, by speech or message, to each of the Houses of the Parliament, or by proclamation, shall annul the Law from and after the day when the disallowance is so made known.

Signification of Queen's Pleasure on Bill reserved.

59. A Law reserved for the Queen's pleasure to be made known with respect to it shall not have any force unless and until within two years from the day on which it was presented to the Governor-General for the Queen's assent, the Governor-General makes known by speech or message to each of the Houses of the Parliament, or by proclamation, that it has received the assent of the Queen in Council.

An entry of every such speech, message, or proclamation shall be made in the journal of each House, and a duplicate thereof duly attested shall be delivered to the proper officer to be kept among the records of the Parliament.

CHAPTER II.

THE EXECUTIVE GOVERNMENT.

Executive power to be vested in the Queen.

1. The Executive power and authority of the Commonwealth is vested in the Queen, and shall be exercised by the Governor-General as the Queen's Representative.

Constitution of Executive Council for Commonwealth.

2. There shall be a Council to aid and advise the Governor-General in the government of the Commonwealth, and such Council shall be styled the Federal Executive Council; and the persons who are to be members of the Council shall be from time to time chosen and summoned by the Governor-General and sworn as Executive Councillors, and shall hold office during his pleasure.

Application of provisions referring to Governor-General.

3. The provisions of this Constitution referring to the Governor-General in Council shall be construed as referring to the Governor-General acting with the advice of the Federal Executive Council.

Ministers of State may sit in Parliament.

4. For the administration of the Executive Government of the Commonwealth, the Governor-General may, from time to time, appoint Officers to administer such Departments of State of the Commonwealth as the Governor-General in Council may from time to time establish, and such Officers shall hold office during the pleasure of the Governor-General, and shall be capable of being chosen and of sitting as Members of either House of the Parliament.

Such Officers shall be Members of the Federal Executive Council.

Number of Ministers.

5. Until other provision is made by the Parliament, the number of such Officers who may sit in the Parliament shall not exceed seven, who shall hold such offices, and by such designation, as the Parliament from time to time prescribes by Law, or, in the absence of any such Law, as the Governor-General from time to time directs.

Salaries of Ministers.

6. There shall be payable to the Queen, out of the Consolidated Revenue Fund of the Commonwealth, for the salaries of such Officers, a sum not less than fifteen thousand pounds per annum.

Appointment of Civil Servants.

7. Until other provision is made by the Parliament, the appointment and removal of all other Officers of the Government of the Commonwealth shall be vested in the Governor-General in Council, except officers whose appointment may be delegated by the Governor-General in Council to some other officer or person.

Authority of Executive.

8. The Executive power and authority of the Commonwealth shall extend to all matters with respect to which the Legislative powers of the Parliament may be exercised, excepting only matters, being within the Legislative powers of a State, with respect to which the Parliament of that State for the time being exercises such powers.

Command of Military and Naval Forces.

9. The Command in Chief of all Military and Naval Forces of the Commonwealth is hereby vested in the Governor-General as the Queen's Representative.

Immediate assumption of control of certain Departments.

10. The control of the following Departments of the Public Service shall be at once assigned to and assumed and taken over by the Executive Government of the Commonwealth, and the Commonwealth shall assume the obligations of all or any State or States with respect to such matters, that is to say—

Customs and Excise,
Posts and Telegraphs,
Military and Naval Defence,
Ocean Beacons and Buoys, and Ocean Lighthouses and Lightships,
Quarantine.

Powers under existing Law to be exercised by Governor-General with advice of Executive Council, or alone, as the case may be.

11. All powers and functions which are at the date of the establishment of the Commonwealth vested in the Governor of a Colony with or without the advice of his Executive Council, or in any Officer or person in a Colony, shall, so far as the same continue in existence and need to be exercised in relation to the government of the Commonwealth, with respect to any matters which under this Constitution pass to the Executive Government of the Commonwealth, vest in the Governor-General, with the advice of the Federal Executive Council, or in the Officer exercising similar powers or functions in or under the Executive Government of the Commonwealth.

CHAPTER III.

THE FEDERAL JUDICATURE.

Supreme Court of Australia and Inferior Courts.

1. The Parliament of the Commonwealth shall have power to establish a Court, which shall be called the Supreme Court of Australia, and shall consist of a Chief Justice, and so many other Justices, not less than four, as the Parliament from time to time prescribes. The Parliament may also from time to time, subject to the provisions of this Constitution, establish other Courts.

Tenure of office.

2. The Judges of the Supreme Court of Australia and of the other Courts of the Commonwealth shall hold their offices during good behaviour, and shall receive such salaries as may from time to time be fixed by the Parliament; but the salary paid to any Judge shall not be diminished during his continuance in office.

Appointment and removal of Judges.

3. The Judges of the Supreme Court and of the other Courts of the Commonwealth shall be appointed, and may be removed from office, by the Governor-General by and with the advice of the Federal Executive Council; but it shall not be lawful for the Governor-General to remove any Judge except upon an Address from both Houses of the Parliament praying for such removal.

Appellate Jurisdiction.

4. The Supreme Court of Australia shall have jurisdiction, with such exceptions and subject to such regulations as the Parliament from time to time prescribes, to hear and determine appeals from all judgments, decrees, orders, and sentences, of any other Federal Court, or of the highest Court of final resort now established, or which may hereafter be established, in any State, whether such Court is a Court of Appeal or of original jurisdiction, and the judgment of the Supreme Court of Australia in all such cases shall be final and conclusive.

Until the Parliament makes other provisions, the conditions of and restrictions on appeals to the Queen in Council from the highest Courts of final resort of the several States shall be applicable to appeals from such Courts to the Supreme Court of Australia.

Appeals may be made final in all cases.

5. The Parliament of the Commonwealth may provide by law that any appeals which by any law have heretofore been allowed from any judgment, decree, order, or sentence, of the highest Court of final resort of any State to the Queen in Council, shall be brought to, and heard and determined by, the Supreme Court of Australia, and the judgment of that Court in all such cases shall be final and conclusive.

Power of the Queen to allow appeal to Herself in certain cases.

6. Notwithstanding the provisions of the two last preceding sections, or of any law made by the Parliament of the Commonwealth in pursuance thereof, the Queen may in any case in which the public interests of the Commonwealth, or of any State, or of any other part of the Queen's Dominions, are concerned, grant leave to appeal to Herself in Council against any judgment of the Supreme Court of Australia.

Extent of power of Federal Courts.

7. The Parliament of the Commonwealth may from time to time define the jurisdiction of the Courts of the Commonwealth, other than the Supreme Court of Australia, which jurisdiction may be exclusive, or may be concurrent with that of the Courts of the States. But exclusive jurisdiction shall not be conferred on a Court except in respect of the following matters, or some of them, that is to say :—

(1) Cases arising under this Constitution ;

(2) Cases arising under any Laws made by the Parliament of the Commonwealth, or under any treaty made by the Commonwealth with another country ;

(3) Cases of Admiralty and Maritime jurisdiction ;

(4) Cases affecting the Public Ministers, Consuls, or other Representatives of other countries ;

(5) Cases in which the Commonwealth, or a person suing or being sued on behalf of the Commonwealth, is a party ;

(6) Controversies between States ;

(7) Controversies relating to the same subject matter claimed under the laws of different States ;

(8) Cases in which a Writ of Mandamus or Prohibition is sought against an Officer of the Commonwealth.

Original jurisdiction.

8. In all cases affecting Public Ministers, Consuls, or other Representatives of other Countries, and in all cases in which the Commonwealth, or any person suing or being sued on behalf of the Commonwealth, is a party, or in which a Writ of Mandamus or Prohibition is sought against an Officer of the Commonwealth, and in all cases of controversies between States, the Supreme Court of Australia shall have original as well as appellate jurisdiction.

Additiona original jurisdiction may be conferred.

The Parliament may confer original jurisdiction on the Supreme Court of Australia in such other cases as it thinks fit.

Limitation.

9. Nothing in this Constitution shall be construed to authorize any suit in law or equity against the Commonwealth, or any person sued on behalf of the Commonwealth, or against a State, or any person sued on behalf of a State, by any individual person or corporation, except by the consent of the Commonwealth, or of the State, as the case may be.

Number of Judges.

10. The jurisdiction of the Supreme Court or of any other Court of the Commonwealth, may be exercised by such number of Judges as the Parliament may by law prescribe.

Trial by jury.

11. The trial of all indictable offences cognisable by any Court established under the authority of this Act shall be by jury, and every such trial shall be held in the State where the offence has been committed, and when not committed within any State the trial shall be held at such place or places as the Parliament of the Commonwealth prescribes.

CHAPTER IV.

FINANCE AND TRADE.

Consolidated Revenue Fund.

1. All duties, revenues, and moneys, raised or received by the Executive Government of the Commonwealth, under the authority of this Constitution, shall form one Consolidated Revenue Fund to be appropriated for the Public Service of the Commonwealth in the manner and subject to the charges provided by this Constitution.

Expenses of collection.

2. The Consolidated Revenue Fund shall be permanently charged with the costs, charges, and expenses incident to the collection, management, and receipt thereof, which costs, charges, and expenses, shall form the first charge thereon.

Money to be appropriated by law.

3. No money shall be drawn from the Treasury of the Commonwealth except under appropriations made by law.

Power to levy duties of Customs and Excise and offer bounties.

4. The Parliament of the Commonwealth shall have the sole power and authority, subject to the provisions of this Constitution, to impose Customs duties, and duties of Excise upon goods for the time being the subject of Customs duties, and to grant bounties upon the production or export of goods.

But this exclusive power shall not come into force until uniform duties of Customs have been imposed by the Parliament of the Commonwealth.

Upon the imposition of uniform duties of Customs by the Parliament of the Commonwealth all laws of the several States imposing duties of Customs or duties of Excise upon goods the subject of Customs duties, and all such laws offering bounties upon the production or export of goods, shall cease to have effect.

The control and collection of duties of Customs and Excise and the payment of bounties shall nevertheless pass to the Executive Government of the Commonwealth upon the establishment of the Commonwealth.

Transfer of officers.

5. Upon the establishment of the Commonwealth, all officers employed by the Government of any State in any Department of the Public Service the control of which is by this Constitution assigned to the Commonwealth, shall become subject to the control of the Executive Government of the Commonwealth. But all existing rights of any such officers shall be preserved.

Transfer of land and buildings.

6. All lands, buildings, works, and materials necessarily appertaining to, or used in connection with, any Department of the Public Service the control of which is by this Constitutiou assigned to the Commonwealth, shall, from and after the date of the establishment

of the Commonwealth, be taken over by and belong to the Commonwealth, either absolutely, or, in the case of the Departments controlling Customs and Excise and Bounties, for such time as may be necessary.

And the fair value thereof shall be paid by the Commonwealth to the State from which they are so taken over. Such value shall be ascertained by mutual agreement, or, if no agreement can be made, in the manner in which land taken by the Government of the State for public purposes is ascertained under the laws of the State.

Collection of existing duties of Customs and Excise.

7. Until uniform duties of Customs have been imposed by the Parliament of the Commonwealth, the powers of the Parliaments of the several States existing at the date of the establishment of the Commonwealth, respecting the imposition of duties of Customs, and duties of excise upon goods the subject of Customs duties, and the offering of bounties upon the production or export of goods, and the collection and payment thereof respectively, shall continue as theretofore.

And until such uniform duties have been imposed, the Laws of the several States in force at the date of the establishment of the Commonwealth respecting duties of Customs, and duties of excise on goods the subject of Customs duties, and bounties, and the collection and payment thereof, shall remain in force, subject nevertheless to such alterations of the amount of duties or bounties as the Parliaments of the several States may make from time to time; and such duties and bounties shall continue to be collected and paid as theretofore, but by and to the Officers of the Commonwealth.

On establishment of uniform duties of Customs and Excise, trade within the Commonwealth to be free.

8. So soon as the Parliament of the Commonwealth has imposed uniform duties of Customs, trade and intercourse throughout the Commonwealth, whether by means of internal carriage or ocean navigation, shall be absolutely free.

Apportionment of surplus revenue.

9. The Revenue of the Commonwealth shall be applied in the first instance in the payment of the expenditure of the Commonwealth, and the surplus shall be returned to the several States in proportion to the amount of Revenue raised therein respectively, subject to the following provisions:—

(1) As to duties of Customs or Excise, provision shall be made for ascertaining, as nearly as may be, the amount of duties collected in each State or part of the Commonwealth in respect of dutiable goods which are afterwards exported to another State or part of the Commonwealth, and the amount of such duties shall be taken to have been collected in the State or part to which the goods have been so exported, and shall be added to the duties actually collected in that State or part, and deducted from the duties collected in the State or part of the Commonwealth from which the goods were exported:

(2) As to the proceeds of direct taxes, the amount contributed or raised in respect of income earned in any State or part of the Commonwealth, or arising from property situated in any State or part of the Commonwealth, and the amount contributed or raised in respect of property situated in any State or part of the Commonwealth, shall be taken to have been raised in that State or part:

(3) Until uniform duties of Customs have been imposed, the amount of any bounties paid to any of the people of a State or part of the Commonwealth, shall be deducted from the amount of the surplus to be returned to that state or part:

(4) Such return shall be made monthly, or at such shorter intervals as may be convenient.

Audit of Accounts.

10. Until the Parliament of the Commonwealth otherwise provides, the Laws in force in the several Colonies at the date of the establishment of the Commonwealth with respect to the receipt of revenue and the expenditure of money on account of the Government of the Colony, and the review and audit of such receipt and expenditure, shall apply to the receipt of revenue and the expenditure of money on account of the Commonwealth in the respective States in the same manner as if the Commonwealth, or the Government or an Officer of the Commonwealth, were mentioned therein whenever a Colony, or the Government or an Officer of a Colony, is mentioned or referred to.

Equality of Trade.

No preference to one State over another.

11. Preference shall not be given by any law or regulation of commerce or revenue to the ports of one part of the Commonwealth over those of another part of the Commonwealth, and vessels bound to or from one part shall not be bound to enter, clear, or pay duty, in another part.

The Parliament may give effect to this prohibition.

12. The Parliament of the Commonwealth may make laws prohibiting or annulling any law or regulation made by any State, or by any authority constituted by any State, having the effect of derogating from freedom of trade or commerce between the different parts of the Commonwealth.

Consolidation of Public Debts of States.

Public debts of States may be consolidated by general consent.

13. The Parliament of the Commonwealth may, with the consent of the Parliaments of all the States, make laws for taking over and consolidating the whole or any part of the public debt of any State or States, but so that a State shall be liable to indemnify the Commonwealth in respect of the amount of a debt taken over, and that the amount of interest payable in respect of a debt shall be deducted and retained from time to time from the share of the Surplus Revenue of the Commonwealth which would otherwise be payable to the State.

CHAPTER V.

THE STATES.

Continuance of powers of Parliaments of the States.

1. All powers which at the date of the establishment of the Commonwealth are vested in the Parliaments of the several Colonies, and which are not by this Constitution exclusively vested in the Parliament of the Commonwealth, and all powers which the Parliaments of the several States are not by this Constitution forbidden to exercise, are reserved to, and shall remain vested in, the Parliaments of the States respectively.

Validity of existing Laws.

2. All Laws in force in any of the Colonies relating to any of the matters declared by this Constitution to be within the Legislative powers of the Parliament of the Commonwealth shall, except as otherwise provided by this Constitution, continue in force in the States respectively, and may be repealed or altered by the Parliaments of the States, until other provision is made in that behalf by the Parliament of the Commonwealth.

Inconsistency of Laws.

3. When a Law of a State is inconsistent with a Law of the Commonwealth, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid.

Powers to be exercised by Governors of States.

4. All powers and functions which are at the date of the establishment of the Commonwealth vested in the Governors of the Colonies respectively, shall, so far as the same are capable of being exercised after the establishment of the Commonwealth in relation to the government of the States, continue to be vested in the Governors of the States respectively.

All references to the Queen to be through the Governor-General.

5. All references or communications required by the Constitution of any State or otherwise to be made by the Governor of the State to the Queen shall be made through the Governor-General, as Her Majesty's Representative in the Commonwealth, and the Queen's pleasure shall be made known through him.

Saving of Constitutions.

6. Subject to the provisions of this Constitution the Constitutions of the several States of the Commonwealth shall continue as at the date of the establishment of the Commonwealth, until altered by or under the authority of the Parliaments thereof in accordance with the provisions of their respective Constitutions.

Governors of States.

7. In each State of the Commonwealth there shall be a Governor.

Appointment of Governors.

8. The Parliament of a State may make such provisions as it thinks fit as to the manner of appointment of the Governor of the State, and for the tenure of his office, and for his removal from office.

Application of provisions referring to Governor.

9. The provisions of this Constitution relating to the Governor of a State extend and apply to the Governor for the time being of the State, or rather the Chief Executive Officer or Administrator of the government of the State, by whatever title he is designated.

Members of Senate or House of Representatives not to sit in State Legislatures.

10. A member of the Senate or House of Representatives shall not be capable of being chosen or of sitting as a member of any House of the Parliament of a State.

Member of State Parliament not to be Member of the Parliament of the Commonwealth.

11. If a member of a House of the Parliament of a State is, with his own consent, chosen as a member of either House of the Parliament of the Commonwealth, his place in the first mentioned House of Parliament shall become vacant.

A State may cede any of its Territory.

12. The Parliament of a State may at any time surrender any part of the State to the Commonwealth, and upon such surrender and the acceptance thereof by the Commonwealth such part of the State shall become and be subject to the exclusive jurisdiction of the Parliament of the Commonwealth.

States not to levy certain Taxes, except for certain purposes.

13. A State shall not impose any taxes or duties on imports or exports, except such as are necessary for executing the inspection laws of the State; and the net produce of all taxes and duties imposed by a State on imports or exports shall be for the use of the Commonwealth; and any such inspection laws may be annulled by the Parliament of the Commonwealth.

Nor duty of tonnage.

14. A State shall not, without the consent of the Parliament of the Commonwealth, impose any duty of tonnage, or raise or maintain any military or naval force, or impose any tax on any land or other property belonging to the Commonwealth.

Nor coin money, &c.

15. A State shall not coin money, or make anything but gold and silver coin a legal tender in payment of debts.

Nor prohibit any religion.

16. A State shall not make any law prohibiting the free exercise of any religion.

Protection of citizens of the Commonwealth.

17. A State shall not make or enforce any law abridging any privilege or immunity of citizens of other States of the Commonwealth, nor shall a State deny to any person, within its jurisdiction, the equal protection of the laws.

Recognition of Acts of State of various States.

18. Full faith and credit shall be given, in each State, to the Laws, the Public Acts and Records, and the Judicial Proceedings of every other State.

Protection of States from invasion.

19. The Commonwealth shall protect every State against invasion and, on the application of the Executive Government of a State, against domestic violence.

Custody of offenders against Federallaws.

20. Every State shall make provision for the detention and punishment in its prisons of persons accused or convicted of offences against the laws of the Commonwealth, and the Parliament of the Commonwealth may make laws to give effect to this provision.

CHAPTER VI.

NEW STATES.

Admission of existing Colonies to the Commonwealth.

1. Any of the existing Colonies of [*name the existing Colonies which have not adopted the Constitution*] may upon adopting this Constitution be admitted to the Commonwealth, and shall thereupon become and be a State of the Commonwealth.

New States may be admitted to the Commonwealth.

2. The Parliament of the Commonwealth may from time to time establish and admit to the Commonwealth new States, and may upon such establishment and admission make and impose such conditions, as to the extent of Representation in either House of the Parliament or otherwise, as it thinks fit.

Provisional government of territories.

3. The Parliament may make such laws as it thinks fit for the provisional administration and goverment of any territory surrendered by any State to and accepted by the Commonwealth, or any territory in the Pacific placed by the Queen under the authority of and accepted by the Commonwealth, or otherwise acquired by the Commonwealth, and may in any such case allow the representation of such territory in either House of the Parliament to such extent and on such terms as it thinks fit.

Alteration of limits of States.

4. The Parliament of the Commonwealth may, from time to time, with the consent of the Parliament of a State, increase, diminish, or otherwise alter the limits of the State, upon such terms and conditions as may be agreed to, and may, with the like consent, make provision respecting the effect and operation of any such increase or diminution or alteration of territory in relation to any State affected thereby.

Securing of rights of States.

5. A new State shall not be formed by separation of territory from a State without the consent of the Parliament thereof, nor shall a State be formed by the union of two or more States or parts of States, or the limits of a State be altered, without the consent of the Parliament or Parliaments of the State or States concerned.

CHAPTER VII.

MISCELLANEOUS.

Seat of Government.

1. The seat of Government of the Commonwealth shall be determined by the Parliament.

Until such determination is made, the Parliament shall be summoned to meet at such place within the Commonwealth as a majority of the Governors of the States, or, in the event of an equal division of opinion amongst the Governors, as the Governor-General shall direct.

Power to Her Majesty to authorise Governor-General to appoint Deputies.

2. The Queen may authorise the Governor-General from time to time to appoint any person or any persons jointly or severally to be his Deputy or Deputies within any part or parts of the Commonwealth, and in that capacity to exercise during the pleasure of the Governor-General such of the powers and functions of the Governor-General as he deems it necessary or expedient to assign to such Deputy or Deputies, subject to any limitations or directions expressed or given by the Queen, but the appointment of such Deputy or Deputies shall not affect the exercise by the Governor-General himself of any power or function.

CHAPTER VIII.

AMENDMENT OF THE CONSTITUTION.

Mode of amending the Constitution.

The provisions of this Constitution shall not be altered except in the following manner :—

Any law for the alteration thereof must be passed by an absolute majority of the Senate and House of Representatives and shall thereupon be submitted to Conventions, to be elected by the electors of the several States qualified to vote for the election of Members of the House of Representatives. The Conventions shall be summoned, elected, and held in such manner as the Parliament of the Commonwealth prescribes by law, and shall, when elected, proceed to vote upon the proposed amendment. And if the proposed amendment is approved by Conventions of a majority of the States, it shall become law, subject nevertheless to the Queen's power of disallowance. But an amendment by which the proportionate representation of any State in either House of the Parliament of the Commonwealth is diminished shall not become law without the consent of the Convention of that State.

THE SCHEDULE.

I, A.B., do swear [*or* do solemnly and sincerely affirm and declare] that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, her heirs, and successors, according to law.

(NOTE.—*The name of the King or Queen of the United Kingdom of Great Britain and Ireland for the time being is to be substituted from time to time.*)

APPENDIX B.

NATIONAL AUSTRALASIAN CONVENTION.

REPORT

FROM THE

COMMITTEE ON PROVISIONS RELATING TO FINANCE, TAXATION, AND TRADE REGULATION,

TO THE

COMMITTEE ON CONSTITUTIONAL MACHINERY, FUNCTIONS, AND POWERS;

TOGETHER WITH APPENDICES.

SYDNEY: GEORGE STEPHEN CHAPMAN, ACTING GOVERNMENT PRINTER.

1891.

1891.

NATIONAL AUSTRALASIAN CONVENTION.

REPORT

OF THE COMMITTEE APPOINTED TO CONSIDER

PROVISIONS RELATING TO FINANCE, TAXATION, AND TRADE REGULATION.

THE Committee appointed for the consideration of provisions relating to Finance, Taxation, and Trade Regulation, who were instructed to specially consider Resolutions Nos. 3 and 4 on Trade and Intercourse and on Customs Taxation, with a view to their being carried into effect upon lines just to the several Colonies and to lay its conclusions before the Committee on Constitutional Machinery, Functions, and Powers, have agreed to the following Resolutions, which they recommend should be provided for in the proposed Federal Constitution :—

1. That immediately on the Federal Constitution coming into operation the officers connected with such Departments as by the Act come under Federal control shall become Federal Officers.
2. That all necessary land, buildings, works, and materials connected with the Departments placed under Federal control shall be taken over by the Federal Government on terms to be arranged.
3. That until a uniform Tariff comes into force the existing Tariffs shall continue subject to such modifications thereof as the Legislatures of the several Colonies may think necessary, and the duties shall continue to be collected as at present, but by the Federal Officers.
4. That after the establishment of such uniform Tariff the trade and intercourse between the Federated Colonies, whether by means of internal carriage or coastal navigation, shall be absolutely free.
5. That after a uniform Tariff has come into operation the surplus revenue may fairly be distributed amongst the various Colonies according to population; but, as the duties now contributed by the people of the various Colonies are so unequal, it would be unfair at the present time to distribute the surplus on this basis; it is therefore recommended that the revenue from Customs and Excise be devoted, first, to the payment of all expenditure authorized by the Federal Government, such expenditure to be charged to the several Colonies according to population; the balance to be returned to the Colonies in such a way that the amount paid by each Colony for such Federal expenditure, added to the amount returned, shall be, as nearly as can be ascertained, the total amount contributed by each Colony on the dutiable articles consumed.

6. That besides borrowing money on the public credit for purposes of Federal Expenditure, and with the view of improving the general credit, and avoiding complications arising out of the existence of various stocks held under different conditions, the Federal Parliament should be empowered, with the consent of the Colonial Parliaments, to adopt a scheme for the consolidation of the debts of the various Colonies, each Colony being held separately liable for its proportion of principal and interest.
7. It is estimated that the total expenditure of the Federal Government will not exceed eleven shillings and fivepence per head of the population, a large proportion of which will practically be expended on existing services, the control of which will be transferred to the Federal Government.
8. That the Federal Government should be empowered to legislate on the following subjects:—

Coastal Beacons, Buoys, and Light-houses.
Navigation and Shipping.
Postal and Telegraphic Systems.
Intercolonial Rivers and the Navigation thereof.
Quarantine.
Military and Naval Defence.
Raising money by any mode or system of taxation for Federal purposes, but all taxation to be uniform throughout the Federation.
Salaries and allowances of the Governor-General and Civil and other officers of the Federal Government.
Trade and Commerce.
Currency and Coinage.
Banking, Incorporation of Banks, and the Issue of Paper Money.
Bills of Exchange and Promissory-notes.
Legal Tender.
Bankruptcy and Insolvency.
Patents of Inventions, Designs, and Trade-marks.
Copyright.
Weights and Measures.
Appropriation of all moneys raised by the Federal Government.

Your Committee, recognising that one of the main objects of Federation is freedom of Commercial Intercourse between the Colonies, and that this cannot be accomplished until a uniform Tariff of Customs and Excise is in force, recommend that the first business of the Federal Parliament should be the framing and adoption of such a Tariff.

Your Committee are greatly indebted to Mr. Coghlan, Government Statistician of New South Wales, for the preparation of various returns and statements, which are appended to this Report.

JAMES MUNRO,
Chairman.

Parliament House,
Sydney, New South Wales, 23rd March, 1891.

A.

ESTIMATED Population of Australasia, December, 1890.

(Approximate Statement.)

New South Wales	1,170,000
Victoria	1,148,000
Queensland...	422,000
South Australia	327,300
Western Australia...	45,500
Tasmania	156,600
New Zealand*	630,600
	3,900,000

* Not including 42,000 Maoris.

B.

MALES of Military Age (20 to 45 years) and Supporting Ages (20 to 65 years).

Colony.	At last Census.			† Estimated Number at end of 1890.	
	Year.	20 to 45.	20 to 65.	20 to 45.	20 to 65.
		per cent.	per cent.		
New South Wales	1881	38·12	50·95	245,703	328,399
Victoria...	1881	30·67	48·06	186,995	293,023
Queensland	1886	46·46	58·25	113,578	142,400
South Australia	1881	40·04	51·19	67,622	86,453
Western Australia	1881	32·27	53·59	8,421	13,986
Australia	.....	.....	.....	622,319	864,261
Tasmania	1881	29·96	45·69	25,025	38,165
*New Zealand	1886	34·76	48·92	117,227	164,980
Australasia	.....	.....	.....	764,571	1,067,406

* Excluding Maoris. † Prepared in this form at the request of Sir Thomas McIlwraith, K.C.M.G.

C.

STATEMENT showing the amount of Duties levied by each Colony on the produce of other Colonies imported during 1889; and the amount paid on the produce of each Colony when imported into the other Colonies.

Colony.	Amount of Duties *levied* by each Colony on the produce of the other Colonies imported by it.	Amount of Duties *paid* on the produce of each Colony when imported into the other Colonies.
	£	£
New South Wales	112,569	157,190
Victoria	230,647	59,363
Queensland	102,313	97,735
South Australia	33,819	33,407
Western Australia	19,004	3,983
Tasmania	13,060	37,472
New Zealand	18,058	140,260
Australasia	529,410	529,410

D.

STATEMENT showing Incidence of Customs Duties levied in Australasia during 1889.

Colony.	Revenue raised from Tobacco, Intoxicants, &c.	Revenue raised from Imports the produce of Australasia.	Revenue raised from duties on Foreign Imports other than Tobacco, Intoxicants, &c.	Total Import Duties raised from all sources.	
				Amount.	Per Inhabitant.
	£	£	£	£	£ s. d.
New South Wales	1,187,838	112,509	605,536	1,905,883	1 14 6
Victoria	1,080,873	230,647	1,579,199	2,890,719	2 12 4
Queensland	564,872	102,313	679,583	1,346,768	3 7 10
South Australia	207,867	33,819	327,783	569,469	1 15 5
Western Australia	77,848	19,004	75,138	171,990	4 0 2
Tasmania	119,177	13,060	175,115	307,352	2 1 4
New Zealand	677,679	18,058	771,579	1,467,316	2 7 10
Australasia	3,916,154	529,410	4,213,933	8,659,497	2 6 5

E.

AMOUNT of Excise Duties collected in Australasia, 1889.

Articles.	New South Wales.	Victoria.	Queensland.	South Australia.	Western Australia.	Tasmania.	New Zealand.	Australasia.
	£	£	£	£	£	£	£	£
Spirits	16,691	95,826	35,149	3,712	.....	.....	.....	151,378
Beer	118,940	.....	.....	.....	.....	15,672	55,031	189,643
Tobacco, &c.	124,362	50,937	.....	.....	.....	.....	1,577	176,876
Other Fees	1,378	967	.....	.....	.....	.....	.....	2,345
Total	261,371	147,730	35,149	3,712	.....	15,672	56,608	520,242

F.

Cost of Collecting Customs and Excise Duties.

	per cent.
New South Wales	2·9
Victoria	2·8
Queensland	*3·0
South Australia	3·8
Western Australia	4·5
Tasmania	2·7
New Zealand...	2·4
Average for Australasia	2·9

* Estimated.

G.

Expenditure by Federal Government: Approximate Estimate on present Population.

Item of Expenditure.	Amount of Expenditure.	
	Total.	Per Inhabitant.
	£	s. d.
*Civil Government	639,000	3 3
Collection of Revenue	270,000	1 5
*Defence	750,000	3 10
*To recoup loss on Services	200,000	1 0
Total	1,859,000	9 6
Interest on works taken over by Federal Government from the various Colonies	367,000	1 11
£	2,226,000	11 5

* These items were altered by direction of the Financial Committee from the original estimate.

H.

Imports into Australasia during 1889, distinguishing value of Goods subject to duty and admitted Free.

Colony.	Imports admitted Duty Free.	Wines, Spirits, Beers, &c.	Tobacco, &c.	Opium.	Domestic Produce of Australasia subject to Duty.	Foreign Dutiable Imports, excepting Spirits, Tobacco, &c.	Total.
	£	£	£	£	£	£	£
New South Wales.....	18,146,065	1,049,102	220,800	47,915	499,227	2,8.9,948	22,863,057
Victoria	12,399,926	1,003,232	370,724	39,986	2,018,299	8,540,593	24,402,760
Queensland	1,662,496	411,763	163,037	43,888	406,154	3,365,224	6,052,562
South Australia	4,290,640	189,173	48,985	11,926	357,880	2,100,181	6,998,785
Western Australia	70,624	60,633	13,701	702	122,095	550,372	818,127
Tasmania	425,471	54,134	26,542	2,523	132,841	969,524	1,611,035
New Zealand	2,306,987	261,476	105,091	6,988	55,292	3,561,263	6,297,097
Australasia.....	39,302,209	3,029,513	948,880	153,928	3,621,788	21,987,105	69,043,423

I.

Public Expenditure, 1889.

Colony.	Railways and Tramways.	Telegraphic Service and Public Works.	*Interest on Debt, &c.	Other Services.	Total.
	£	£	£	£	£
New South Wales	1,782,530	1,687,716	1,805,770	3,974,255	9,250,271
Victoria	1,923,997	1,499,862	1,459,242	3,036,801	7,919,902
Queensland	581,175	432,136	1,059,768	1,477,779	3,550,858
South Australia	534,331	218,763	798,991	803,842	2,355,927
Western Australia	63,938	33,702	68,170	220,190	386,000
Tasmania	88,568	148,855	209,736	234,515	681,674
New Zealand	626,939	452,978	1,891,702	1,285,303	4,256,922
Australasia	5,601,478	4,474,012	7,293,379	11,032,685	28,401,554

* Including payments to Sinking Fund.

J.

EXPENDITURE per head of Population, 1889.

Colony.	Expenditure on account of				Total Expenditure.
	Railways and Tramways.	Telegraphic Service and Public Works.	Interest on Debt, &c.	Other Services.	
	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
New South Wales	1 12 3	1 10 7	1 12 9	3 12 0	8 7 7
Victoria	1 14 10	1 7 2	1 6 5	2 15 0	7 3 5
Queensland	1 9 3	1 1 9	2 13 5	3 14 5	8 18 10
South Australia	1 13 3	0 13 7	2 9 9	2 10 0	7 6 7
Western Australia	1 9 9	0 15 8	1 11 10	5 2 7	8 19 10
Tasmania	0 11 11	1 0 0	1 8 2	1 11 6	4 11 7
New Zealand	1 0 5	0 14 9	3 1 8	2 1 10	6 18 8
Australasia...	1 10 0	1 4 0	1 19 1	2 19 1	7 12 2

K.

POSTAL, Money Order, and Telegraph Services—Estimated Revenue and Expenditure, 1889.

Colony.	Revenue.	Expenditure.
	£	£
New South Wales	598,394	618,852
Victoria	529,093	582,910
Queensland	226,766	339,175
South Australia	208,118	177,987
Western Australia	23,403	33,702
Tasmania	65,750	66,092
New Zealand	303,774	261,905
Australasia...	1,955,298	2,080,623

Deficiency:—£125,325; equal to 8d. per head.

L.

AUSTRALASIAN Outstanding Loans at close of 1890, so far as the same can be stated.

Colony.	Loans Outstanding.	Interest Payable.	Rate.
	£	£	£
New South Wales	46,051,449	1,778,068	3 861
Victoria	41,443,216	1,672,486	4·035
Queensland	28,105,684	1,139,034	4·052
South Australia	21,586,500	877,557	4·065
Western Australia	1,371,981	57,812	4·243
Tasmania	6,125,550	248,463	4·056
*New Zealand	37,162,891	1,772,576	4·769
Total	181,847,271	7,545,996	4·149

* 1889.

M.

Expenditure for Defence Purposes in 1889.

Colony.	Total. £	Per head of Population. s. d.
New South Wales	207,175	3 9
Victoria	346,623	6 3
South Australia	41,122	2 7
Queensland	36,982	1 10
Western Australia	3,697	1 9
Tasmania	15,340	2 1
New Zealand	57,521	1 10
Australasia	708,460	3 9

Defence Forces of the Australasian Colonies.

Colony.	Total Forces.	Paid.	Partially Paid.	Unpaid.
New South Wales...	8,134	578	4,164	3,392
Victoria*	5,856	326	3,625	1,905
Queensland	3,939	130	2,667	1,142
South Australia	2,671	57	1,573	1,041
Western Australia	603	2	601	.....
Tasmania	1,883	35	473	1,375
New Zealand	6,538	137	.....	6,401
Australasia	29,624	1,265	13,103	15,256

* 30th June, 1890.

Amount of Loan Money Expended on Fortifications to close of 1889.

Colony.	Total. £	Per head of Population s. d.
New South Wales	*775,191	13 10
Victoria	100,000	1 9
South Australia	193,740	11 11
Queensland	160,235	7 11
Tasmania	111,391	14 8
New Zealand...	461,395	14 11
Australasia	1,801,952	9 8

* Inclusive of £117,587 for Naval Station, Port Jackson.

N.

CANADA.

Civil Expenditure.	£
Legislation	143,200
Civil Government, including salaries of the Governor and Lieutenant-Governors	151,300
Other Expenditure	458,600
Total	£753,100

Police and Penitentiaries.	£
Dominion Police	3,800
Mounted Police	169,400
Penitentiaries...	65,200
Total	£238,400

Summary.

	Per Inhabitant s. d.
Civil Expenditure	2 11
Police Expenditure	0 11
	3 10

O.

The United States of America.

Expenditure on various services during 1889.

	Total.	Per Inhabitant.
	£	s. d.
Legislation and ordinary Civil expenditure	5,134,500	1 8
Foreign affairs	381,100	0 2
Miscellaneous Expenses, including Public Buildings, Light-houses, &c.	9,630,300	3 1
Total	£15,145,900	4 11
The Estimated Expenditure for 1890 was	£14,583,300	or 4 4

APPENDIX C.

NATIONAL AUSTRALASIAN CONVENTION.

REPORT

FROM THE

COMMITTEE

ON THE

ESTABLISHMENT OF A FEDERAL JUDICIARY; ITS POWERS AND FUNCTIONS,

TO THE

COMMITTEE ON CONSTITUTIONAL MACHINERY, FUNCTIONS, AND POWERS.

SYDNEY: GEORGE STEPHEN CHAPMAN, ACTING GOVERNMENT PRINTER.

1891.

R

1891.

NATIONAL AUSTRALASIAN CONVENTION.

REPORT

OF THE COMMITTEE APPOINTED TO CONSIDER

ESTABLISHMENT OF A FEDERAL JUDICIARY; ITS POWERS AND FUNCTIONS.

THE Committee appointed to consider the question of the establishment of a Federal Judiciary, its powers and its functions, have the honor to report as directed to the Committee on Constitutional Machinery, and to suggest that provisions to the following effect be inserted in the Federal Constitution:—

1. The Judicial power of the Union shall be vested in one High Court, to be called the High Court of Australia, and in such Inferior Courts as the Federal Parliament may from time to time create and establish.

2. The Judges of both the High Court and the Inferior Courts shall hold their offices during good behaviour, and shall receive such salaries as shall from time to time be fixed by the Federal Parliament; but the salary paid to any Judge shall not be diminished during his continuance in office.

3. The Judges of the High Court and of the inferior Courts shall be appointed, and may be suspended from the discharge of their duties or removed from office, by the Governor-General by and with the advice of the Federal Executive Council; but it shall not be lawful for the Governor-General to remove any Judge without an Address from both Houses of the Union Parliament recommending such removal, such Address to be adopted by a majority of two-thirds of the total number of the members of each House of the Union Parliament.

4. The Judicial power of the Union shall extend—

I. To all cases arising under this Act:

II. To all cases arising under any Laws made by the Union Parliament, or under any treaty made by the Union with any other Country:

III. To all cases of Admiralty and Maritime jurisdiction:

IV. To all cases affecting the Public Ministers, Consuls, or other Representatives of other Countries:

V. To all cases in which the Union shall be a party:

VI. To disputes between two or more States:

VII. To disputes between residents of different States:

VIII. To disputes relating to the same subject matter claimed under the laws of different States:

5. Nothing in this Act contained shall be construed to extend the judicial power of the Union to any suit in law or equity commenced or prosecuted against any State nor until otherwise provided by the Union Parliament against the Union by any person whatsoever.

6.

6. In all cases affecting the Public Ministers, Consuls, or other Representatives of other Countries, and in all cases in which a State shall be a party, or in which a Writ of Mandamus or Prohibition shall be sought against a Minister of the Union, the High Court shall have original jurisdiction, and in all other cases the High Court shall have appellate jurisdiction both as to law and fact, with such exceptions and under such regulations as the Union Parliament shall authorize.

7. The Union Parliament may from time to time confer original jurisdiction on the High Court in such other cases within the judicial power of the Union as it may think fit.

8. The High Court shall have jurisdiction, with such exceptions and subject to such regulations as the Union Parliament shall from time to time prescribe, to hear and determine appeals from all final judgments, decrees, sentences, and orders of the highest Court of final resort now established in any of the States, or of the highest Court of final resort which may hereafter be established in any State, whether such Court is or shall be a Court of Appeal or of original jurisdiction, and in all criminal cases, and in all cases arising under any law made by the Union Parliament, or under any law made by the Legislature of any State, the judgment of the High Court shall be final and conclusive; and no appeal shall be brought in any such cases as aforesaid from any judgment, decree, sentence, or order of the High Court to any Court of Appeal established by the Parliament of Great Britain and Ireland by which appeals or petitions to Her Majesty in Council may be ordered to be heard.

9. The Union Parliament may from time to time enact that any appeals which by any law are now allowed from any judgment, decree, order, or sentence of the Supreme Court of any of the States to the Queen's Privy Council, shall be heard and determined by the High Court of Australia; and that the judgment of the last-mentioned Court in all appeals which the Union Parliament shall from time to time direct to be heard and determined by it shall be final and conclusive.

10. Except as mentioned in paragraphs 8 and 9 it shall be in the option of any person to appeal to Her Majesty in Council in any case in which such appeal now lies and without recourse in the first instance to the High Court of Appeal, but no person having appealed to the High Court of Appeal shall afterwards appeal to the Queen in Council unless by permission of the High Court.

11. The trial of all indictable offences cognisable by any Court established under the authority of this Act shall be by jury, and every such trial shall be held in the State where the offence has been committed, and when not committed within any State the trial shall be held at such place or places as the Union Parliament may by law direct.

12. Every person admitted by the Supreme Court of any State to appear and practise as counsel or to have audience therein shall subject to such rules and regulations as the Judges of the High Court of Australia shall from time to time prescribe, in regard to character and good behaviour, date of previous admission by the Supreme Court of the State, and payment of fees, be entitled to appear and practise as Counsel, and to have audience in the High Court, and all such inferior Courts as the Union Parliament shall from time to time create and establish.

13. Every person admitted by the Supreme Court of any State as an Attorney, Solicitor, or Proctor of such Court shall, subject to such rules and regulations as the Judges of the High Court of Australia shall from time to time prescribe in regard to character and good behaviour, date of previous admission by the Supreme Court of the State, and payment of fees, be entitled to be admitted to practise as an Attorney, Solicitor, or Proctor of the High Court of Australia, and in all such Inferior Courts as the Union Parliament shall from time to time create and establish.

A. INGLIS CLARK,
Chairman.

Parliament House,
Sydney, New South Wales, 24th March, 1891.

PROCEEDINGS

PROCEEDINGS OF THE COMMITTEE.

THURSDAY, 19 *MARCH*, 1891.

MEMBERS PRESENT:—

Mr. Dibbs,	Mr. Wrixon,
Mr. Hackett,	Mr. Kingston,
Mr. Clark,	Mr. Rutledge.

Mr. Clark called to the Chair.

The Resolutions of Reference read by the Clerk.

The Committee discussed generally the question of the Establishment of a Federal Judiciary.

Committee adjourned to to-morrow, at 11 o'clock.

FRIDAY, 20 *MARCH*, 1891.

MEMBERS PRESENT:—

Mr. Clark in the Chair.

Mr. Dibbs,	Mr. Wrixon,
Mr. Rutledge,	Mr. Hackett,

Mr. Kingston.

Committee further discussed the question of the establishment of a Federal Judiciary.

Committee agreed that the Chairman should draw up a Report based on the discussions which had taken place, and submit it to the Committee.

Committee adjourned to Monday next at 11 o'clock.

MONDAY, 23 *MARCH*, 1891.

MEMBERS PRESENT:—

Mr. Clark in the Chair.

Mr. Dibbs,	Mr. Rutledge,
Mr. Hackett,	Mr. Kingston,

Sir Harry Atkinson.

Chairman submitted Draft Report, which was discussed and revised.

Committee adjourned to to-morrow at 10 o'clock.

TUESDAY, 24 *MARCH*, 1891.

MEMBERS PRESENT:—

Mr. Clark in the Chair.

Mr. Dibbs,	Sir Harry Atkinson,
Mr. Wrixon,	Mr. Rutledge,
Mr. Hackett,	Mr. Kingston.

The Chairman submitted a Revised Report, which was read, paragraph by paragraph.

Preamble read, amended, and agreed to.

Paragraphs 1 and 2 read and agreed to.

Paragraph 3 read, amended, and agreed to.

Paragraphs 4, 5, 6, and 7, read and agreed to.

Paragraph 8 read.

Question,—That paragraph as read stand paragraph 8 of the Report,—put.

The

The Committee divided.

Ayes.	Noes.
Mr. Kingston,	Sir Harry Atkinson,
Mr. Rutledge,	Mr. Wrixon,
Mr. Hackett,	Mr. Dibbs.

The numbers being equal the Chairman gave his casting vote with the Ayes, and declared the question to have been resolved in the affirmative.

Paragraph 9 read.

Question,—That paragraph as read stand paragraph 9 of the Report,—put.

The Committee divided.

Ayes.	Noes.
Mr. Kingston,	Sir Harry Atkinson,
Mr. Rutledge,	Mr. Wrixon,
Mr. Hackett,	Mr. Dibbs.

The numbers being equal the Chairman gave his casting vote with the Ayes, and declared the question to have been resolved in the affirmative.

Paragraph 10 read.

Question,—That paragraph as read stand paragraph 10 of the Report,—put.

The Committee divided.

Ayes.	Noes.
Mr. Kingston,	Mr. Rutledge,
Sir Harry Atkinson,	Mr. Wrixon,
Mr. Hackett,	Mr. Dibbs.

The numbers being equal the Chairman gave his casting vote with the Ayes, and declared the question to have been resolved in the affirmative.

Paragraph 11 read, amended, and agreed to.

Paragraph 12 read and agreed to.

New paragraph to stand as paragraph 13 read and agreed to.

Chairman to report to the Committee on Constitutional Machinery, Functions, and Powers.

Draft of a Bill as adopted by the National Australasian Convention, 9th April, 1891.

HENRY PARKES,
President.

F. W. WEBB,
Secretary.

DRAFT OF

A BILL

To Constitute the Commonwealth of Australia.

WHEREAS the Australasian Colonies of [*here name the Colonies which have adopted the Constitution*] have by [*here describe the mode by which the assent of the Colonies has been expressed*] agreed to unite in one Federal Commonwealth under the Crown of the United Kingdom of Great Britain and Ireland, and under the Constitution hereby established: And whereas it is expedient to make provision for the admission into the Commonwealth of other Australasian Colonies and Possessions of Her Majesty: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in the present Parliament assembled, and by the authority of the same, as follows:— Preamble.

1. This Act may be cited as "The Constitution of the Commonwealth of Australia." Short title.

2. The provisions of this Act referring to Her Majesty the Queen extend also to the Heirs and Successors of Her Majesty in the Sovereignty of the United Kingdom of Great Britain and Ireland. Application of provisions referring to the Queen.

Constitution of the Commonwealth of Australia.

Power to proclaim Commonwealth of Australia.

3. It shall be lawful for the Queen, by and with the advice of Her Majesty's Most Honorable Privy Council, to declare by Proclamation that, on and after a day therein appointed, not being later than six months after the passing of this Act, the Colonies of [*here name the Colonies which have adopted the Constitution*] (which said Colonies and Province are hereinafter severally included in the expression "the said Colonies") shall be united in one Federal Commonwealth under the Constitution hereby established, and under the name of "The Commonwealth of Australia"; and on and after that day the said Colonies shall be united in one Federal Commonwealth under that name.

Commencement of Act.

4. Unless where it is otherwise expressed or implied, this Act shall commence and have effect on and from the day so appointed in the Queen's Proclamation; and the name "The Commonwealth of Australia" or "The Commonwealth" shall be taken to mean the Commonwealth of Australia as constituted under this Act.

"States."

5. The term "The States" shall be taken to mean such of the existing Colonies of New South Wales, New Zealand, Queensland, Tasmania, Victoria, and Western Australia, and the Province of South Australia, as for the time being form part of the Commonwealth, and such other States as may hereafter be admitted into the Commonwealth under the Constitution thereof, and each of such Colonies so forming part of the Commonwealth shall be hereafter designated a "State."

Repeal of 48 and 49 Vict., chap. 60.

6. "The Federal Council of Australasia Act, 1885," is hereby repealed, but such repeal shall not affect any laws passed by the Federal Council of Australasia and in force at the date of the establishment of the Constitution of the Commonwealth.

But any such law may be repealed as to any State by the Parliament of the Commonwealth, and may be repealed as to any Colony, not being a State, by the Parliament thereof.

Operation of the Constitution and laws of the Commonwealth.

7. The Constitution established by this Act, and all Laws made by the Parliament of the Commonwealth in pursuance of the powers conferred by the Constitution, and all Treaties made by the Commonwealth, shall, according to their tenor, be binding on the Courts, Judges, and people, of every State, and of every part of the Commonwealth, anything in the laws of any State to the contrary notwithstanding: and the Laws and Treaties of the Commonwealth shall be in force on board of all British ships whose last port of clearance or whose port of destination is in the Commonwealth.

8. The Constitution of the Commonwealth shall be as follows :— Constitution

THE CONSTITUTION.

This Constitution is divided into Chapters and parts as follows :— Division of Constitution

CHAPTER I.

THE PARLIAMENT.

PART I.—GENERAL.

1. The Legislative powers of the Commonwealth shall be vested in a Federal Parliament, which shall consist of Her Majesty, a Senate, and a House of Representatives, and which is hereinafter called "The Parliament." Legislative powers.

2. The Queen may, from time to time, appoint a Governor-General, who shall be Her Majesty's Representative in the Commonwealth, and who shall have and may exercise in the Commonwealth during the Queen's pleasure, and subject to the provisions of this Constitution, such powers and functions as the Queen may think fit to assign to him. Governor-General.

3. The Annual Salary of the Governor-General shall be fixed by the Parliament from time to time, but shall not be less than Ten thousand pounds, and shall be payable to the Queen out of the Consolidated Revenue Fund of the Commonwealth. The Salary of a Governor-General shall not be diminished during his continuance in office. Salary of Governor-General.

4. The provisions of this Constitution relating to the Governor-General extend and apply to the Governor-General for the time being or other the Chief Executive Officer or Administrator of the Government of the Commonwealth, by whatever title he is designated. Application of provisions relating to Governor-General.

5. Every Member of the Senate, and every Member of the House of Representatives, shall before taking his seat therein make and subscribe before the Governor-General, or some person authorized by him, an Oath or Affirmation of Allegiance in the form set forth in the Schedule to this Constitution. Oath of Allegiance. Schedule.

Governor-General to fix times and places for holding Session of Parliament.

Power of dissolution of House of Representatives.

First Session of Parliament.

6. The Governor-General may appoint such times for holding the first and every other Session of the Parliament, as he may think fit, giving sufficient notice thereof, and may also from time to time, by proclamation or otherwise, prorogue the said Parliament, and may in like manner dissolve the House of Representatives.

The Parliament shall be called together not later than six months after the date of the establishment of the Commonwealth.

Yearly Session of Parliament.

7. There shall be a Session of the Parliament once at least in every year, so that twelve months shall not intervene between the last sitting of the Parliament in one Session, and its first sitting in the next Session.

Privileges, &c., of Houses.

8. The privileges, immunities, and powers, to be held, enjoyed, and exercised by the Senate and by the House of Representatives respectively, and by the Members thereof, shall be such as are from time to time declared by the Parliament, and until declared shall be those held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom, and by the Members thereof, at the date of the establishment of the Commonwealth.

Part II.—The Senate.

Senate.

9. The Senate shall be composed of eight members for each State, directly chosen by the Houses of the Parliament of the several States during a Session thereof, and each Senator shall have one vote.

The Senators shall be chosen for a term of six years.

The names of the Senators chosen in each State shall be certified by the Governor to the Governor-General.

Mode of election of Senators.

10. The Parliament of the Commonwealth may make laws prescribing a uniform manner of choosing the Senators. Subject to such laws, if any, the Parliament of each State may determine the time, place, and manner of choosing the Senators for that State by the Houses of Parliament thereof.

Failure of a State to choose Senators not to prevent business.

11. The failure of any State to provide for its representation in the Senate shall not affect the power of the Senate to proceed to the despatch of business.

Retirement of Senators.

12. As soon as practicable after the Senate is first assembled the Senators chosen for each State shall be divided by lot into two classes. The places of the Senators of the first class shall be vacated at the expiration of the third year, and the places of those of the second class at the expiration of the sixth year, from the commencement of their term of service as herein declared, so that one-half may be chosen every third year.

For the purposes of this section the term of service of a Senator shall begin on and be reckoned from the first day of January next succeeding the day of his election, except in the case of the first election, when it shall be reckoned from the first day of January preceding the day of his election. The election of Senators to fill the places of Senators retiring by rotation shall be made in the year preceding the day on which the retiring Senators are to retire.

How vacancies filled.

13. If the place of a Senator becomes vacant during the recess of the Parliament of the State which he represented the Governor of the State, by and with the advice of the Executive Council thereof, may appoint a Senator to fill such vacancy until the next Session of the Parliament of the State, when the Houses of Parliament shall choose a Senator to fill the vacancy.

Tenure of Seats of Senators elected to Senate owing to vacancies.

14. If the place of a Senator becomes vacant before the expiration of the term of service for which he was chosen, the Senator chosen to fill his place shall hold the same only during the unexpired portion of the term for which the previous Senator was chosen.

Qualifications of Senator.

15. The qualifications of a Senator shall be as follows:—

(1) He must be of the full age of thirty years, and must, when chosen, be an elector entitled to vote in some State at the election of Members of the House of Representatives of the Commonwealth, and must have been for five years at the least a resident within the limits of the Commonwealth as existing at the time when he is chosen;

(2) He must be either a natural born subject of the Queen, or a subject of the Queen naturalised by or under a Law of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Parliament of one of the said Colonies, or of the Parliament of the Commonwealth, or of a State, at least five years before he is chosen.

Election of President of the Senate.

16. The Senate shall, at its first meeting and before proceeding to the despatch of any other business, choose a Senator to be the President of the Senate; and as often as the office of President becomes vacant the Senate shall again choose a Senator to be the President; and the President shall preside at all meetings of the Senate; and the choice of the President shall be made known to the Governor-General by a deputation of the Senate.

The President may be removed from office by a vote of the Senate. He may resign his office; and upon his ceasing to be a Senator his office shall become vacant.

Absence of President provided for.

17. In case of the absence of the President, the Senate may choose some other Senator to perform the duties of the President during his absence.

Resignation of place in Senate.

18. A Senator may, by writing under his hand addressed to the President, or if there is no President, or the President is absent from the Commonwealth, to the Governor-General, resign his place in the Senate, and thereupon the same shall be vacant.

Disqualification of Senator by absence.

19. The place of a Senator shall become vacant if for one whole Session of the Parliament he, without the permission of the Senate entered on its Journals, fails to give his attendance in the Senate.

Vacancy in Senate to be notified to Governor of State.

20. Upon the happening of a vacancy in the Senate the President, or if there is no President, or the President is absent from the Commonwealth, the Governor-General shall forthwith notify the same to the Governor of the State which the Senator whose place is vacated represented.

Questions as to qualifications and vacancies in Senate.

21. If any question arises respecting the qualification of a Senator or a vacancy in the Senate, the same shall be determined by the Senate.

Quorum of Senate.

22. Until the Parliament otherwise provides, the presence of at least one-third of the whole number of Senators, as provided by this Constitution, shall be necessary to constitute a meeting of the Senate for the exercise of its powers.

Voting in Senate.

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

Part III.—The House of Representatives.

Constitution of House of Representatives.

24. The House of Representatives shall be composed of Members chosen every three years by the people of the several States, according to their respective numbers; and until the Parliament of the Commonwealth otherwise provides, each State shall have one Representative for every thirty thousand of its people.

Provided that in the case of any of the existing Colonies of New South Wales, New Zealand, Queensland, Tasmania, Victoria, and Western Australia, and the Province of South Australia, until the number of the people is such as to entitle the State to four Representatives it shall have four Representatives.

Qualification of electors.

25. The qualification of electors of Members of the House of Representatives shall be in each State that which is prescribed by the law of the State as the qualification for electors of the more numerous House of the Parliament of the State.

Provision for case of persons not allowed to vote.

26. When in any State the people of any race are not entitled by law to vote at elections for the more numerous House of the Parliament of the State, the Representation of that State in the House of Representatives shall be reduced in the proportion which the number of people of that race in the State bears to the whole number of the people of the State.

Mode of calculating number of Members.

27. When upon the apportionment of Representatives it is found that after dividing the number of the people of a State by the number in respect of which a State is entitled to one Representative there remains a surplus greater than one-half of such number, the State shall have one additional Representative.

Representatives in first Parliament.

28. The number of members to be chosen by each State at the first election shall be as follows: [*To be determined according to latest statistical returns at the date of the passing of the Act.*]

Periodical reapportionment.

29. A fresh apportionment of Representatives to the States shall be made after each Census of the people of the Commonwealth, which shall be taken at intervals not longer than ten years. But a fresh apportionment shall not take effect until the then next General Election.

Increase of number of House of Representatives.

30. The number of Members of the House of Representatives may be from time to time increased or diminished by the Parliament of the Commonwealth, but so that the proportionate representation of the several States, according to the numbers of their people, and the minimum number of Members, prescribed by this Constitution, for any State shall be preserved.

Electoral Divisions.

31. The electoral divisions of the several States for the purpose of returning members of the House of Representatives shall be determined from time to time by the Parliaments of the several States.

Qualifications of Member of House of Representatives.

32. The qualifications of a Member of the House of Representatives shall be as follows:—

(1) He must be of the full age of twenty-one years, and must when elected be an elector entitled to vote in some State at the election of members of the House of Representatives, and must have been for three years at the least a resident within the limits of the Commonwealth as existing at the time when he is elected;

(2) He must be either a natural born subject of the Queen, or a subject of the Queen naturalised by or under a law of the Parliament of Great Britain and Ireland, or of the Parliament of one of the said Colonies, or of the Parliament of the Commonwealth, or of a State, at least three years before he is elected.

Disqualification of Senators.

33. A Senator shall not be capable of being elected or of sitting as a Member of the House of Representatives.

Election of Speaker of House of Representatives.

34. The House of Representatives shall, at its first meeting after every General Election, and before proceeding to the despatch of any other business, choose a Member to be the Speaker of the House, and as often as the office of Speaker becomes vacant the House shall again choose a Member to be Speaker; and the Speaker shall preside at all meetings of the House of Representatives; and the choice of a Speaker shall be made known to the Governor-General by a deputation of the House.

The Speaker may be removed from office by a vote of the House, or may resign his office.

Absence of Speaker provided for.

35. In case of the absence of the Speaker, the House of Representatives may choose some other Member to perform the duties of the Speaker during his absence.

Resignation of place in House of Representatives.

36. A Member of the House of Representatives may, by writing under his hand addressed to the Speaker, or if there is no Speaker, or he is absent from the Commonwealth, to the Governor-General, resign his place in the House of Representatives, and thereupon the same shall be vacant.

Disqualification of Member by absence.

37. The place of a Member of the House of Representatives shall become vacant if for one whole Session of the Parliament he, without permission of the House of Representatives entered on its Journals, fails to give his attendance in the House.

Issue of new writs.

38. Upon the happening of a vacancy in the House of Representatives, the Speaker shall, upon a resolution of the House, issue his writ for the election of a new member.

In the case of a vacancy by death or resignation happening when the Parliament is not in session, or during an adjournment of the House for a period of which a part longer than seven days is unexpired, the Speaker, or if there is no Speaker, or he is absent from the Commonwealth, the Governor-General shall issue, or cause to be issued, a writ without such resolution.

Quorum of House of Representatives.

39. Until the Parliament otherwise provides the presence of at least one-third of the whole number of the Members of the House of Representatives shall be necessary to constitute a meeting of the House for the exercise of its powers.

Voting in House of Representatives.

40. Questions arising in the House of Representatives shall be determined by a majority of votes other than that of the Speaker; and when the votes are equal, but not otherwise, the Speaker shall have a casting vote.

Duration of House of Representatives.

41. Every House of Representatives shall continue for three years from the day appointed for the first meeting of the House, and no longer, subject, nevertheless, to be sooner dissolved by the Governor-General.

The Parliament shall be called together not later than thirty days after the day appointed for the return of the Writs for a General Election.

Write for General Election.

42. For the purpose of holding General Elections of Members to serve in the House of Representatives, the Governor-General may cause Writs to be issued by such persons, in such form, and addressed to such Returning Officers, as he thinks fit.

Continuance of existing Election Laws until the Parliament otherwise provides.

43. Until the Parliament of the Commonwealth otherwise provides, the laws in force in the several States for the time being, relating to the following matters, namely: The manner of conducting Elections for the more numerous House of the Parliament, the proceedings at such elections, the oaths to be taken by voters, the Returning Officers, their powers and duties, the periods during which Elections may be continued, the execution of new Writs in case of places vacated otherwise than by dissolution, and offences against the laws regulating such Elections, shall respectively apply to Elections in the several States of Members to serve in the House of Representatives.

Questions as to qualifications and vacancies.

44. If any question arises respecting the qualification of a Member or a vacancy in the House of Representatives, the same shall be heard and determined by the House of Representatives.

Part IV.—Provisions relating to both Houses.

Allowance to members.

45. Each member of the Senate and House of Representatives shall receive an annual allowance for his services, the amount of which shall be fixed by the Parliament from time to time. Until other provision is made in that behalf by the Parliament the amount of such annual allowance shall be five hundred pounds.

Disqualifications of Members.

46. Any person—

(1) Who has taken an oath or made a declaration or acknowledgment of allegiance, obedience, or adherence to a Foreign Power, or has done any act whereby he has become a subject or citizen or entitled to the rights or privileges of a subject or a citizen of a Foreign Power; or

(2) Who is an undischarged bankrupt or insolvent, or a public defaulter; or

(3) Who is attainted of treason, or convicted of felony or of any infamous crime;

shall be incapable of being chosen or of sitting as a Senator or Member of the House of Representatives until the disability is removed by a grant of a discharge, or the expiration or remission of the sentence, or a pardon, or release, or otherwise.

Place to become vacant on happening of certain disqualifications.

47. If a Senator or Member of the House of Representatives—

(1) Takes an oath or makes a declaration or acknowledgment of allegiance, obedience, or adherence to a Foreign Power, or does any act whereby he becomes a subject or citizen, or entitled to the rights or privileges of a subject or citizen, of a Foreign Power; or

(2) Is adjudged bankrupt or insolvent, or takes the benefit of any law relating to bankrupt or insolvent debtors, or becomes a public defaulter; or

(3) Is attainted of treason or convicted of felony or of any infamous crime;

his place shall thereupon become vacant.

Disqualifying contractors and persons interested in contracts.

48. Any person who directly or indirectly himself, or by any person in trust for him, or for his use or benefit, or on his account, undertakes, executes, holds, or enjoys, in the whole or in part, any agreement for or on account of the Public Service of the Commonwealth, shall be incapable of being chosen or of sitting as a Senator or Member of the House of Representatives while he executes, holds, or enjoys the agreement, or any part or share of it, or any benefit or emolument arising from it.

If any person, being a Senator or Member of the House of Representatives, enters into any such agreement, or having entered into it continues to hold it, his place shall thereupon become vacant.

Proviso exempting members of trading companies.

But this section does not extend to any agreement made, entered into, or accepted, by an incorporated company consisting of more than twenty persons if the agreement is made, entered into, or accepted for the general benefit of the company.

Place to become vacant on accepting office of profit.

49. If a Senator or Member of the House of Representatives accepts any office of profit under the Crown, not being one of the offices of State held during the pleasure of the Governor-General, and the holders of which are by this Constitution declared to be capable of being chosen and of sitting as Members of either House of Parliament, or accepts any pension payable out of any of the revenues of the Commonwealth during the pleasure of the Crown, his place shall thereupon become vacant, and no person holding any such office, except as aforesaid, or holding or enjoying any such pension, shall be capable of being chosen or of sitting as a Member of either House of the Parliament :

Exceptions.

But this provision does not apply to a person who is in receipt only of pay, half-pay, or a pension, as an Officer of the Queen's Navy or Army, or who receives a new Commission in the Queen's Navy or Army, or an increase of pay on a new Commission, or who is in receipt only of pay as an Officer or member of the Military or Naval Forces of the Commonwealth and whose services are not wholly employed by the Commonwealth.

Penalty for sitting when disqualified.

50. If any person by this Constitution declared to be incapable of sitting in the Senate or House of Representatives sits as a Senator or Member of the House of Representatives, he shall, for every day on which he sits, be liable to pay the sum of one hundred pounds to any person who may sue for it in any Court of competent jurisdiction.

Standing Rules and Orders to be made.

51. The Senate and House of Representatives may from time to time prepare and adopt such Standing Rules and Orders as may appear to them respectively best adapted—

(1) For the orderly conduct of the business of the Senate and House of Representatives respectively :

(2) For the mode in which the Senate and House of Representatives shall confer, correspond, and communicate with each other relative to Votes or proposed Laws adopted by or pending in the Senate or House of Representatives respectively :

(3) For the manner in which Notices of proposed Laws, Resolutions, and other business intended to be submitted to the Senate and House of Representatives respectively may be published for general information :

(4) For the manner in which proposed Laws are to be introduced, passed, numbered, and intituled in the Senate and House of Representatives respectively:

(5) For the proper presentation of any Laws passed by the Senate and House of Representatives to the Governor-General for his assent: and

(6) Generally for the conduct of all business and proceedings of the Senate and House of Representatives severally and collectively.

Part V.—Powers of the Parliament.

Legislative powers of the Parliament.

52. The Parliament shall, subject to the provisions of this Constitution, have full power and authority to make all such Laws as it thinks necessary for the peace, order, and good government of the Commonwealth, with respect to all or any of the matters following, that is to say:—

1. The regulation of Trade and Commerce with other Countries, and among the several States;
2. Customs and Excise and bounties, but so that duties of Customs and Excise and bounties shall be uniform throughout the Commonwealth, and that no tax or duty shall be imposed on any goods exported from one State to another;
3. Raising money by any other mode or system of taxation; but so that all such taxation shall be uniform throughout the Commonwealth;
4. Borrowing money on the public credit of the Commonwealth;
5. Postal and Telegraphic Services;
6. The Military and Naval Defence of the Commonwealth and the several States and the calling out of the Forces to execute and maintain the laws of the Commonwealth, or of any State or part of the Commonwealth;
7. Munitions of War;
8. Navigation and Shipping;
9. Ocean Beacons and Buoys, and Ocean Light-houses and Light-ships;
10. Quarantine;
11. Fisheries in Australian waters beyond territorial limits;
12. Census and Statistics;
13. Currency, Coinage, and Legal Tender;
14. Banking, the Incorporation of Banks, and the Issue of Paper Money;
15. Weights and Measures;
16. Bills of Exchange and Promissory Notes;
17. Bankruptcy and Insolvency;
18. Copyrights and Patents of Inventions, Designs, and Trade Marks;
19. Naturalization and Aliens;
20. The Status in the Commonwealth of Foreign Corporations, and of Corporations formed in any State or part of the Commonwealth;
21. Marriage and Divorce;
22. The Service and Execution throughout the Commonwealth of the Civil and Criminal Process and Judgments of the Courts of the States;
23. The recognition throughout the Commonwealth of the Laws, the Public Acts and Records, and the Judicial Proceedings, of the States;

24. Immigration and Emigration;
25. The influx of Criminals;
26. External affairs and Treaties;
27. The relations of the Commonwealth to the Islands of the Pacific;
28. River Navigation with respect to the common purposes of two or more States, or parts of the Commonwealth;
29. The control of Railways with respect to transport for the purposes of the Commonwealth;
30. Matters referred to the Parliament of the Commonwealth by the Parliament or Parliaments of any State or States, but so that the Law shall extend only to the State or States by whose Parliament or Parliaments the matter was referred, and to such other States as may afterwards adopt the Law;
31. The exercise within the Commonwealth, at the request or with the concurrence of the Parliaments of all the States concerned, of any Legislative powers with respect to the affairs of the territory of the Commonwealth, or any part of it, which can at the date of the establishment of this Constitution be exercised only by the Parliament of the United Kingdom or by the Federal Council of Australasia;
32. Any matters necessary or incidental for carrying into execution the foregoing powers and any other powers vested by this Constitution in the Parliament or Executive Government of the Commonwealth or in any department or officer thereof.

Exclusive powers of the Parliament.

53. The Parliament shall, also, subject to the provisions of this Constitution, have exclusive power to make laws for the peace, order, and good government of the Commonwealth with respect to the following matters:—

1. The affairs of people of any race with respect to whom it is deemed necessary to make special laws not applicable to the general community; but so that this power shall not extend to authorise legislation with respect to the affairs of the aboriginal native race in Australia and the Maori race in New Zealand;
2. The government of any territory which may by surrender of any State or States and the acceptance of the Parliament become the seat of Government of the Commonwealth, and the exercise of like authority over all places acquired by the Commonwealth, with the consent of the Parliament of the State in which such places are situate, for the construction of forts, magazines, arsenals, dockyards, quarantine stations, or for any other purposes of general concern;
3. Matters relating to any Department or Departments of the Public Service the control of which is by this Constitution transferred to the Executive Government of the Commonwealth;
4. Such other matters as are by this Constitution declared to be within the exclusive powers of the Parliament.

Money Bills.

Money Bills.

54. Laws appropriating any part of the public revenue, or imposing any tax or impost shall originate in the House of Representatives.

Appropriation and Tax Bills.

55. (1) The Senate shall have equal power with the House of Representatives in respect of all proposed Laws, except Laws imposing taxation and Laws appropriating the necessary supplies for the ordinary annual services of the Government, which the Senate may affirm or reject, but may not amend. But the Senate may not amend any proposed Law in such a manner as to increase any proposed charge or burden on the people.

(2) Laws imposing taxation shall deal with the imposition of taxation only.

(3) Laws imposing taxation except Laws imposing duties of Customs on imports shall deal with one subject of taxation only.

(4) The expenditure for services other than the ordinary annual services of the Government shall not be authorised by the same Law as that which appropriates the supplies for such ordinary annual services, but shall be authorised by a separate Law or Laws.

(5) In the case of a proposed Law which the Senate may not amend, the Senate may at any stage return it to the House of Representatives with a message requesting the omission or amendment of any items or provisions therein. And the House of Representatives may, if it thinks fit, make such omissions or amendments, or any of them, with or without modifications.

Recommendation of money votes.

56. It shall not be lawful for the House of Representatives to pass any vote, resolution, or Law for the appropriation of any part of the public revenue, or of the produce of any tax or impost, to any purpose that has not been first recommended to that House by message of the Governor-General in the Session in which the vote, resolution, or Law, is proposed.

Royal Assent.

Royal assent to Bills.

57. When a Law passed by the Parliament is presented to the Governor-General for the Queen's assent, he shall declare, according to his discretion, but subject to the provisions of this Constitution, either that he assents to it in the Queen's name, or that he withholds assent, or that he reserves the Law for the Queen's pleasure to be made known.

The Governor-General may return to the Parliament any Law so presented to him, and may transmit therewith any amendments which he may desire to be made in such Law, and the Parliament may deal with such proposed amendments as it thinks fit.

Disallowance by Order in Council of Law assented to by Governor-General.

58. When the Governor-General assents to a Law in the Queen's name he shall by the first convenient opportunity send an authentic copy to the Queen, and if the Queen in Council within two years after receipt thereof thinks fit to disallow the Law, such disallowance being made known by the Governor-General, by speech or message, to each of the Houses of the Parliament, or by proclamation, shall annul the Law from and after the day when the disallowance is so made known.

Signification of Queen's Pleasure on Bill reserved.

59. A Law reserved for the Queen's pleasure to be made known with respect to it shall not have any force unless and until within two years from the day on which it was presented to the Governor-General for the Queen's assent, the Governor-General makes known by speech or message to each of the Houses of the Parliament, or by proclamation, that it has received the assent of the Queen in Council.

An entry of every such speech, message, or proclamation shall be made in the journal of each House, and a duplicate thereof duly attested shall be delivered to the proper officer to be kept among the records of the Parliament.

CHAPTER II.

THE EXECUTIVE GOVERNMENT.

Executive power to be vested in the Queen.

1. The Executive power and authority of the Commonwealth is vested in the Queen, and shall be exercised by the Governor-General as the Queen's Representative.

Constitution of Executive Council for Commonwealth.

2. There shall be a Council to aid and advise the Governor-General in the government of the Commonwealth, and such Council shall be styled the Federal Executive Council; and the persons who are to be Members of the Council shall be from time to time chosen and summoned by the Governor-General and sworn as Executive Councillors, and shall hold office during his pleasure.

Application of provisions referring to Governor-General.

3. The provisions of this Constitution referring to the Governor-General in Council shall be construed as referring to the Governor-General acting with the advice of the Federal Executive Council.

Ministers of State.

4. For the administration of the Executive government of the Commonwealth, the Governor-General may, from time to time, appoint Officers to administer such Departments of State of the Commonwealth as the Governor-General in Council may from time to time establish, and such Officers shall hold office during the pleasure of the Governor-General, and shall be capable of being chosen and of sitting as Members of either House of the Parliament.

May sit in Parliament.

Such Officers shall be Members of the Federal Executive Council, and shall be the Queen's Ministers of State for the Commonwealth.

Number of Ministers.

5. Until other provision is made by the Parliament, the number of such Officers who may sit in the Parliament shall not exceed seven, who shall hold such offices, and by such designation, as the Parliament from time to time prescribes by Law, or, in the absence of any such Law, as the Governor-General from time to time directs.

Salaries of Ministers.

6. Until other provision is made by the Parliament, there shall be payable to the Queen, out of the Consolidated Revenue Fund of the Commonwealth, for the salaries of such Officers, the sum of fifteen thousand pounds per annum.

Appointment of Civil Servants.

7. Until other provision is made by the Parliament, the appointment and removal of all other officers of the Government of the Commonwealth shall be vested in the Governor-General in Council, except officers whose appointment may be delegated by the Governor-General in Council to some other officer or person.

Authority of Executive.

8. The Executive power and authority of the Commonwealth shall extend to the execution of the provisions of this Constitution, and the Laws of the Commonwealth.

Command of Military and Naval Forces.

9. The Command in Chief of all Military and Naval Forces of the Commonwealth is hereby vested in the Governor-General as the Queen's Representative.

Immediate assumption of control of certain Departments.

10. The control of the following departments of the Public Service shall be at once assigned to and assumed and taken over by the Executive Government of the Commonwealth, and the Commonwealth shall assume the obligations of any State or States with respect to such matters, that is to say—

Customs and Excise,
Posts and Telegraphs,
Military and Naval Defence,
Ocean Beacons and Buoys, and Ocean Lighthouses and Lightships,
Quarantine.

Powers under existing Law to be exercised by Governor-General with advice of Executive Council.

11. All powers and functions which are at the date of the establishment of the Commonwealth vested in the Governor of a Colony with or without the advice of his Executive Council, or in any officer or authority in a Colony, shall, so far as the same continue in existence and need to be exercised in relation to the government of the Commonwealth, with respect to any matters which, under this Constitution, pass to the Executive Government of the Commonwealth, vest in the Governor-General, with the advice of the Federal Executive Council, or in the officer or authority exercising similar powers or functions in, or under, the Executive Government of the Commonwealth.

CHAPTER III.

THE FEDERAL JUDICATURE.

Supreme Court of Australia and Inferior Courts.

1. The Parliament of the Commonwealth shall have power to establish a Court, which shall be called the Supreme Court of Australia, and shall consist of a Chief Justice, and so many other Justices, not less than four, as the Parliament from time to time prescribes. The Parliament may also from time to time, subject to the provisions of this Constitution, establish other Courts.

Tenure of office.

2. The Judges of the Supreme Court of Australia and of the other Courts of the Commonwealth shall hold their offices during good behaviour, and shall receive such salaries as may from time to time be fixed by the Parliament; but the salary paid to any Judge shall not be diminished during his continuance in office.

Appointment and removal of Judges

3. The Judges of the Supreme Court and of the other Courts of the Commonwealth shall be appointed, and may be removed from office, by the Governor-General by and with the advice of the Federal Executive Council; but it shall not be lawful for the Governor-General to remove any Judge except upon an Address from both Houses of the Parliament praying for such removal.

Appellate Jurisdiction.

4. The Supreme Court of Australia shall have jurisdiction, with such exceptions and subject to such regulations as the Parliament from time to time prescribes, to hear and determine appeals from all judgments, decrees, orders, and sentences, of any other Federal Court, or of the highest Court of final resort now established, or which may hereafter be established, in any State, whether such Court is a Court of Appeal or of original jurisdiction, and the judgment of the Supreme Court of Australia in all such cases shall be final and conclusive.

Until the Parliament makes other provisions, the conditions of and restrictions on appeals to the Queen in Council from the highest Courts of final resort of the several States shall be applicable to appeals from such Courts to the Supreme Court of Australia.

Appeals may be made final in all cases.

5. The Parliament of the Commonwealth may provide by law that any appeals which by any law have heretofore been allowed from any judgment, decree, order, or sentence, of the highest Court of final resort of any State to the Queen in Council, shall be brought to, and heard and determined by, the Supreme Court of Australia, and the judgment of that Court in all such cases shall be final and conclusive.

Power of the Queen to allow appeal to Herself in certain cases.

6. Notwithstanding the provisions of the two last preceding sections, or of any law made by the Parliament of the Commonwealth in pursuance thereof, the Queen may in any case in which the public interests of the Commonwealth, or of any State, or of any other part of the Queen's Dominions, are concerned, grant leave to appeal to Herself in Council against any judgment of the Supreme Court of Australia.

Extent of power of Federal Courts.

7. The Parliament of the Commonwealth may, from time to time, define the jurisdiction of the Courts of the Commonwealth, other than the Supreme Court of Australia, which jurisdiction may be exclusive, or may be concurrent with that of the Courts of the States. But jurisdiction shall not be conferred on a Court except in respect of the following matters, or some of them, that is to say:—

(1) Cases arising under this Constitution;
(2) Cases arising under any Laws made by the Parliament of the Commonwealth, or under any treaty made by the Commonwealth with another country;
(3) Cases of Admiralty and Maritime jurisdiction;
(4) Cases affecting the Public Ministers, Consuls, or other Representatives of other countries;
(5) Cases in which the Commonwealth, or a person suing or being sued on behalf of the Commonwealth, is a party;
(6) Cases in which a Writ of Mandamus or Prohibition is sought against an Officer of the Commonwealth;
(7) Controversies between States;
(8) Controversies relating to the same subject matter claimed under the laws of different States.

Original jurisdiction.

8. In all cases affecting Public Ministers, Consuls, or other Representatives of other Countries, and in all cases in which the Commonwealth, or any person suing or being sued on behalf of the Commonwealth, is a party, or in which a Writ of Mandamus or Prohibition is sought against an Officer of the Commonwealth, and in all cases of controversies between States, the Supreme Court of Australia shall have original, as well as appellate, jurisdiction.

Additional original jurisdiction may be conferred.

The Parliament may confer original jurisdiction on the Supreme Court of Australia in such other of the cases enumerated in the last preceding section as it thinks fit.

Actions against the Commonwealth or against a State.

9. Nothing in this Constitution shall be construed to authorize any suit in law or equity against the Commonwealth, or any person sued on behalf of the Commonwealth, or against a State, or any person sued on behalf of a State, by any individual person or corporation, except by the consent of the Commonwealth, or of the State, as the case may be.

Number of Judges.

10. The jurisdiction of the Supreme Court, or of any other Court of the Commonwealth, may be exercised by such number of Judges as the Parliament prescribes.

Trial by jury.

11. The trial of all indictable offences cognisable by any Court established under the authority of this Act shall be by jury, and every such trial shall be held in the State where the offence has been committed, and when not committed within any State the trial shall be held at such place or places as the Parliament of the Commonwealth prescribes.

CHAPTER IV.

FINANCE AND TRADE.

Consolidated Revenue Fund.

1. All duties, revenues, and moneys, raised or received by the Executive Government of the Commonwealth, under the authority of this Constitution, shall form one Consolidated Revenue Fund to be appropriated for the Public Service of the Commonwealth in the manner and subject to the charges provided by this Constitution.

Expenses of collection.

2. The Consolidated Revenue Fund shall be permanently charged with the costs, charges, and expenses incident to the collection, management, and receipt thereof, which costs, charges, and expenses, shall form the first charge thereon.

Money to be appropriated by law.

3. No money shall be drawn from the Treasury of the Commonwealth except under appropriations made by law.

The Commonwealth to have exclusive power to levy duties of Customs and Excise and offer bounties after a certain time.

4. The Parliament of the Commonwealth shall have the sole power and authority, subject to the provisions of this Constitution, to impose Customs duties, and duties of Excise upon goods for the time being the subject of Customs duties, and to grant bounties upon the production or export of goods.

But this exclusive power shall not come into force until uniform duties of Customs have been imposed by the Parliament of the Commonwealth.

Upon the imposition of uniform duties of Customs by the Parliament of the Commonwealth all laws of the several States imposing duties of Customs or duties of Excise upon goods the subject of Customs duties, and all such laws offering bounties upon the production or export of goods, shall cease to have effect.

The control and collection of duties of Customs and Excise and the payment of bounties shall nevertheless pass to the Executive Government of the Commonwealth upon the establishment of the Commonwealth.

Transfer of officers.

5. Upon the establishment of the Commonwealth, all officers employed by the Government of any State in any Department of the Public Service the control of which is by this Constitution assigned to the Commonwealth, shall become subject to the control of the Executive Government of the Commonwealth. But all existing rights of any such officers shall be preserved.

Transfer of land and buildings.

6. All lands, buildings, works, and materials necessarily appertaining to, or used in connection with, any Department of the Public Service the control of which is by this Constitution assigned to the Commonwealth, shall, from and after the date of the establishment of the Commonwealth, be taken over by and belong to the Commonwealth, either absolutely, or, in the case of the Departments controlling Customs and Excise and Bounties, for such time as may be necessary.

And the fair value thereof shall be paid by the Commonwealth to the State from which they are so taken over. Such value shall be ascertained by mutual agreement, or, if no agreement can be made, in the manner in which land taken by the Government of the State for public purposes is ascertained under the laws of the State.

Collection of existing duties of Customs and Excise.

7. Until uniform duties of Customs have been imposed by the Parliament of the Commonwealth, the powers of the Parliaments of the several States existing at the date of the establishment of the Commonwealth, respecting the imposition of duties of Customs, and duties of excise upon goods the subject of Customs duties, and the offering of bounties upon the production or export of goods, and the collection and payment thereof respectively, shall continue as theretofore.

And until such uniform duties have been imposed, the Laws of the several States in force at the date of the establishment of the Commonwealth respecting duties of Customs, and duties of excise on goods the subject of Customs duties, and bounties, and the collection and payment thereof, shall remain in force, subject nevertheless to such alterations of the amount of duties or bounties as the Parliaments of the several States may make from time to time; and such duties and bounties shall continue to be collected and paid as theretofore, but by and to the Officers of the Commonwealth.

On establishment of uniform duties of Customs and Excise, trade within the Commonwealth to be free.

8. So soon as the Parliament of the Commonwealth has imposed uniform duties of Customs, trade and intercourse throughout the Commonwealth, whether by means of internal carriage or ocean navigation, shall be absolutely free.

Apportionment of surplus revenue.

9. The Revenue of the Commonwealth shall be applied, in the first instance, in the payment of the expenditure of the Commonwealth, which shall be charged to the several States in proportion to the numbers of their people, and the surplus shall, until uniform duties of Customs have been imposed, be returned to the several States or parts of the Commonwealth in proportion to the amount of Revenue raised therein respectively, subject to the following provisions:—

(1) As to duties of Customs or Excise, provision shall be made for ascertaining, as nearly as may be, the amount of duties collected in each State or part of the Commonwealth in respect of dutiable goods which are afterwards exported to another State or part of the Commonwealth, and the amount of the duties so ascertained shall be taken to have been collected in the State or part to which the goods have been so exported, and shall be added to the duties actually collected in that State or part, and deducted from the duties collected in the State or part of the Commonwealth from which the goods were exported:

(2) As to the proceeds of direct taxes, the amount contributed or raised in respect of income earned in any State or part of the Commonwealth, or arising from property situated in any State or part of the Commonwealth, and the amount contributed or raised in respect of property situated in any State or part of the Commonwealth, shall be taken to have been raised in that State or part:

(3) The amount of any bounties paid to any of the people of a State or part of the Commonwealth shall be deducted from the amount of the surplus to be returned to that State or part.

After uniform duties of Customs have been imposed, the surplus shall be returned to the several States or parts of the Commonwealth in the same manner and proportions until the Parliament otherwise prescribes.

Such return shall be made monthly, or at such shorter intervals as may be convenient.

Audit of Accounts.

10. Until the Parliament of the Commonwealth otherwise provides, the Laws in force in the several Colonies at the date of the establishment of the Commonwealth with respect to the receipt of revenue and the expenditure of money on account of the Government of the Colony, and the review and audit of such receipt and expenditure, shall apply to the receipt of revenue and the expenditure of money on account of the Commonwealth in the respective States in the same manner as if the Commonwealth, or the Government or an Officer of the Commonwealth, were mentioned therein whenever a Colony, or the Government or an Officer of a Colony, is mentioned or referred to.

Equality of Trade.

No preference to one State over another.

11. Preference shall not be given by any law or regulation of commerce or revenue to the ports of one part of the Commonwealth over those of another part of the Commonwealth.

The Parliament may give effect to this prohibition.

12. The Parliament of the Commonwealth may make laws prohibiting or annulling any law or regulation made by any State, or by any authority constituted by any State, having the effect of derogating from freedom of trade or commerce between the different parts of the Commonwealth.

Consolidation of Public Debts of States.

Public debts of States may be consolidated by general consent.

13. The Parliament of the Commonwealth may, with the consent of the Parliaments of all the States, make laws for taking over and consolidating the whole or any part of the public debt of any State or States, but so that a State shall be liable to indemnify the Commonwealth in respect of the amount of a debt taken over, and that the amount of interest payable in respect of a debt shall be deducted and retained from time to time from the share of the Surplus Revenue of the Commonwealth which would otherwise be payable to the State.

CHAPTER V.

THE STATES.

Continuance of powers of Parliaments of the States.

1. All powers which at the date of the establishment of the Commonwealth are vested in the Parliaments of the several Colonies, and which are not by this Constitution exclusively vested in the Parliament of the Commonwealth, or withdrawn from the Parliaments of the several States, are reserved to, and shall remain vested in, the Parliaments of the States respectively.

Validity of existing laws.

2. All Laws in force in any of the Colonies relating to any of the matters declared by this Constitution to be within the Legislative powers of the Parliament of the Commonwealth shall, except as otherwise provided by this Constitution, continue in force in the States respectively, and may be repealed or altered by the Parliaments of the States, until other provision is made in that behalf by the Parliament of the Commonwealth.

Inconsistency of Laws.

3. When a Law of a State is inconsistent with a Law of the Commonwealth, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid.

Powers to be exercised by Governors of States.

4. All powers and functions which are at the date of the establishment of the Commonwealth vested in the Governors of the Colonies respectively, shall, so far as the same are capable of being exercised after the establishment of the Commonwealth in relation to the government of the States, continue to be vested in the Governors of the States respectively.

All references to the Queen to be through the Governor-General.

5. All references or communications required by the Constitution of any State or otherwise to be made by the Governor of the State to the Queen shall be made through the Governor-General, as Her Majesty's Representative in the Commonwealth, and the Queen's pleasure shall be made known through him.

Saving of Constitutions.

6. Subject to the provisions of this Constitution, the Constitutions of the several States of the Commonwealth shall continue as at the date of the establishment of the Commonwealth, until altered by or under the authority of the Parliaments thereof in accordance with the provisions of their respective Constitutions.

Governors of States.

7. In each State of the Commonwealth there shall be a Governor.

Appointment of Governors.

8. The Parliament of a State may make such provisions as it thinks fit as to the manner of appointment of the Governor of the State, and for the tenure of his office, and for his removal from office.

Application of provisions referring to Governor.

9. The provisions of this Constitution relating to the Governor of a State extend and apply to the Governor for the time being of the State, or other the Chief Executive Officer or Administrator of the government of the State, by whatever title he is designated.

Members of Senate or House of Representatives not to sit in State Parliament.

10. A member of the Senate or House of Representatives shall not be capable of being chosen or of sitting as a member of any House of the Parliament of a State.

Member of State Parliament not to be Member of the Parliament of the Commonwealth.

11. If a member of a House of the Parliament of a State is, with his own consent, chosen as a member of either House of the Parliament of the Commonwealth, his place in the first mentioned House of Parliament shall become vacant.

A State may cede any of its Territory.

12. The Parliament of a State may at any time surrender any part of the State to the Commonwealth, and upon such surrender and the acceptance thereof by the Commonwealth such part of the State shall become and be subject to the exclusive jurisdiction of the Parliament of the Commonwealth.

States not to levy import or export duties, except for certain purposes.

13. A State shall not impose any taxes or duties on imports or exports, except such as are necessary for executing the inspection laws of the State; and the net produce of all taxes and duties imposed by a State on imports or exports shall be for the use of the Commonwealth; and any such inspection laws may be annulled by the Parliament of the Commonwealth.

Nor levy duty of tonnage, nor tax the land of the Commonwealth, nor maintain forces.
State land exempted from taxation.

14. A State shall not, without the consent of the Parliament of the Commonwealth, impose any duty of tonnage, or raise or maintain any military or naval force, or impose any tax on any land or other property belonging to the Commonwealth; nor shall the Commonwealth impose any tax on any land or property belonging to a State.

State not to coin money.

15. A State shall not coin money, or make anything but gold and silver coin a legal tender in payment of debts.

Nor prohibit any religion.

16. A State shall not make any law prohibiting the free exercise of any religion.

Protection of citizens of the Commonwealth.

17. A State shall not make or enforce any law abridging any privilege or immunity of citizens of other States of the Commonwealth, nor shall a State deny to any person, within its jurisdiction, the equal protection of the laws.

Recognition of Acts of State of various States.

18. Full faith and credit shall be given, throughout the Commonwealth, to the Laws, the Public Acts and Records, and the Judicial Proceedings, of the States.

Protection of States from invasion.

19. The Commonwealth shall protect every State against invasion and, on the application of the Executive Government of a State, against domestic violence.

Custody of offenders against laws of the Commonwealth.

20. Every State shall make provision for the detention and punishment in its prisons of persons accused or convicted of offences against the laws of the Commonwealth, and the Parliament of the Commonwealth may make laws to give effect to this provision.

CHAPTER VI.

NEW STATES.

Admission of existing Colonies to the Commonwealth.

1. Any of the existing Colonies of [*name the existing Colonies which have not adopted the Constitution*] may upon adopting this Constitution be admitted to the Commonwealth, and shall thereupon become and be a State of the Commonwealth.

New States may be admitted to the Commonwealth.

2. The Parliament of the Commonwealth may from time to time establish and admit to the Commonwealth new States, and may upon such establishment and admission make and impose such conditions, as to the extent of Representation in either House of the Parliament or otherwise, as it thinks fit.

Provisional government of Territories.

3. The Parliament may make such laws as it thinks fit for the provisional administration and government of any territory surrendered by any State to and accepted by the Commonwealth, or any territory in the Pacific placed by the Queen under the authority of and accepted by the Commonwealth, or otherwise acquired by the Commonwealth, and may in any such case allow the representation of such territory in either House of the Parliament to such extent and on such terms as it thinks fit.

Alteration of limits of States.

4. The Parliament of the Commonwealth may, from time to time, with the consent of the Parliament of a State, increase, diminish, or otherwise alter the limits of the State, upon such terms and conditions as may be agreed to, and may, with the like consent, make provision respecting the effect and operation of any such increase or diminution or alteration of territory in relation to any State affected by it.

Saving of rights of States.

5. A new State shall not be formed by separation of territory from a State without the consent of the Parliament thereof, nor shall a State be formed by the union of two or more States or parts of States, or the limits of a State be altered, without the consent of the Parliament or Parliaments of the State or States concerned.

CHAPTER VII.

MISCELLANEOUS.

Seat of Government.

1. The seat of Government of the Commonwealth shall be determined by the Parliament.

Until such determination is made the Parliament shall be summoned to meet at such place within the Commonwealth as a majority of the Governors of the States, or, in the event of an equal division of opinion amongst the Governors, as the Governor-General shall direct.

Power to Her Majesty to authorise Governor-General to appoint Deputies.

2. The Queen may authorise the Governor-General from time to time to appoint any person or any persons jointly or severally to be his Deputy or Deputies within any part or parts of the Commonwealth, and in that capacity to exercise during the pleasure of the Governor-General such of the powers and functions of the Governor-General as he deems it necessary or expedient to assign to such Deputy or Deputies, subject to any limitations or directions expressed or given by the Queen, but the appointment of such Deputy or Deputies shall not affect the exercise by the Governor-General himself of any power or function.

Aborigines of Australia not to be counted in reckoning population.

3. In reckoning the numbers of the people of a State or other part of the Commonwealth aboriginal natives of Australia shall not be counted.

CHAPTER VIII.

AMENDMENT OF THE CONSTITUTION.

Mode of amending the Constitution.

1. The provisions of this Constitution shall not be altered except in the following manner:—

Any law for the alteration thereof must be passed by an absolute majority of the Senate and House of Representatives, and shall thereupon be submitted to Conventions, to be elected by the electors of the several States qualified to vote for the election of Members of the House of Representatives.

The Conventions shall be summoned, elected, and held in such manner as the Parliament of the Commonwealth prescribes by law, and shall, when elected, proceed to vote upon the proposed amendment.

And if the proposed amendment is approved by the Conventions of a majority of the States, and if the people of the States whose Conventions approve of the amendment are also a majority of the people of the Commonwealth, the proposed amendment shall be presented to the Governor-General for the Queen's assent.

But an amendment by which the proportionate representation of any State in either House of the Parliament of the Commonwealth, or the minimum number of Representatives of a State in the House of Representatives, is diminished, shall not become law without the consent of the Convention of that State.

THE SCHEDULE.

I, A.B., do swear [*or* do solemnly and sincerely affirm and declare] that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, her heirs, and successors, according to law.

(NOTE.—*The name of the King or Queen of the United Kingdom of Great Britain and Ireland for the time being is to be substituted from time to time.*)

NATIONAL AUSTRALASIAN CONVENTION.

PROPOSED AUSTRALIAN JUSTICIARY AND COURT OF APPEAL.

LETTER FROM MR. JUSTICE RICHMOND,

OF THE SUPREME COURT OF NEW ZEALAND,

TO

SIR HENRY PARKES, G.C.M.G.;

TOGETHER WITH

OBSERVATIONS THEREON BY THE HONORABLE A. INGLIS CLARK

CHAIRMAN OF THE JUDICIARY COMMITTEE OF THE NATIONAL AUSTRALASIAN CONVENTION.

ORDERED BY THE CONVENTION TO BE PRINTED,
24 *March*, 1891.

SYDNEY: GEORGE STEPHEN CHAPMAN, ACTING GOVERNMENT PRINTER.

1891.

PROPOSED AUSTRALIAN COURT OF APPEAL.

Mr. Justice Richmond, New Zealand, to The Honorable Sir Henry Parkes, G.C.M.G., Sydney.

Wellington, New Zealand, 11 March, 1891.

My dear Sir Henry Parkes,

Although I have not had the advantage of a personal introduction to you, I make no doubt that you will excuse my addressing you on a subject of interest and importance to the whole of Australasia. It is one of which I may claim to have some special knowledge, being now in the twenty-ninth year of my service as a Judge of the Supreme Court of New Zealand, and having previously had some executive experience as a Colonial Minister. The subject I refer to is the proposal now made at Sydney to establish an Australian Court of Appeal, whose decisions shall not be subject to review by the Judicial Committee of Her Majesty's Privy Council.

Of course this is at present a mere proposal; and I cannot but think that, on deliberate consideration, good reason will appear for not insisting upon it.

1. The first and most obvious objection is one which must necessarily have occurred to yourself, and to any other Statesman who has given the matter a thought. British capital is, and it is to be hoped will continue to be, largely invested in these Colonies. It appears, therefore, to be a perfectly reasonable demand on the part of the mother country, that any British subject feeling himself aggrieved by the decision on his civil rights of a local Court shall, if the case be of sufficient importance, have his right of final appeal to an Imperial tribunal. However fair colonial judges and juries may have shown themselves, it is inevitable that persons resident in the United Kingdom, or in other Colonies, who should find themselves worsted in litigation before a Colonial Court from which there was no appeal, would, in many cases, both feel and express a doubt that justice had not been done them, and would be ready to impute the decision against them to local prejudice and favouritism.

It always makes things plainer to give an example of the working of a principle, and I will, therefore, shortly state a recent case in this Colony. A large ship, owned by an English shipping company, with a valuable cargo, was lost in attempting to leave the artificial harbour of Timaru, in the South Island. The accident was attributed by the company, or its underwriters, to the negligence of an officer of the Timaru Harbour Board, and an action for damages was accordingly brought in the name of the company against the Board. The issues of fact were tried by a Wellington jury, and a verdict was returned for the plaintiffs for about £40,000, the value of ship and cargo. This, however, was subject to a large number of reserved points of law, which were subsequently argued before our New Zealand Court of Appeal. Two judges, out of three who formed the Court, upheld one of these objections as fatal, and gave judgment setting aside the verdict. But a considerable proportion of the costs was thrown by our judgment on the defendant Board as having failed on the main issues of fact. The Shipping Company appealed, as was of course expected, to the Privy Council; and Lords Halsbury and Bramwell sat with the ordinary members of the Judicial Committee to hear the case. The argument occupied five days. Finally a reserved judgment was given upholding the decision of the New Zealand Court of Appeal on a wider ground than we had taken, and charging the appellant Company with the entire costs of the proceedings. Now, in a case of this kind, it is obvious that the result, from a public point of view,

is

is far more satisfactory than it would have been had the plaintiff Company been compelled to submit to the Colonial decision in favour of the local body as final. It is more satisfactory to the people of both countries concerned; more satisfactory to the members of the Colonial tribunal—I should say the same if the decision had been the other way; more satisfactory even to the defeated litigants—in this respect at least, that they must feel that justice, so far as attainable in Courts of law, has been done them.

To quit this part of the subject: It is to be expected that the proposed measure, if ever carried, must have a prejudicial effect on the financial interests of these Colonies. The confidence with which investments of all sorts are now made in Australasia by people at home must be largely due to the knowledge that rights of property will be dealt with here by the Law Courts on British principles of justice, and subject to final review by one of the highest English Courts. I conceive that this confidence must certainly be impaired if we constitute ourselves a foreign country in regard to the administration of justice.

2. The decisions of a Colonial Court of ultimate appeal would not only give less satisfaction to an important class of litigants. Such decisions would in all probability be less satisfactory to litigants in general, and intrinsically less satisfactory. It is no disrespect to the Australasian Benches to say that the chances are against our being able to furnish a Court of Appeal equal in legal attainment to the highest English Courts. Of course we may produce great jurists here; and, please God, we shall. But the present area of selection for the Bench is a very narrow one. English Judges, on the other hand, are taken from amongst the leaders of a numerous Bar. They have had their ability tested in practice at the greatest business centre in the world, and have succeeded in a competition with which the Colonies have nothing to compare. The composition in late years of the Judicial Committee may not have been entirely satisfactory—on that subject I have a word to say—but important appeals to the Queen-in-Council are generally attended by some of the most eminent English Judges.

3. It would be a dead loss to both Bench and Bar if the legal standard to which we have now to submit ourselves were removed—as in great measure it would be, were decisions here rendered final. I should be sorry to see the judgments of lawyers reared in our comparatively narrow circle become our most important authorities. I say this, fully recognising the excellence of much judicial work amongst us. The public is more interested than it knows in maintaining the highest scientific standard in the administration of the law. The intellectual interest thus created in the profession is one of the best guarantees for purity of administration. Thorough-bred lawyers are supremely anxious to be right in their law. They may not always succeed in freeing themselves from class prejudices and party ties; but their interest in abstract law makes them generally incapable of showing favour to individuals.

4. The establishment of Colonial precedents as paramount, would lead to divergencies from the law of the mother-country which would be productive of considerable inconvenience; nor could Colonial judgments be entitled to the same favourable reception in the Courts of the mother-country as they now meet with.

5. A very important consideration is the following:—In every Colony possessing a Constitution the Legislature is exercising powers created by a statute of the Imperial Parliament. Its powers are limited by this document, and the document is subject to the interpretation of the Courts of law of the country. The Supreme Court of each of these Colonies has jurisdiction to decide that a Colonial Act is *ultra vires*. The power has actually been exercised in this Colony in the case of an Act for deporting fugitive offenders, it being held that the General Assembly of New Zealand is incompetent to provide for the custody of such persons during their passage over-sea to another Colony. The difficulty has since been removed by Imperial legislation. Now, it is evident that if the integrity of the Empire is to be maintained (which is our common object), the decision of a local Court in regard to the powers of the local Parliament ought to be subject to review by an Imperial Court. Otherwise, all limit to the local power of legislation might be disregarded, and practically set aside, by Judges with strong separatist tendencies.

6. It may appear paradoxical, but in point of fact the Australian Courts themselves will be degraded by the proposed measure. They will sink from the position of Imperial to mere local tribunals, with, I apprehend, a corresponding contraction of their present jurisdiction, and, in the future, a probable diminution of judicial independence. To illustrate my meaning I will again cite a recent proceeding in this country. A few years ago a gentleman resident in Samoa was forcibly removed from that island by Sir Arthur Gordon, then Her Majesty's High Commissioner for the Western Pacific, who supposed himself to be exercising powers conveyed by the Order in Council constituting his office. The person so dealt with, conceiving himself aggrieved, brought an action for wrongful arrest and imprisonment against Sir Arthur in the Supreme Court of New Zealand, both parties being then in the Colony. Commissions to take evidence in Samoa and in London were issued and executed. It was understood that Sir Arthur was defended by the British Treasury; and the present Mr. Justice A. L. Smith, of the English High Court of Justice, acted as his counsel on the execution of the Commission in London. No objection was taken on behalf of the defendant to the jurisdiction of the New Zealand Court. No doubt this was on the ground, established in the leading case of Mostyn *v.* Falrigas, and other cases, that a British subject may be sued for damages in any British Court within whose jurisdiction he is found for a personal wrong done to another British subject in any part of the world. But such a jurisdiction is one which cannot belong to a merely Local Court. Supposing that it could in law survive the contemplated alteration, it is plain that the British Parliament could not allow it to remain. It may be asked: What loss would that be to the Colony? I maintain that it would be a real loss. For by the existence of such a jurisdiction the remedy for injustice and oppression in this quarter of the globe is made more prompt and easy. The dignity of the tribunal exercising so high a function is enhanced. The unity of the Empire is affirmed in a striking manner. To destroy such a jurisdiction would be an act of separatism and a degredation of our Courts. If this view is regarded by anyone as sentimental I would observe that it is exactly by the prevalence of such sentiments, if at all, that the Unity of the Empire can be maintained.

In Sir Arthur Gordon's case the decision was, on the main point, favourable to the defendant, the question being one of law, but judgment went against him for a small sum. There was no appeal lodged. The plaintiff, it is said, would have appealed had his means permitted. The British Government acquiesced in the decision.

One point more in this connexion: I believe Sir Arthur Gordon, though still in the Colony, was no longer Governor when the writ in the action against him was served. But, had he been Governor, it is established by the case of Musgrave *v.* Pulidos before the Privy Council [*Law Reports* 5, *Appeal Cases* 102] that he would none the less have been liable to the jurisdiction of the Supreme Court of the Colony. Such a Court has, under our present constitutions, the right of determining whether any act of power done by a Governor is within the limits of his authority. Evidently this high jurisdiction could not continue to be exercised by a Colonial Court whose decisions were not subject to appeal.

7. No doubt it will be said that the expense and delay of appeals to London are great. I do not pretend to be able to speak with certainty upon these points. But it may be questioned whether in either respect there need be much difference between appeals to the Judicial Committee and appeals to the proposed new Court. Distances in Australia are great, and the local lawyers would seldom be content to leave their appeals in the hands of the Bar of the city where the Court happened to sit. Hence a large outlay in travelling expenses would be apparently inevitable. As regards delay it would not, I apprehend, be found practicable at present to appoint special Justices of Appeal to sit continuously. The Court must be formed by the attendance of members of the existing Benches, and could only sit periodically, as is our practice in New Zealand; these, however, are points on which I do not venture to express any positive opinion.

At present the Judicial Committee appears to be overloaded with work. If the committee wants strengthening in point of numbers so as to be able to sit in two or more divisions, the British Parliament is bound to find the means. Indian

appeals

appeals which seem to take up a great deal of time might, one would think, be dealt with by a separate division. There can be no good reason why appeals should not be much accelerated.

8. Although several eminent judges have been amongst those who regularly sit on the Judicial Committee, the Court has not maintained the extraordinary authority it had with the profession during the years when Lord Kingsdown commonly presided over it. Looking to the present importance of the Colonies, and I venture to say, to the learning of colonial lawyers, it is not satisfactory that any but the most eminent in the profession should sit as Judges of Appeal from Colonial Courts. It is unfortunate that the attempt to constitute a single Court of Appeal for the whole empire did not succeed. The Colonies have, I conceive, a right to ask that the ultimate appeal from colonial decisions shall be to the same tribunal, whether the House of Lords, or some Court to be substituted for the House of Lords, as deals with appeals from the English Courts.

9. But to sum up: whatever may be the defects of existing arrangements, they are such as appear to be remediable without extraordinary difficulty. Even taking things as they are, we shall be wise, I conceive, not to seek a change open to objections such as I have endeavoured to state—objections which seem even more important and significant in a political point of view than in one purely juridical.

I remain, &c.,

C. W. RICHMOND.

P.S.—As I desire the fullest and most public discussion of the subject of this letter, I need scarcely say that you are at liberty to deal with it in any way you think proper.

OBSERVATIONS on the letter of Mr. Justice Richmond to Sir Henry Parkes, G.C.M.G., on the proposal to establish a Federal Court of Appeal for Australasia, and to abolish Appeals from Australasian Courts to the Privy Council.

1. The reference made by Mr. Justice Richmond to the case which occurred in New Zealand, and in respect of which an appeal was carried from the New Zealand Court of Appeal to the Privy Council seems to me to be only available as an argument against making the Supreme Courts of the several Australasian Colonies Courts of final resort, but is not a valid argument against the erection of a Federal Court of Appeal, to take the place of the Privy Council, as a final Court of Appeal for Australasia. If a Federal Court of Appeal is established there will be, as now, an appeal from the Supreme Courts of the several Colonies to a superior tribunal, and the real question at issue is whether the Federal Court of Appeal would prove as satisfactory a tribunal of final resort as the Privy Council, and this question is not touched by Mr. Justice Richmond's reference to the case which he mentions.

2. The second objection assumes that the Judges of the Federal Court of Appeal will necessarily be inferior in experience and ability to the members of the Judicial Committee of the Privy Council, but when it is remembered that the Judicial Committee of the Privy Council consists of fifteen members of varying capacity and attainments, three of whom form a quorum, and that many decisions are given by a bare quorum, and many other decisions by a Court consisting of not more than five members, it will be seen that we cannot rely upon having, at all times, in a quorum or minority of the Privy Council, a Court consisting of Judges superior to any Judges in Australasia. If all appeals from the judgments of Australasian Courts to the Privy Council were heard and determined by a Court consisting of all or even a majority of its members, Mr. Justice Richmond's second objection would have much more force.

3. The third objection appears to me to have been made in forgetfulness of the fact that the Federal Court of Appeal will be constituted of Judges drawn from all the Australasian Colonies, and will therefore embrace and concentrate the legal ability and varied legal experience of the several Colonies, and that the Court will therefore be a much superior tribunal to anything of the kind which we have yet had in Australasia, and, further, that the varied appellate work which it would be called on to perform would give to the members of it that larger experience and practice, the want of which Mr. Justice Richmond appears to regard as the chief disqualification of the present Supreme Courts of the several Colonies to be made Courts of Final Appeal.

4. The fourth objection, that there would necessarily be divergencies in the decisions of the Federal Court of Appeal and the decisions of the Privy Council, appears to me not well founded, because we find that the Supreme Court of America in its decisions on matters of mercantile law and its application of the fundamental principles of the common law, nearly always coincides with the decisions of the House of Lords and of the Privy Council. In the instances in which the Supreme Court of America has diverged from the decisions of the Superior Courts in England local circumstances have required and justified the divergence; and we might fairly expect that any divergence which might arise in the decisions of the Federal Court of Appeal in Australasia from the decisions of the Superior Courts in England would be similarly required and justified by varying local exigencies.

5. The fifth objection appears to me to be based, like the first, upon the assumption that the decisions of the Supreme Court in each Colony would be final, and in forgetfulness of the fact that the proposal is not to abolish appeals but to transfer them to a Federal Court of Appeal instead of taking them to the Privy Council.

6. I am unable to see the force of the sixth objection, and do not concur with Mr. Justice Richmond's conclusion that upon the establishment of a Federal Court of Appeal our local Courts would cease to have jurisdiction in such cases as those mentioned by him.

7. The seventh objection is not directed against the establishment of a Federal Court of Appeal, but is an argument for the reconstruction of the Privy Council.

8. The eighth objection is an argument for the erection of a Court of Appeal for the whole Empire instead of having two distinct Courts of Appeal in the House of Lords and in the Privy Council, as at the present time, and does not appear to me to touch the question of the establishment of a Court of Appeal for Australasia.

9. The ninth argument amounts simply to the statement that a better state of things than at present exists in regard to appeals in England should be brought about.

A. INGLIS CLARK,

Chairman of the Judiciary Committee of the National Australasian Convention.

Parliament House, Sydney,
23rd March, 1891.

1891.

OFFICIAL RECORD OF THE DEBATES

OF THE

NATIONAL AUSTRALASIAN CONVENTION.

HELD IN THE PARLIAMENT HOUSE, SYDNEY

NEW SOUTH WALES.

MONDAY, 2 MARCH, 1891.

Roll of Delegates—President—Secretary—Standing Orders, &c.—Vice-President—Adjournment: Western Australian Delegates.

THE Delegates met in the Legislative Assembly Chamber, Sydney, at 11 o'clock a.m.

ROLL OF DELEGATES.

Mr. MUNRO: At the Conference held in Melbourne, in 1890, the following resolutions were agreed to:—

1. That, in the opinion of this Conference, the best interests and the present and future prosperity of the Australian colonies will be promoted by an early union under the Crown; and, while fully recognising the valuable services of the members of the Convention of 1883 in founding the Federal Council, it declares its opinion that the seven years which have since elapsed have developed the national life of Australia in population, in wealth, in the discovery of resources, and in self-governing capacity to an extent which justifies the higher act, at all times contemplated, of the union of these colonies, under one legislative and executive Government on principles just to the several colonies.
2. That to the union of the Australian colonies contemplated by the foregoing resolution, the remoter Australasian colonies shall be entitled to admission at such times and on such conditions as may be hereafter agreed upon.
3. That the members of the Conference should take such steps as may be necessary to induce the legislatures of their respective colonies to appoint, during the present year, delegates to a National Australasian Convention, empowered to consider and report upon an adequate scheme for a federal constitution.
4. That the Convention should consist of not more than seven members from each of the self-governing colonies, and not more than four members from each of the Crown colonies.
5. That the Premier of Victoria be requested to act as convener of the National Australasian Convention of delegates to be appointed by the several legislatures of the Australasian colonies, and to arrange, upon consultation with the premiers of the other colonies, the time and place of the meeting of the Convention.

Pursuant to that authority I had the honor to communicate with the premiers of the other colonies, and fixed the place of meeting as this Legislative Assembly, Sydney, and the time as the 2nd of March, at 11 o'clock, a.m. Accordingly, I have issued circulars to the delegates from the several colonies, which I have no doubt they have received. I have received letters from the prime ministers of the various colonies, informing me of the names of the delegates appointed for each colony, which letters I now lay on the table, including one from the Governor of Fiji, announcing that that colony would not be represented unless instructions to that effect were received from Her Majesty's Government. I have had a parchment roll prepared, in alphabetical order, of the different colonies, the names of the delegates of each colony to occupy a page in the roll. The names are printed on one side, and each delegate, as his name is called, will be good enough to sign opposite his name. I wish to inform the delegates also, that in addition to the roll that is to be kept as a record of the proceedings, I have taken the liberty of having had printed a number of other rolls, so that one copy may be given to each colony as a record of this important meeting. I shall only request the delegates to sign one copy at present; the other copies may be signed at their pleasure. I shall first read over the names of the delegates for each colony, and then I will call upon them in rotation to sign the roll. I have had the names put in the roll in the order in which they appear in the resolutions of the various parliaments:—

New South Wales.

The Honorable Sir HENRY PARKES, G.C.M.G., M.P.
The Honorable WILLIAM MCMILLAN, M.P.
The Honorable JOSEPH PALMER ABBOTT, M.P.
GEORGE RICHARD DIBBS, Esquire, M.P.
The Honorable WILLIAM HENRY SUTTOR, M.L.C.
The Honorable EDMUND BARTON, Q.C., M.L.C.
The Honorable Sir PATRICK ALFRED JENNINGS, K.C.M.G., LL.D., M.L.C.

New Zealand.

Sir GEORGE GREY, K.C.B.
Captain WILLIAM RUSSELL RUSSELL, M.H.R.
The Honorable Sir HARRY ALBERT ATKINSON, K.C.M.G., M.L.C.

Queensland.

The Honorable JOHN MURTAGH MACROSSAN, M.P.
The Honorable JOHN DONALDSON, M.P.
The Honorable Sir SAMUEL WALKER GRIFFITH, K.C.M.G., Q.C., M.P.
The Honorable Sir THOMAS MCILWRAITH, K.C.M.G., M.P.
The Honorable ARTHUR RUTLEDGE, M.P.
The Honorable ANDREW JOSEPH THYNNE, M.L.C.
The Honorable THOMAS MACDONALD-PATERSON, M.L.C.

South Australia.

The Honorable RICHARD CHAFFEY BAKER, C.M.G., M.L.C.
The Honorable JOHN HANNAH GORDON, M.L.C.
The Honorable Sir JOHN COX BRAY, K.C.M.G., M.P.
JOHN ALEXANDER COCKBURN, Esquire, M.D., M.P.
The Honorable Sir JOHN WILLIAM DOWNER, K.C.M.G., Q.C., M.P.
The Honorable CHARLES CAMERON KINGSTON, Q.C., M.P.
The Honorable THOMAS PLAYFORD, M.P.

Tasmania.

The Honorable WILLIAM MOORE, M.L.C.
The Honorable ADYE DOUGLAS, M.L.C.
The Honorable ANDREW INGLIS CLARK, M.H.A.
The Honorable WILLIAM HENRY BURGESS, M.H.A.
The Honorable NICHOLAS JOHN BROWN, M.H.A.
The Honorable BOLTON STAFFORD BIRD, M.H.A.
The Honorable PHILIP OAKLEY FYSH, M.L.C.

Victoria.

The Honorable ALFRED DEAKIN, M.P.
The Honorable JAMES MUNRO, M.P.
The Honorable Lieutenant-Colonel WILLIAM COLLARD SMITH, M.P.
The Honorable HENRY JOHN WRIXON, Q.C., M.P.
The Honorable DUNCAN GILLIES, M.P.
The Honorable HENRY CUTHBERT, M.L.C.
The Honorable NICHOLAS FITZGERALD, M.L.C.

Western Australia.

The Honorable JOHN FORREST, C.M.G., M.P.
The Honorable WILLIAM EDWARD MARMION, M.P.
The Honorable Sir JAMES GEORGE LEE-STEERE, Kt., M.P.
The Honorable JOHN ARTHUR WRIGHT, M.L.C.
The Honorable JOHN WINTHROP HACKETT, M.L.C.
ALEXANDER FORREST, Esquire, M.P.
WILLIAM THORLEY LOTON, Esquire, M.P.

The delegates present then signed the roll.

The delegates absent were:—Sir George Grey, K.C.B., New Zealand; the Honorable Sir Thomas McIlwraith, K.C.M.G., LL.D., M.P., Queensland; the Honorable Henry John Wrixon, Q.C., M.P., Victoria; and the delegates representing Western Australia.

Mr. MUNRO: I find that the absentees are Sir George Grey, K.C.B., the Honorable Sir Thomas McIlwraith, K.C.M.G., M.P., and the Honorable H. J. Wrixon, Q.C., M.P. In this connection I desire to intimate that a resolution was passed by the Parliament of Victoria—and I believe a similar one has been passed by the Parliament of New South Wales—empowering the Governor in Council to appoint a Member of the Legislative Council, or of the Legislative Assembly, as the case may be, to be a representative of the colony at the Convention should a vacancy occur. The resolution to which I refer is in these terms:—

> That during the absence of any representative of this colony on the National Convention to be held in Sydney in March, 1891, or in the event of any vacancy by death, resignation, or otherwise on such representation, the Governor, with the advice of the Executive Council, is hereby empowered to appoint a Member of the Legislative Council or the Legislative Assembly, as the case may be, to act as representative of this colony on such Convention, or to fill such vacancy.

In the absence of the Honorable H. J. Wrixon, one of the representatives of Victoria, the Honorable W. Shiels, Attorney-General, has received a Commission under the seal of the colony, issued by the Governor, authorising him to take a seat in the Convention during the absence of any member. I was requested to bring this matter before the Convention, as the Honorable H. J. Wrixon is now absent.

The Honorable W. SHIELS entered the Chamber subsequently, and subscribed the roll on behalf of the Honorable H. J. Wrixon.

PRESIDENT.

Mr. MUNRO rose to move,—

> That the Honorable Sir Henry Parkes, G.C.M.G., Premier of New South Wales, do take the Chair as President of this National Australian Federation Convention.

He said: I think this is a fitting honor to confer upon the author of the movement on the part of these Australian colonies, which resulted in the Conference held in Melbourne last year. The hon. gentleman has taken a deep interest in the subject of federation for a great number of years, and we moreover meet in the colony of which he has the honor to be the Premier. I have no doubt that in the position of President he will aid us with his counsel and advice, and that his occupancy of the chair will reflect credit upon our proceedings. Under these circumstances I do not think we can do better than elect him to the position. Of course it is distinctly understood that as President of this Convention he will occupy a position different from that of the Speaker of a legislative assembly or the President of a legislative council; that he will be at liberty to take part in our debates as he may think proper, and that he will also be free to vote. These matters, however, will, I have no doubt, be dealt with in our standing orders, which, I believe, will be passed at a subsequent sitting of the Convention.

Sir SAMUEL GRIFFITH: I have much pleasure in rising to second the motion made by Mr. Munro. If the circumstances were altogether equal, there is no doubt that Sir Henry Parkes would be designated, in accordance with universal custom, as well as official courtesy, as the proper person to preside over this Convention, seeing that it is held in New South Wales, of which colony he is the Prime Minister. But the circumstances are not equal. No gentleman here, I think, will feel himself disparaged when I remind the Convention that Sir Henry Parkes is, in point of years and experience, more eminently qualified than any of us for the position. He has had, I believe, a larger official experience than has any other man in Australia; he has been at the head of the Government of New South Wales longer than any other man in the Colony; and he has taken a great interest in the subject of federation for many years. He is the immediate author of the present movement All possible argument conduces to show that he is the proper person to fill the chair of this Convention. I am sure, however, that the hon. gentleman would hesitate to accept the position if he were debarred from speaking, and that we, also, should hesitate to place him in the chair if that step were to have the effect of closing his mouth. This being understood, we shall be glad to look to him for advice and assistance, and to see him adorning the chair.

Mr. PLAYFORD: I am glad to support the proposal that Sir Henry Parkes do take the chair on the present occasion; but I trust that his election to that position will in no way prevent him from taking an active part in the discussions that will follow, and that it will not prevent him from moving resolutions, because we are looking forward to his initiating the proceedings, and bringing before us certain proposals. The hon. gentleman was the originator of the Conference that was held in Melbourne last year, and I am certain that we delegates representing the various Australian colonies look to him to bring before us resolutions for our discussion. I trust, therefore, that the hon. gentleman's occupancy of the chair will not prevent him from taking that active part in the proceedings which we have all anticipated. I agree with Sir Samuel Griffith that there is no gentleman in the Australian colonies more deserving of the honor of occupying the position of President on this important occasion. I have much pleasure in supporting the proposal.

Mr. FYSH: I desire, on the part of Tasmania, to congratulate Sir Henry Parkes upon the arrival of to-day, and trust that he will be unanimously chosen President of this great Convention, and that to the very many important acts of his life there will be added that which, I believe, will prove to be the most important arising out of duties devolving upon him at this Convention. I trust that the hon. gentleman will be preserved in exceedingly good health, and that all the faculties of which he is possessed will be exerted in the course of this Convention with the hon. gentleman's accustomed energy and vivacity; and that we shall have in him, as our President, that which we fully expect—an able mind for the conduct of these important proceedings. I congratulate the hon. gentleman upon his accession to the chair, and have great pleasure in supporting the resolution.

Mr. DIBBS: In view of the unanimous expression of opinion from the Premiers of the neighbouring colonies that Sir Henry Parkes should take the chair of this Convention, I, as one of the delegates of New South Wales, cannot refrain from expressing the pleasure we feel in finding that unanimity to prevail; and our pride in the fact of our Premier being

invited to fill so high a position. We look to Sir Henry Parkes as, to a certain extent, the architect of the structure we are about to build, and we, like other gentlemen present, look to our Premier for advice and explanation, and hope that he will in due time place before us such a programme as will enable us to proceed with the great work before us. I can assure hon. gentlemen that we appreciate the compliment paid to the colony through our Premier, and, personally, I have great pleasure in supporting the proposition which has been made.

Captain RUSSELL: Perhaps, as a representative of the most remote of the Australasian colonies, I may be permitted in the name of New Zealand to say with what pleasure I have heard Sir Henry Parkes proposed as chairman of this great Convention. It has been said that there is no man more suitable than is Sir Henry Parkes for the position to which I hope we shall shortly unanimously elect him; but I go further, and say that there is no man one-half so suitable. Whether we view him as Prime Minister of the mother colony of Australia, or in his private capacity as the most venerable member of this Convention, or whether, on the other hand, one reflects that his experience in political life is perhaps greater than that of many of us put together, we must all agree that there is no man so fitted for the position. This is the mother colony of Australia, and from the great figure presented to the more remote colonies of Australasia in Sir Henry Parkes, we are, perhaps, able to judge him more dispassionately than are the Australian colonies proper. I feel that, having regard to the position which the hon. gentleman has occupied in Australia, he will fittingly crown this, the summit of his life, in becoming the President of a Convention which must be celebrated in the world's history for all time to come. I have pleasure, on behalf of New Zealand, in saying that we look forward with pleasure to the hon. gentleman occupying the position of President of this Convention.

Question resolved in the affirmative.

The PRESIDENT ELECT, being conducted to the chair by the Honorable James Munro and the Honorable Sir Samuel Griffith, said: Mr. Munro, Sir Samuel Griffith, and hon. gentlemen, I could not under any circumstances do other than yield to your unanimous choice. I am very conscious indeed of my many disqualifications for the office of President. It is hardly in my nature to observe that studied decorum which is so shining a quality in the chair. I have not been fitted for that situation in life. I therefore feel how great the honor is to be placed in that position on this great occasion and by this great body. I shall trust to that generous unanimity which has prevailed in carrying this motion to support me in discharging in the chair duties which may become onerous, and I am quite sure I shall not trust in vain. I am certain the feeling which has been exercised in placing me here will be further exercised, if need be, to pardon my inefficiency, and that it will give me all the moral support that can be shown to the high position I am called to occupy. Having said this much, it becomes my duty to give this assurance, that so far as I know myself, I will command myself to do the duties of this chair so that there shall be no cause of complaint. I will try to so conduct the business as to offend none, and, if possible, secure the good opinion which appears to have been formed to-day. I thank hon. gentlemen for the great distinction you have conferred upon me, and I trust none of you will see cause to regret the vote you have given.

SECRETARY.

Mr. MUNRO: I think the motion I have now the honor to submit will conclude my business at this stage of the proceedings. I have the honor to move:

That Frederick William Webb, Esq., be appointed Secretary to the Convention.

Sir SAMUEL GRIFFITH: I second the motion.

Question resolved in the affirmative.

STANDING ORDERS, &c.

Mr. McMILLAN: It will be necessary, for the orderly conduct of business during the sittings of the Convention, to give notice of certain formal motions for to-morrow. That I now do.

VICE-PRESIDENT.

Mr. PLAYFORD: I beg to move:

That Sir Samuel Walker Griffith, K.C.M.G., be appointed Vice-President of the Convention.

Mr. FYSH: I have exceeding pleasure in seconding the proposal of Mr. Playford, in recognition of the services I am pleased to know will already be recognised as having been rendered to the cause of federation by Sir Samuel Griffith in connection with his Vice-Presidency of the Federal Council. I am pleased to witness his accession to a similar position in conjunction with yourself, sir, or when, on any special occasion you may not be prepared to take the chair. I am glad that there is a prospect of the hon. gentleman being called to the Vice-Presidency of this Convention as a fitting recognition of the work which he has already done in the cause of federation, and as a recognition of the work which we feel him to be well able to do in connection with the important duty upon which we are now engaged.

Mr. MUNRO: I have great pleasure in supporting the motion. It is necessary that we should have a Vice-President to assist the President, and to act on occasions on which the President may find it inconvenient to attend the Convention. I have already had some experience of Sir Samuel Griffith as President on other occasions, and he then discharged his duties in so admirable a manner that I shall be glad to see him occupying the chair in the unavoidable absence of the President.

Question resolved in the affirmative.

Sir SAMUEL GRIFFITH: I was not aware until a minute or two ago that it was proposed to confer this honor upon me. I am deeply grateful to the hon. gentlemen who have proposed to appoint me Vice-President of the Convention, and to those who supported the proposal to do me this great honor. I shall be very glad to relieve you, sir, when you are unable to continue in the chair; but I hope that, for the greater part at least of the sittings of the Convention, you will be able to occupy it. I should certainly hesitate to occupy it myself, even in your absence, if I were debarred from taking part in the deliberations of the Convention. There is much work to be done, and although I hope there may be no occasion for long speeches, there will be times when many of us will think it necessary to say something. I thank hon. gentlemen again for the honor they have done me.

ADJOURNMENT.

WESTERN AUSTRALIAN DELEGATES.

Mr. McMILLAN rose to move:

That the Convention do now adjourn until half-past 2 o'clock to-morrow.

He said: There seems to be a general desire that there should be no sitting to-morrow morning, and that business of which notice has been given this morning should be disposed of to-morrow afternoon. The probability is that little other business will be done to-morrow. In making this motion, I am, I presume, acting in a way that will be acceptable to hon. gentlemen of this Convention. If any other suggestion can be made I shall be quite willing to fall in with it if a majority desire; but I have consulted with a few members of the Convention, and the general opinion, I understand, is that we ought to adjourn until half-past 2 o'clock to-morrow.

The PRESIDENT: I think, before a motion of so much importance as that is put, I might intimate what I deem is the general wish of hon. gentlemen—that to-morrow morning be used for the purpose of an informal meeting of delegates to compare views and to enter into conversation before the serious business of the Convention really begins. I think gentlemen will see the advantage of that from every point of view. I believe that is the intention, and I imagine that after we have adjourned now, I shall be authorised to arrange a meeting of that kind before the Convention enters upon the real business it has to undertake. I think it is right to give that intimation, in case any gentlemen should feel disposed to dissent from it.

Mr. MUNRO: I second the motion.

Mr. DIBBS: Before the motion is put, I should like to say a few words as to the position in which we find ourselves. The Western Australian delegates, through the force of inevitable circumstances, not being present, I venture to suggest that no actual business be transacted by this Convention before they have an opportunity to be present. We might proceed with the preliminary business, such as the formal motions of which notice has been given by Mr. McMillan, and the President might deliver his inaugural address; but we should extend the utmost courtesy to the representatives of Western Australia to enable them to be here before any actual business results are arrived at. I believe these gentlemen can arrive by Friday morning.

Mr. MUNRO: Saturday!

Mr. DIBBS: Well, even if they cannot arrive until Saturday, I think business should be postponed, or we shall be placed in a very awkward position, because we should either have to go back upon our procedure, or invite the representatives of Western Australia to join in what has been done. The President's address will, I presume, foreshadow what should be done, and the manner in which it should be done. The whole programme, in fact, will be submitted to us, and probably there will be considerable discussion; but I think any definite determination should be deferred until our absent friends can be present, especially when we consider that Western Australia has but just become possessed of responsible government. I ask hon. gentlemen to give some consideration to this question, so that when we meet to-morrow it may be determined whether we proceed to business in the absence of the representatives of Western Australia, or whether we shall afford them time to be present.

Mr. MUNRO: I might be allowed to offer a word of explanation. As the convener I was in communication with all the colonies, and with the consent of the different colonies I postponed the holding of the first meeting until the 2nd March, to meet the wishes particularly of the representatives of Western Australia. All the other colonies wanted to have the meeting very much earlier. Then when it came to within a week of the time for the meeting I received a telegram from the Premier of Western Australia, asking that the Convention should be postponed for a fortnight to enable them to get their business through and be present. I then put myself in communication with the premiers of the other colonies, including New Zealand, and found that it was the almost unanimous wish of the delegates that no postponement should take place. I then communicated with the representatives of Western Australia, informing them that it was impossible to postpone the meeting of the Convention. I venture to suggest to Mr. Dibbs that we are here as delegates from the various colonies at a considerable amount of inconvenience to ourselves and the Governments we represent. And whilst I am exceedingly anxious that every courtesy should be shown to the representatives of Western Australia, I do not think it wise, after we have deliberated over the matter and come to the conclusion to meet on the 2nd March, to postpone the transaction of business for another week; I am afraid we could not afford to do it. I am willing that we should not pass any serious resolutions until the delegates from Western Australia arrive; I believe they will be here on Friday or Saturday. If we were to postpone our business until their arrival we should be departing from the understanding arrived at that we should be here on the 2nd March, and proceed with business as early as possible. I have no doubt that the week will be taken up with the consideration of preliminary matters. I do not think we ought to formally postpone the business on account of the Western Australian delegates not being here, because of the absolute necessity of our proceeding with as much expedition as possible.

Mr. BAKER: I venture to suggest, with regard to one difficulty, that if we do anything to which the Western Australian delegates object, we can easily reconsider the matter when they arrive. In the meantime we may do a great many things to which they will not object.

Question resolved in the affirmative.

Convention adjourned at 12·4 p.m.

TUESDAY, 3 MARCH, 1891.

Motions by Concurrence—Days of Meeting—Minutes of Proceedings—Notices of Motion—Rules of Debate—Rules of Debate in Committee—Official Record of Debates—Divisions—Admission of the Press and Public.

THE PRESIDENT took the Chair at half-past 2 o'clock, p.m.

MOTIONS BY CONCURRENCE.

Mr. McMILLAN: I have to move a series of resolutions, most of which are formal, and I intend to add one at the end with regard to the quorum, and then one in reference to the question, which will have to be determined by the delegates, of the Chairman of Committees. I understand there is some difference of opinion with regard to this latter point, but probably that motion and the one with regard to the quorum can be taken with concurrence, without the ordinary notice.

DAYS OF MEETING.

Motion (by Mr. McMILLAN) proposed:

That, unless otherwise ordered, the Convention shall meet daily (Sundays excepted) at 11 o'clock a.m. punctually.

Mr. ABBOTT: I should like to know whether it is intended that the Convention shall sit on Saturdays, and if so, whether for the whole or half of the day? So far as I am personally concerned, I am quite willing to make my time suit the time of the delegates from the other colonies ——

Mr. DIBBS: And sit even on Sundays!

Mr. ABBOTT: Yes, and sit even on Sundays, if it would suit those gentlemen; but perhaps they themselves would not care about assembling here on Saturdays. I should like to hear some expression of opinion from the delegates from the other colonies.

Mr. MUNRO: In the event of the Convention not wishing to sit on Saturday on any occasion, they can easily carry out their intention by passing a resolution of which notice may be given the day before. I think it would be as well to carry the motion as it stands, because it will enable us to meet on Saturday if we think proper to do so, it being understood that we do meet on Saturday unless otherwise ordered.

Sir JOHN DOWNER: I take the same view as the last speaker; but I think it should not be necessary to give notice of motion in the event of our considering it inexpedient to sit on Saturday. There would be nothing inconsistent with the

motion, as submitted if a member were allowed to move on Friday that we adjourn until Monday.

Sir SAMUEL GRIFFITH: As a member of the Convention who has a good deal of work to do besides that connected with the Convention, I venture to express a hope that we shall not sit on Saturdays, because I am certain that in my case one day in the week will be absolutely necessary to enable me to get through other work that must be done. I do not offer any objection to the resolution being passed in its present form; but I hope the Convention will not insist upon sitting on Saturdays.

The PRESIDENT: I would suggest that perhaps it would be better to amend the motion by inserting the words "Saturdays and" before the word "Sundays."

Mr. McMILLAN: I accept the suggestion of the President.

Motion so amended, and agreed to.

MINUTES OF PROCEEDINGS.

Resolved (on motion by Mr. McMILLAN):

That the secretary to the Convention shall take minutes of each day's proceedings, which shall be printed and circulated amongst the delegates; that such official record of the proceedings be signed by the President and secretary; and that the secretary be authorised to make such record public, together with notices of motions to be submitted to the Convention.

NOTICES OF MOTION.

Motion (by Mr. McMILLAN) proposed:

That previous notice, in writing, shall be given at a sitting of the Convention of all motions to be submitted by the delegates, and that all notices of motions shall be printed and circulated daily amongst the delegates.

Mr. PLAYFORD: Of course we are to understand that this will not prevent a delegate from moving a motion without notice with the consent of a majority of members?

Mr. McMILLAN: No; a motion can be made with concurrence!

Sir JOHN BRAY: I would suggest to the mover that it would be desirable to insert the words "unless otherwise ordered," because an occasion may arise when it may be desirable to move a motion without notice, and if this resolution were literally interpreted, that would be impossible. I beg to move as an amendment:

That after the word "That" the words "unless o herwise ordered" be inserted.

Mr. ADYE DOUGLAS: What is the object of the amendment? These are merely sessional orders subject to the rules of the House of Commons, and therefore it would be surplusage to put in the words "unless otherwise ordered," because the Convention can always order it, and the insertion of the words would be an absurdity. The motion, as it stands, is perfectly regular, and is in accordance with the rules of Parliament. The proposed amendment will not be in accordance with the rules of Parliament, and it is quite unnecessary.

Amendment agreed to; motion, as amended, agreed to.

RULES OF DEBATE.

Motion (by Mr. McMILLAN) proposed:

That in the debates of the Convention, the ordinary rules of the House of Commons be observed; but that the President or Vice-President, as the case may be, have the same right as any other delegate to take part in the discussion of any question.

Sir JOHN DOWNER: I think this motion will require a little amendment. We understand that the President is to move a motion in the Convention to-morrow, and if the resolution is carried in its present form it may raise some question as to whether such a proceeding will be strictly in order. I therefore beg to move, as an amendment:

That the words, "to make any motion and" be inserted after the word "delegate," line 4.

Amendment agreed to; motion, as amended, agreed to.

RULES OF DEBATE IN COMMITTEE.

Motion (by Mr. McMILLAN) proposed:

That in Committee the rules of debate observed in Committees of the Whole in Parliament be adopted by the Convention; but that the President or Vice-President, as the case may be, have the same right as any other delegate to take part in the discussion of any question.

Sir JOHN DOWNER: I think it would be better to insert the same words in this motion also.

Mr. McMILLAN: I accept the suggestion.

Motion so amended and agreed to.

OFFICIAL RECORD OF DEBATES.

Resolved (on motion by Mr. McMILLAN):

That an official record of the debates in the Convention be made by the Parliamentary Reporting Staff of this Colony.

DIVISIONS.

Motion (by Mr. McMILLAN) proposed:

That in any divisions taken in the Convention the President or Vice-President, as the case may be, have the right to vote and in case of an equality of votes exercise a second or casting vote; and that the names of the delegates be printed in alphabetical order, without reference to the Colonies which they represent.

Mr. PLAYFORD: I think that in this case we are altogether departing from the usual parliamentary practice, which is certainly not to give the President or the Speaker a deliberative as well as a casting vote. My own idea is that if the votes are so equal as to call for the casting vote of the President the question should pass in the negative. I, therefore, ask the mover to strike out all reference to the President or Vice-President having a deliberative as well as a casting vote. In order to take the sense of the Convention on the subject I shall move as an amendment:

That the following words be struck out:—"and in case of an equality of votes exercise a second or casting vote."

Mr. MUNRO: I am afraid the proposed amendment would not carry out the object desired by the hon. member. If he were to propose that "in the case of an equality of votes, the question shall pass in the negative" I could understand the position; but otherwise no provision will be made for what is to happen in the event of an equality of votes. If the words "exercise a second or casting vote" were struck out, and the words "the question shall pass in the negative" inserted, that, I think, would answer the purpose.

Mr. MOORE: I scarcely think there is any necessity at all for the resolution. The Rules of the House of Commons will provide for the case, and we might very well do without the resolution altogether.

Mr. BARTON: The effect of the rules of the House of Commons will not be as the last speaker supposes, but it will be to give the President simply a casting vote, and take away from him altogether a deliberative vote; and that certainly is not the intention of the Convention. Because of the accident—if I may so put it—of Sir Henry Parkes or Sir Samuel Griffith being in the chair on any occasion, it is not intended to take away their deliberative vote. And would it not be desirable to avoid what would happen in case the suggestion of the hon. member, Mr. Munro, were adopted—that is to say, that in case of an equality of votes the question should pass in the negative? There is no reason why it should pass in the negative any more than in the affirmative. What reason is there?

Sir SAMUEL GRIFFITH: Because the question will not be carried by a majority?

Mr. BARTON: But it will be carried by a majority if the casting vote is exercised. I would suggest that the casting vote should be exercised, and the better provision would be to say that it should be exercised on the same principle on which it is exercised by the Speaker of the Legislative Assembly—that is, not in a partisan way, but on certain principles, the chief

one of which is the allowance of opportunity for further discussion, which is exactly what is wanted in this case.

Sir SAMUEL GRIFFITH: It seems to me that having conceded to the President the right to initiate a motion and to speak upon it, this necessarily involves the assumption that he will be able to give an original vote upon the motion. But I entirely concur with the hon. member, Mr. Playford, that the President ought not to have two votes. In fact, I think that a question carried in the Convention by a casting vote is practically not carried at all. If we have not a larger majority on any question in this Convention than the casting vote of the Chair, we may consider that it is practically negatived, whatever appears on our records. I do not think myself it makes much difference in what form this resolution is worded, because our conclusions must be arrived at with practical unanimity. Still there are minor matters in which no doubt every delegate would be willing that his own judgment should bow to the opinion of the majority. Whether his colony would follow him in that is another matter to be considered afterwards. But this resolution also raises the question whether the voting in this Convention shall be by individuals or by colonies? There is, again, a difference of opinion on that point, if not in the Convention, at any rate outside of it. I do not propose to discuss the matter at any length; but considering that we are to a certain extent a constitutional Convention, met here to deliberate and to devise the best things to be done, and that we shall have to deal with a great number of details, I am disposed to think the better plan would be that evidently intended by the proposer of the resolution—that we should give our votes individually. I would ask the delegate from South Australia, Mr. Playford, to accept the suggestion of the hon. member, Mr. Munro, and so frame his amendment that in case of an equality of votes, the question shall pass in the negative.

Mr. PLAYFORD: I am quite willing to do so.

Mr. GILLIES: We have already passed a resolution which sets out that we are to be guided by the practice of the House of Commons. A resolution such as that proposed would certainly alter that determination at which we have already arrived. It would be inconsistent. The practice of the House of Commons is well known. That body does not invest its speaker with a deliberative as well as a casting vote, and, as the hon. member, Sir Samuel Griffith, has pointed out, the question is bound to be raised as to whether we shall vote by colonies or as individual members. I do not think we have an opportunity this afternoon, short as the sitting must be, to determine that question. It is an important question in the minds, I believe, of a number of the delegates, and I feel confident it is also an important question in the minds of many of the colonies which the delegates represent. Therefore, if the mover of the resolution could see his way to postpone it and bring it up later, when we can really discuss that question, it would be, to my mind, extremely desirable. I do not think we shall lose anything by postponing this matter for the present, because the rules of the House of Commons will determine our practice for some little time to come, and in a day or two we may be able to raise this question without any difficulty.

Sir JOHN DOWNER: I would simply point out that if the practice of the House of Commons were followed the President would not have a deliberative vote, and I certainly understand that you, sir, accepted the position in which you are now placed on the distinct understanding that you were to have a deliberative vote, the question of a casting vote, of course, being left open to the Convention to decide. But an important question will arise as to whether we are to vote individually or by colonies, and as there will not perhaps be time to discuss that question this afternoon, I would join with the hon. member, Mr. Gillies, in the suggestion that it should be postponed until we have a better opportunity to consider it.

Mr. GORDON: With regard to the question whether we shall vote by colonies or by individuals, I would ask whether we are not bound by the 4th resolution adopting the ordinary rules of the House of Commons? It is just a question whether we have not gone a little too far already in committing ourselves absolutely to the rules of the House of Commons, and whether we should not hark back a little.

Mr. McMILLAN: I agree with the hon. member, Mr. Gillies, that if we want to open up a debate as to whether we are to vote individually or by colonies, it would be better to postpone this motion. We took it for granted that that question had been practically settled; but if there is to be a debate upon it, I shall be very glad to postpone this motion until to-morrow.

Debate adjourned.

ADMISSION OF THE PRESS AND PUBLIC.

Mr. McMILLAN rose to move:

1. That when the Convention is engaged in debating matters formally submitted by previous notice, or submitted by consent without notice, the press and public be admitted on the order of the President.
2. That whenever the Convention is in Committee the press and public be not admitted, unless otherwise ordered.

He said: I am sure, as far as I know the minds of the delegates, that we have no desire to exclude the press from any important discussion whatever; but it is simply to discuss the order of our business and to expedite business that we desire to hold any informal meetings.

Question put.

Mr. DIBBS: I desire to move the omission of all the words after the word "That," in the 1st clause of the resolution, with the view of inserting other words, which I hope will meet with the approval of members of the Convention, and which will certainly meet with the approval of the people from one end to the other of this colony. I beg to move:

That all the words after the word "That," in the first line of the 1st clause, be omitted with a view to insert the following words:—"during the sittings of this Convention the press and the public be admitted on the order of the President." That clause 2 be omitted.

I move this amendment for the purpose of pointing out that, if ever that sentiment which was so much lauded last night—"one people and one destiny"—is to be given effect to, it will be by taking the people in all the colonies fully into our confidence. That can only be done by throwing open our doors wide to the press and the public, so that they may hear every debate and argument used in favour of a federated Australia. If my amendment is carried, it will be necessary to omit the 2nd clause of the motion altogether. By adopting the course I suggest, we shall enable the public to judge whether our decisions are in the interest of Australia as a whole, and of the respective colonies. If the public know that all our proceedings are subject to outside criticism, there will be no feeling that this is a secret conclave to take away the liberties of the public. We will take the people with us a long way in any course which members desire to carry out, if we admit the press and public to all our proceedings. We want to build up a nation, and in order to do so, we must take into our confidence the people, who are the principal factors, and the press also.

Mr. DOUGLAS: We will all agree to strike out the words necessary to give effect to the hon. member's amendment; and that will best be done by omitting the words, "on the order of the President." It appears to me that our object is to have all matters dealt with before the public as much as possible.

Mr. PLAYFORD: The best thing we can do is to follow parliamentary practice. The practice of

our Parliament is to admit the press and public, with the right to exclude them at any time if we please. We shall accomplish all we desire by adopting the following amendment:—

> That all the words after the word "That" in the first line be omitted with a view to insert the following words:—"all the proceedings of the Convention shall be open to the press and the public unless otherwise ordered."

The clause with regard to proceedings in Committee should, I think, be omitted altogether. In Committee the most important portion of our work will have to be done. The whole of the debates on the Constitution which we may adopt, and a great many matters of detail which are of exceedingly great interest, will all be dealt with in Committee; and the public will take the deepest interest in our proceedings at that time. They will take more interest in those proceedings than they will in the merely formal resolutions which will be submitted prior to the Constitution being framed. Whenever we find it is desirable that the press and public should be excluded we can do so under the amendment I propose. The more public we make our proceedings, as in the case of Parliament, the better it will be for us and for the cause we are here to promote.

Mr. DIBBS: The object of Mr. Playford would be carried out by adding to my amendment the words "unless otherwise ordered."

The PRESIDENT: I would venture to suggest that it would be the better course for the mover to withdraw his motion and give notice of a fresh one for to-morrow, embodying the views of Mr. Playford.

Mr. McMILLAN: I understand that Mr. Dibbs agrees to accept Mr. Playford's amendment. I would suggest that they should be amalgamated at once.

Mr. DIBBS: If I accept the suggestion of Mr. Playford and add to my amendment the words "unless otherwise ordered," the whole question can be dealt with now. I will add those words to my amendment.

Mr. PLAYFORD: I do not approve of the insertion of those words "on the order of the President." It should be "on the order of the whole Convention."

Mr. McMILLAN: It is only fair to those who drew this resolution to say that their only intention was that we should have the power within ourselves to sit without the public being present, and this was purely a formal motion, which would permit us to take any course we liked. I accept the amendment.

Sir SAMUEL GRIFFITH: Mr. President, for my part, I think the press and public—the press is only a part of the public, after all, and comes in as part of the public—should be admitted to all sittings of the Convention, sitting as a Convention, whether you, sir, are in the chair as President, or whether we are in Committee. I take this opportunity of saying so, because I observe it has been stated in various parts of Australia that I entertain a contrary view. I have never entertained or expressed to any one a contrary view. I believe, as Mr. Playford has said, that the most important work of the Convention will take place in Committee. There the closest arguments will be applied, and there the most instructive lessons will be given, if any lessons are to be derived from what we say. I therefore entirely concur with the amendment of the hon. member, Mr. Dibbs. As to the words, "on the order of the President," I do not understand them to mean that the President would have power to exclude the public from the House. I understand them to mean merely that if 500 persons desired to be admitted, and there was only room for fifty, those who were admitted should be admitted on his order.

Mr. GILLIES: When I saw this resolution first drawn I took it for granted that it practically proposed to carry out what was done in Melbourne last year, when all the important debates were open to the press and the public. But it was manifest to the minds of nearly the whole of the representatives that times would come when it would be much more convenient for the members themselves, and more convenient for the transaction of business, if they met without the presence of the public and the press. Not that there was an intention to conceal anything; but it was with the view of enabling their business to be presented to the public and the press in a form in which they would be able to discuss the subjects properly and methodically. According to the historical information which we have gathered as to the course pursued by the British-American colonies when they considered the question of federation, they did so with absolutely closed doors. There was no information given to the public at all. The discussions took place in private, and it was only occasionally at public meetings, and afterwards in the legislative halls, that the members were in a position to tell the public what they had done. On this occasion we do not propose to do that. From all we have been able to learn the course then pursued was an unfortunate one, although unquestionably it was done for the best purposes and objects. The public did not thoroughly well understand the whole course of procedure, and their minds were partly made up, at any rate, in some of the provinces, against the course that was proposed. The result was that in one of the provinces some of the best and foremost men, occupying the highest public positions, were relegated for the time-being to private life, because the public did not understand their objects at the moment, and did not appreciate them. If at this moment we proposed the absolute exclusion of the public and the press, it would be a terrible mistake. We are all desirous that the press and the public should be thoroughly well informed of what we are doing from time to time. But what I would urge is that there will be times when we can deal much better with questions privately, for the time-being, than we can deal with them publicly. That they must be afterwards dealt with publicly is beyond question. In my judgment it is better that some important points should be thoroughly thrashed out in detail, and then submitted in a proper and satisfactory form to the delegates, so as to enable them to discuss the subject thoroughly, and with such comprehension of their importance as would weigh both with the public and the press. I feel convinced that if a resolution be carried, providing that in all Committee meetings of this Convention the press shall be present, before long we shall find out that we have made a mistake. The position into which we shall be forced will be this: that we shall not meet as a delegation at all; we shall meet privately, as we met this morning, and discuss subjects which, perhaps, would have been better discussed in a more formal manner. Our discussions must necessarily involve details, some of them very important, which could be more expeditiously settled if they were not first dealt with in the presence of the press and of the public.

Sir JOHN DOWNER: I take it that in the case of all legislation, whatever disposition we may have to perform all our acts in the broad light of day, in the presence of the press and of the public, there must always be, in matters of detail, some degree of privacy. When an attorney-general is instructing the draftsman as to the contents of a ministerial bill, there is not usually a reporter present to hear what is being done, nor is the public generally admitted. I agree with what Mr. Gillies has said, that it would be an immense saving of time if we openly and straightforwardly said, that when we are discussing the details of important questions we shall do so without admitting the public, rather than resort to any expedient which may bring about identically the same result, such as private and unofficial conferences, respecting which the public would not be informed. It appears to me that no vital mischief can come from this proposal, seeing that the details we agree

upon in Committee have to take the form of resolutions which have to be submitted to the Convention, which have to be justified, and the whole of the reasons for adopting them will have to be explained. If a resolution is come to by a majority, the minority will take very good care to have the other side of the question properly ventilated. It was not merely in the case of Canada, but also in the case of the United States, that the proceedings of the Convention were originally conducted with absolute secrecy. Whilst I would deprecate absolute secrecy as much as any member of the Convention would, I understand that there is much of our business that would be conducted more expeditiously, and many disagreements might very well be reconciled, if we had an opportunity of conferring in an informal way amongst ourselves, instead of always speaking *ex cathedra*, with every word we said being reported. Speaking from my own point of view, I concur with what the Conference did in Melbourne. They came to a wise resolution when they said that the discussion of principles should be public, but that the discussion of details in Committee should be private. In this instance the discussion has to be public ultimately; it cannot be suggested that this is a hole-and-corner business in any shape or form. Practically, everything will be done in the broad light of day. The only difference will be that, instead of so meeting, we shall be able to advance the cause better by the men sent from the different colonies consulting privately amongst themselves, afterwards submitting the resolutions they have arrived at publicly, and explaining the reasons. That will be much better than to allow the preliminary discussions to take place in public, when possibly the delegates might commit themselves to opinions from which they might have some difficulty afterwards in retiring. I know there is a strong public feeling on this question. Of course the press are particularly anxious that nothing should take place among us that they do not understand. I sympathise with them in that feeling, and I would be the last to wish to deprive them of any information as to our course of action, or as to the ultimate conclusions we come to. But I feel certain that the course adopted in Melbourne was a wise and prudent one, and might be well followed by this Convention.

Mr. MUNRO: It appears to me that we are wasting time on what is really no practical question. I understood that the hon. member, Mr. Dibbs, wishes to add to his amendment the words "unless otherwise ordered." Surely that covers the whole ground! If any necessity should arise for holding a private meeting, the words "unless otherwise ordered" would meet the case. My own impression is that such an occasion will not arise at all. We are appointed delegates to draft a constitution for a federal parliament and federal executive, and everything that we do is of interest to the whole of the Australian colonies. While there may be some little differences of opinion on details, surely, whether we are sitting in Committee or in open House, we cannot debate the question in a proper manner unless the proceedings are open to the press and the public, and unless we deal with the question in a formal way! We are not supposed to meet privately or in an informal manner. I am quite sure that our business would be facilitated by transacting it in the presence of the press and the public. I am quite sure that the business would be better conducted. If occasion arises at any time the President and Convention can order that the press and public be excluded; but until that occasion arises I do not think there is any necessity for wasting time over this question.

Mr. FITZGERALD: I apprehend there can be no difference of opinion among members as to the great importance which attaches to the creation of public opinion throughout the colonies on the question of federation. On the other hand, we have to consider that we come here in a spirit of compromise——to carry out that "give and take" policy which may be said to be the essence of British parliamentary government, without which it will be impossible to obtain a successful termination of our labours. What we have to consider is whether the opening of our proceedings at all stages to the press will not considerably affect that spirit which must be such an important factor in our deliberations. There is a great deal to be said on this subject. We all recognise the value and importance to us of having all our proceedings known to the public of Australia; but it is for us to consider whether it is wise to consent to the publication of these things—the publication of the surrender of important principles which delegates come here prepared to support, but which there will be a necessity for them to resign, if not wholly, certainly in part, if we are to come to any satisfactory conclusion. It is a most difficult question to decide. I am sure that the delegates do not desire to come to a hasty conclusion. I confess that when I first read this resolution I thought it covered the ground entirely; that unless there should be some good reason to the contrary this Convention would consider that its deliberations on the details of any scheme of federation should be conducted *in camera;* and, as has been well put, that the result of the labours of the Convention in Committee should form the subject of resolutions which would be discussed openly. The public would then have an opportunity of regarding the resolutions according to their merit, and would be able to form opinions as to their value, and as to how far they affected their interests or liberties. I think it is desirable that this question should not be decided this afternoon, but that there should be an adjournment in order to allow of further thought as to whether it would be to the advantage of the object we have all come here to further to have every detail, every concession, every argument made known to the world before we come to a conclusion. It is a matter of the utmost moment and weight, affecting in the most serious manner the result of the labours of this Convention, and I would respectively suggest that the question should be postponed until to-morrow.

Mr. THYNNE: In dealing with this matter, reference has been made by the hon. member, Mr. Gillies, to the conduct of the convention in Canada, and by the hon. member, Sir John Downer, to the convention in the United States, and it was shown that both conventions held their sittings practically in secret; but I think that the circumstances under which we are now met are radically different from the circumstances under which both those conventions were held. I take it that the movement in favour of the federation of these colonies is one that has sprung wholly and solely from the people of the colonies themselves, for their own advantage, and I think it is in that respect that the movements which took place in Canada, and in the United States, were materially different, because they had powerful forces external to the countries themselves which urged them strongly to enter into some form of federation. I think that in this matter, unless we are entirely with the people of these colonies, we are bound to meet with a great deal of difficulty hereafter, and it seems to me that we should be making a very great mistake if we adopted in this Convention any course of procedure differing from that adopted in the parliaments of all the colonies, and that is the complete opening of all the discussions, whether in Committee or out of it, to the public. If we adopt the resolution which has been moved by the hon. member, Mr. McMillan, I think there will be some ground for fearing that suspicion will attach to some of the proceedings of this Convention, and I think that that would be a most unfortunate thing. The amendment should be carried without the delay which one hon. gentleman has requested.

Mr. SHIELS: I think the suggestion offered by Mr. Fitzgerald and other gentlemen is the correct one to adopt. We are taking a very serious step, and I think the question requires more consideration. What are the complaints which have been made against parliamentary government of recent years, not only in these colonies but also in the mother country? They are that there is an intolerable amount of talk, that when the people expect work they get—sometimes eloquence, but sometimes mere words, and words which had better have been left unspoken. The course being taken is, I think, a dangerous one, and will be dilatory in its action, the inevitable tendency of large bodies of representative men with the press before them, being to rhetorical displays, and also to the exhibition of a spirit the very opposite to that which is so necessary in our deliberations—the spirit of compromise. A spirit of stubbornness is induced. Men having committed themselves in the sight of the press and of the public to a certain view, it is human nature that they will contend for that view to the last, so that, instead of being ready, in a spirit of compromise, to give up for higher objects, they will be unyielding and resisting when they should yield, and when they ought to feel that the opinions in favour of a course opposite to that which they advocate are worthy of their consideration. We are taking a course essentially dangerous at the present time, and I think that we ought not to have a discussion on this motion until further opportunity be given for consideration. I move:

That the debate be adjourned until to-morrow.

Mr. MACDONALD-PATERSON seconded the motion.

Mr. RUTLEDGE: I must express my regret that the amendment moved by the hon. member, Mr. Shiels, has been submitted to the Convention. We have had twenty-four hours to think over this matter. Notice of the intention to move this motion was given yesterday when we met; and I do not think that we shall derive any benefit, or that the proceedings of this Convention will be in any way facilitated by a further postponement. I think we have all made up our minds pretty well as to what is the proper course to adopt on the present occasion with regard to this matter. Hon. gentlemen who have advocated that part of our proceedings should be conducted privately, have endeavoured to strengthen their arguments by references to the procedure adopted when the United States Convention assembled in the year 1787, and to the procedure of the later Convention assembled for the purpose of founding a Constitution for what is now the Dominion of Canada; but, as has been observed by the hon. member, Mr. Thynne, it must not be forgotten that the circumstances which obtained in both those epochs were very different from those which prevail at the present time. It cannot be contended that when the Convention assembled in 1787, there was a public press of the character which we now have, not only in the metropolis of New South Wales, but also in all the Australian capitals and in all the principal provincial towns of these colonies; and I think we assume too much when we take it for granted that we who are assembled here are the only persons who can exercise an educative effect upon each other. A great many of us are only feeling our way. By the interchange of ideas in this Chamber we shall do a great deal to imbue each other with a true idea of the functions pertaining to us, and the objects we hope to achieve; but while we hope to get a great deal of illumination from the interchange of opinions on the floor of this assembly, I think we must admit that we shall derive great benefit from the educative influence of the press outside. I think the more daylight we can let in upon our proceedings, the more advantageous it will be, and the more it will facilitate the work of this Convention. We have to cultivate the sympathy of the people whom we are sent here to represent, and we should suffer a very great disadvantage indeed if we allowed the idea to go abroad that there was any part of our proceedings as a Convention which it was desirable to shield from public observation. Even in connection with our own legislative assemblies there is a great deal of business done informally in private. It is not done by the legislative assemblies as such, but it is done in committees, and in other meetings where members of both parties come together to arrange their respective programmes. Why cannot we do this now? There is nothing in the amendment moved by the hon. member, Mr. Dibbs, which prevents any number of the members of this Convention from assembling together in order to interchange ideas, and I think, remembering this, there is no need to suggest the desirableness of having any part of the proceedings of this Convention as a convention held in private. Some hon. gentlemen have suggested that if we do not adopt the expedient that has been referred to by Mr. Fitzgerald, of having part of our proceedings on occasion in private, it will tend to produce a great flood of oratory, and members will make speeches for the sake of being reported; but I conceive that if we have part of our proceedings in private, in this way we shall bring about the very evil sought to be avoided, because when there will only be formal motions submitted here to be spoken to by the delegates, every delegate will conceive it important to him to have all his say on these resolutions; whereas, if the proceedings of the Committee were as open to the public as the proceedings of the Convention, when resolutions of a formal character were being discussed, delegates would not have the same inducement to make long speeches for the sake of being reported.

Mr. FITZGERALD: The hon. member must be mistaken when he connects me with this idea. I have not entertained it, nor have I expressed it.

Mr. RUTLEDGE: I have not attributed the argument to the hon. delegate, but I know that the idea has existed in some minds, and I am aware that there is a fear that, unless some of the proceedings of the Convention are conducted without the press and the public being admitted, there will be a tendency to open the flood-gates of talk, and to obstruct, rather than facilitate, the progress of business.

Mr. BAKER: I confess that this is a most difficult question, and I have not made up my mind as to the side I shall take. But I rise to point out one fundamental difficulty which has not yet been pointed out by any delegate. Our proceedings here have been compared to the proceedings in Parliament, and we are told that, because the proceedings of Parliament are open to the public, the proceedings of this Convention ought also to be always open to the public. Now, the fundamental difference between this Convention and Parliament is this: Parliament has power to decide upon and finally make laws. After a Bill has emerged from Parliament and has received the Royal assent it becomes an act, and binds the people; but we are met here only to advise. Everything we do has hereafter to be discussed and decided upon by the people. We are told—and, no doubt, correctly told—that it is our duty to educate the people up to this idea of federation—to the adoption of a scheme which I hope we shall frame in this Convention. No doubt this is true; but the education will come after we have adopted the scheme. It does not at all follow that the public should be necessarily admitted to all the details of the framing of the scheme. It will be a very difficult thing for the delegates, after the scheme has been framed and adopted, to explain it, as they will have to do, to the people of the various colonies if the public are admitted to all our discussions. I confess I see great difficulties on both sides. If we do admit the public to every discussion it will be difficult for the delegates when they return to the different colonies

from which they were sent to cry back upon the opinions which they have strongly advocated here, although they will have to cry back in respect to some of the details if that spirit of compromise, which is the only spirit which should be admitted here, is present. If we have to give way after having strongly expressed our opinions it will be most difficult for us when we get back to agree to views contrary to those which we favoured here. On the other hand, if the press and the public are not admitted to all our proceedings I know that a suspicion will arise—I believe an unworthy suspicion—that something has happened which, for some improper reason, we do not want made public. But I am quite sure that no such suspicion can possibly be founded on truth. In conclusion, I hope that the amendment will be agreed to, and that we shall have a longer time to think over this matter.

Sir SAMUEL GRIFFITH: There is such a difference of opinion upon this subject that it seems to me that it will be necessary to dispose of notice of motion No. 7 before we can deal with the motion before us. At the present time we do not know how to divide, so that we are bound to postpone this motion.

Motion agreed to; debate adjourned.

Convention adjourned at 3·47 p.m.

WEDNESDAY, 4 MARCH, 1891.

The Roll—Divisions—Admission of the Press and the Public—Quorum—Federal Constitution.

The PRESIDENT took the chair at 11 a.m.

THE ROLL.

Sir George Grey, K.C.B. (New Zealand), and Sir Thomas M'Ilwraith, K.C.M.G., LL.D., M.P. (Queensland), subscribed the roll.

DIVISIONS.

Debate resumed (from page 6) on motion by Mr. McMillan:

> That in any divisions taken in the Convention the President or Vice-President, as the case may be, have the right to vote, and in case of an equality of votes exercise a second or casting vote; and that the names of the delegates be printed in alphabetical order, without reference to the colonies which they represent,—

Upon which Mr. Playford had moved an amendment to omit the words:

> and in case of an equality of votes exercise a second or casting vote,

Mr. McMILLAN: In order to save time I have found out to a great extent the wishes of members of the Convention in regard to this motion and amendment; and I will propose an alteration, subject, of course, to the concurrence of hon. members, when I have stated what that alteration is to be. I find that it is the general desire that the President should not have a casting vote, and that when the votes are equal a motion should be considered as having been practically decided in the negative. I propose, therefore, to omit the words "exercise a second or casting vote" with the view to the insertion of the words "the question shall be deemed to have passed in the negative."

The PRESIDENT: As the matter now stands, the amendment moved by the hon. member, Mr. Playford, is in the way of the proposal by the hon. member, Mr. McMillan.

Mr. PLAYFORD: I ask leave of the Convention to withdraw my amendment.

Amendment, by leave, withdrawn.

Motion (by Mr. McMillan) agreed to:

> That the words "exercise a second or casting vote" be omitted with a view to the insertion of the words "the question shall be deemed to have passed in the negative."

Mr. SHIELS: Perhaps my hon. friend will allow me to suggest the advisability of providing for what may occur, namely, the desire of the Convention to have the question again submitted to it. The passing in the negative may be held to preclude the right of the Convention, excepting by special order, to have a matter again submitted for consideration. Perhaps it would be advisable to provide for any such contingency by adding words to the resolution such as the following:—

> but may be again submitted for consideration.

Mr. McMILLAN: Notice of motion can be given under the orders of the day!

Mr. GILLIES: The orders of the House of Commons would prevent that!

Mr. SHIELS: The difficulty will be that when once the question is passed in the negative—if you simply follow the rules of the House of Commons which are to guide our proceedings—it cannot be brought forward again in the same session.

Mr. PLAYFORD: A motion can always be rescinded!

Mr. SHIELS: I am only throwing out the suggestion in order to prevent anything of that kind.

Question resolved in the affirmative.

ADMISSION OF THE PRESS AND PUBLIC.

Debate resumed (from page 10), on motion by Mr. McMillan:—

> (1.) That when the Convention is engaged in debating matters formally submitted by previous notice, or submitted by consent without notice, the press and public be admitted on the order of the President.
> (2.) That, whenever the Convention is in Committee, the press and public be not admitted, unless otherwise ordered.

Upon which Mr. Dibbs had moved an amendment to omit from the first paragraph the words:—

> "when the Convention is engaged in debating matters formally submitted by previous notice, or submitted by consent without notice," with a view to insert the words "during the sitting of the Convention."

Mr. McMILLAN: Again with the object of saving time, I would ask my hon. friend, Mr. Dibbs, to withdraw his amendment with the view of substituting the following:—

> That the press and public be admitted, unless otherwise ordered, during the sittings of the Convention, on the order of the President.

I think a motion of that kind will meet the views of the delegates generally. It still leaves it open to us to have close sittings, if necessary, and it establishes the general principle that, in most cases, the press shall be admitted.

Mr. DIBBS: With the concurrence of the delegates, I have much pleasure in withdrawing my amendment. The principle I advocate is the free and open discussion of all our proceedings. Of course we shall have the right to exclude the press; but I feel perfectly certain that that right will never be exercised.

Amendment and motion, by leave, withdrawn.

Motion (by Mr. McMILLAN) proposed:

> That the press and public be admitted, unless otherwise ordered, during the sittings of the Convention, on the order of the President.

Sir THOMAS McILWRAITH: I cannot understand why such a distinct change should be made from what was considered necessary yesterday. So far as I can gather from reading the debate of yesterday, the opinion of most of the delegates is that the press shall be admitted whilst the Convention is sitting as a convention; but that, whilst sitting in Committee, the press shall not be admitted. I believe that is the intention; and we do not get away from it by simply

throwing upon yourself, Mr. President, the responsibility of directing whether the press shall be admitted or not. We have to look at what will practically be the result if the matter is left entirely to yourself. The result will be that the press will always be present, because I do not think for a moment you will ever take—unless moved strongly by the Convention itself to do so—the responsibility of ordering out the press. It is quite possible, therefore, that the press will always be present, unless something happens in connection with which the Convention may consider it would be more to its credit for the press not to be present. It is not to prevent anything of that kind that we want the press to be present. It is to curtail our proceedings, to allow us to act in Committee with a great deal more freedom, and to allow us to come to a determination more quickly than we would do if the press were present. I believe myself that if the press are present at our proceedings in Committee the Convention will be protracted from week to week. We will be posing to the press, and we will, possibly, be led by the press. We ought to come to the Convention with our own ideas and discuss them ourselves. I am perfectly satisfied that, in discussions in Committee, we shall come to much better, quicker, and freer determinations without the presence of the press than we shall if every motion in Committee is commented upon by the press. I shall not vote for the motion.

Colonel SMITH: I regret to have to differ with the hon. gentleman who has just resumed his seat; and I do so, not on account of the press, because that is a matter of the most profound indifference to me, but because I think the people of all these colonies ought to know everything that is said, whether in Committee or out of Committee. They ought to know the reason why we arrive at certain resolutions in Committee. The people of the whole of the colonies are expected to indorse our actions, and to know the reasons for the decisions at which we arrive. For my part, I support most cordially the proposal which was brought forward by the hon. member, Mr. Dibbs, or the one now proposed by the hon. member, Mr. McMillan. I certainly do think that if we act fairly to the people we represent in the various colonies we ought to allow the utmost publicity. The hon. member, Sir Thomas McIlwraith, knows that the attending and reporting of our proceedings is a costly matter for the press. It is not for the purpose of pleasing us that the press are present, but for the purpose of letting the people of the various colonies know what we are doing, and why we are doing it. I cordially support the proposal of the hon. member, Mr. McMillan.

Sir PATRICK JENNINGS: I must own that when I first considered this subject I thought our proceedings would be expedited if certain debates which will take place in Committee were not attended and reported by the press. I certainly believe, with all due respect to the delegates, that the reporting of all our proceedings will tend to prolong the sitting of this Convention. I find, however, that gentlemen whom we might most naturally expect would desire to return to their homes as early as possible are in no degree adverse to the probable prolongation of our sittings by the presence of the press fully to report all that is done. We are, no doubt, doing a great work; and I think that we ought not to hurry over it. Every opportunity ought to be given to discuss and reflect upon every proposal brought before the Convention. Under these circumstances I have fallen in with the view put forward in the amendment proposed by the hon. member, Mr. Dibbs, yesterday, and now substituted by the motion of the hon. member, Mr. McMillan, that it will be most desirable, in the interests of all the colonies, in the interests of the Australasian public, and as a means of giving very wide and broad information in regard to our proceedings, to have the whole of them reported in the press. I think my hon. friend, Sir Thomas McIlwraith, probably misunderstood the meaning of the motion. I do not take it to be the intention of the President to exclude any person whatever; he is simply to have the power to regulate the numbers of those who may attend—that is, for the purpose of keeping order and preventing overcrowding. I do not expect there will be any occasion upon which the members of the Convention will comport themselves in such a way as to render necessary a motion that the press be excluded. I am quite confident, from the concourse of gentlemen who are here, with all their vast experience and ripe knowledge, that our proceedings throughout will be consistent with the dignity and importance of the occasion, and will be well worth reporting. I have great pleasure in supporting the motion.

Question resolved in the affirmative.

QUORUM.

Mr. McMILLAN: I beg to move:

That twenty-five delegates do form a quorum of the Convention.

The idea is that we ought to have present at least a majority of the whole of the delegates before going to business on any important matter, and as the delegates number about forty-five, and as it is better to frame the resolution in a specific manner, so that we may easily count those who are present, rather than have a mere majority and an open question as to what a majority might be, I have decided to make it specific—that is to say, that twenty-five members shall form a quorum.

Mr. GILLIES: Inclusive or exclusive of the President?

Mr. McMILLAN: Inclusive. The President is a member.

Mr. THYNNE: I think that some provision might be made for a few minutes grace after the hour appointed for meeting. If you, Mr. President, should happen to be a few minutes late, and, although the Vice-President might, perhaps, be on the premises, but not actually in the room, the Convention would have to adjourn for the day if no grace at all were allowed. I think that five or ten minutes, or half an hour's grace should be provided for, in order to prevent accidents that might otherwise happen.

Mr. GILLIES: The House of Commons' rule is half an hour's grace after the time of meeting, and we have adopted the House of Commons' rule.

Question resolved in the affirmative.

FEDERAL CONSTITUTION.

The PRESIDENT: As the next business stands in my name, I would suggest that Sir Samuel Griffith, Vice-President, relieve me of the Chair, if agreeable to the Convention.

The Chair was taken by the Vice-President.

Sir HENRY PARKES: I have the honor to move:

That in order to establish and secure an enduring foundation for the structure of a Federal Government, the principles embodied in the resolutions following be agreed to:

(1.) That the powers and privileges and territorial rights of the several existing Colonies shall remain intact, except in respect to such surrenders as may be agreed upon as necessary and incidental to the power and authority of the National Federal Government.

(2.) That the trade and intercourse between the Federated Colonies, whether by means of land carriage or coastal navigation, shall be absolutely free.

(3.) That the power and authority to impose customs duties shall be exclusively lodged in the Federal Government and Parliament, subject to such disposal of the revenues thence derived as shall be agreed upon.

(4.) That the military and naval defence of Australia shall be intrusted to Federal Forces, under one command.

Subject to these and other necessary provisions, this Convention approves of the framing of a Federal Constitution, which shall establish,—

(1.) A Parliament, to consist of a Senate and a House of Representatives, the former consisting of an equal number of Members from each province, to be elected by a system which shall provide for the retirement of one-third of the members every years, so securing to the body itself a perpetual existence combined with definite responsibility to the electors, the latter to be elected by districts formed on a population basis, and to possess the sole power of originating and amending all bills appropriating revenue or imposing taxation.

(2.) A Judiciary, consisting of a Federal Supreme Court, which shall constitute a High Court of Appeal for Australia, under the direct authority of the Sovereign, whose decisions, as such, shall be final.

(3.) An executive, consisting of a governor-general and such persons as may from time to time be appointed as his advisers, such persons sitting in Parliament, and whose term of office shall depend upon their possessing the confidence of the house of representatives, expressed by the support of the majority.

In submitting these resolutions, I must repeat in the full Convention what I have stated to different delegates and to different sections, that I submit these resolutions in no sense with a desire to push them to a conclusion in any special interest. In other words, I do not submit them as I submit a resolution embodying some principle upon which I have strong convictions in the Parliament of the country; but I submit them as a ground-work on which a debate may be raised on the whole question with which we have to deal, and I submit them with the expectation that they will be freely and unfearingly discussed, amended, negatived, dealt with in whatever way the Convention pleases. They certainly give a fair expression of the outline of the constitution which we want, as it exists in my own mind, and to that extent I at once acknowledge the paternity of the motion I make. I may, perhaps, be permitted, before entering upon the subject-matter of my resolutions, to say a few words which, if I deemed an inaugural address absolutely necessary, I should have said. I venture, before entering upon a discussion of these special resolutions, to appeal to every colony and to every delegate representing every colony, to meet the work which we are now about to begin in a broad, federal spirit. We cannot hope for any just conclusion—we cannot hope reasonably for any amount of valid success—unless we lose sight, to a large extent, of the local interests which we represent at the same time as we represent the great cause. There can be no federation if we should happen, any of us, to insist upon conditions which stand in the way of federation; there can be no federation—no complete union of these governments, of these communities, of these separate colonies, unless we can so far clear the way as to approach the great question of creating a federal power as if the boundaries now existing had no existence whatever. I think it is quite consistent for every one of us to disburden our minds of our local—I will not say prejudices, but of our local inclinations, without in any way impairing our patriotic resolve to preserve the rights of each of the colonies we represent. It does seem to me in the highest degree necessary that we should approach the general question in the most federal spirit we can call to our support. I do not know that I need dwell on that topic any longer, because I think, looking at the gentlemen around me, it must be apparent to the mind of every one who hears me; but I myself cannot too fervently impress on my co-representatives from all parts of Australia the necessity of keeping in view the one object of the better government of the whole Australian people. I contend that any resolutions to form a basis for our proceedings must be sufficiently informal and elastic not to fetter, as it were, our hands at every effort we make. I, therefore, lay down certain conditions which seem to me imperative as a groundwork of anything we have to do, and I prefer stating that these first four resolutions simply lay down what appear to me the four most important conditions on which we must proceed. First:

That the powers and privileges and territorial rights of the several existing colonies shall remain intact, except in respect to such surrenders as may be agreed upon as necessary and incidental to the power and authority of the National Federal Government.

I think it is in the highest degree desirable that we should satisfy the mind of each of the colonies that we have no intention to cripple their powers, to invade their rights, to diminish their authority, except so far as is absolutely necessary in view of the great end to be accomplished, which, in point of fact, will not be material as diminishing the powers and privileges and rights of the existing colonies. It is therefore proposed by this first condition of mine to satisfy them that neither their territorial rights nor their powers of legislation for the well-being of their own country will be interfered with in any way that can impair the security of those rights, and the efficiency of their legislative powers. By my next condition I seek to define what seems to me an absolutely necessary condition of anything like perfect federation, that is, that Australia, as Australia, shall be free—free on the borders, free everywhere—in its trade and intercourse between its own people; that there shall be no impediment of any kind—that there shall be no barrier of any kind between one section of the Australian people and another; but, that the trade and the general communication of these people shall flow on from one end of the continent to the other, with no one to stay its progress or to call it to account; in other words, if this is carried, it must necessarily take with it the shifting of the power of legislation on all fiscal questions from the local or provincial Parliaments to the great national Parliament sought to be created. To my mind it would be futile to talk of union if we keep up these causes of disunion. It is, indeed, quite apparent that time, and thought, and philosophy, and the knowledge of what other nations have done, have settled this question in that great country to which we must constantly look, the United States of America. The United States of America have a territory considerably larger than all Australasia—considerably larger, not immensely larger—and from one end of the United States to the other there is no custom-house office. There is absolute freedom of trade throughout the extent of the American union, and the high duties which the authors of the protectionist tariff are now levying on the outside world are entirely confined to the federal custom-houses on the sea-coast. Now, our country is fashioned by nature in a remarkable manner—in a manner which distinguishes it from all other countries in the wide world for unification for family life—if I may use that term in a national sense. We are separated from the rest of the world by many many leagues of sea—from all the old countries, and from the greatest of the new countries; but we are separated from all countries by a wide expanse of sea, which leaves us with an immense territory, a fruitful territory—a territory capable of sustaining its countless millions—leaves us compact within ourselves. So that if a perfectly free people can arise anywhere it surely may arise in this favoured land of Australia. And with the example to which I have alluded, of the free intercourse of America, and the example of the evils created by customs difficulties in the states of Europe, I do not see how any of us can hesitate in seeking to find here absolute freedom of intercourse among us. My next resolution says:

That the power and authority to impose customs duties shall be exclusively lodged in the federal government and parliament, subject to such disposal of the revenues thence derived as shall be agreed upon.

Here we create the power of raising revenues through the Customs, which, of course, will open the field to the great and aggressive debates as to which form of customs duties will be most conducive to the welfare of the country as a whole. It may be—it is not for

me even to prophesy or to express my own opinions in that direction—it may be that the federal parliament will at once declare for a protective policy for Australia against the world. Possibly it may be that the federal parliament, composed, as we have a right to expect it will be composed, of the best men Australia can supply, will propose some different policy. I will not use words here to describe that policy—I will use no qualifying words—but let the federal parliament propose what policy it may, it will be the duty of every loyal and patriotic citizen of Australia to cheerfully submit to its decision. It will be their duty—the duty of those who hold an opinion different from that which may be in the ascendant—to fight the battle out in the federation, in the federal parliament. Taking my own case for a moment, holding the views I do, if I should be honored with a place in the federal parliament, it would be my duty, to the utmost of my power, to seek to embody in the fiscal laws of the country the principles of what is known as free-trade. I could do no other as a conscientious man. But suppose the majority were against me it would be my duty to cheerfully submit—not to give up my opinions—to fight for my opinions though in a narrow minority, but to submit to the majority that must rule in a free country. I think I have made apparent in a very few words what I mean by these two resolutions. I then come to one to which I expect an almost unanimous agreement:

> That the military and naval defence of Australia shall be entrusted to federal forces, under one command.

Whatever our views may be on other points, I think we shall all be agreed upon this: that for the defence of Australasia to be economical, to be efficient, to be equal to the emergency that may arise at any time, it must be of a federal character, and must be under one command. I am seeking to simplify my words as much as possible. I do not mean that the land forces and the naval forces shall be under one commander-in-chief; but that they should be under one kindred command—that the naval officer in command equally with the military officer shall be a federal officer, and amenable to the national government of Australasia. Now, these are the conditions which appear to me to be essentially requisite that we should decide in one way or the other—that should be strictly defined by this Convention before we can proceed to construct a bill to confer a constitution. I then proceed:

> Subject to these and other necessary provisions, this Convention approves of the framing of a federal constitution, which shall establish:
> (1.) A Parliament, to consist of a senate and a house of representatives, ——

What I mean is an upper chamber, call it what you may, which shall have within itself the only conservatism possible in a democracy—the conservatism of maturity of judgment, of distinction of service, of length of experience, and weight of character—which are the only qualities we can expect to collect and bring into one body in a community young and inexperienced as Australia is; and a house of representatives upon a thoroughly popular basis. The resolution proceeds:

> the former consisting of an equal number of members from each province, to be elected by a system which shall provide for the retirement of one-third of the members every years, so securing to the body itself a perpetual existence combined with definite responsibility to the electors; the latter to be elected by districts formed on a population basis, and to possess the sole power of originating and amending all bills appropriating revenue or imposing taxation.

I hold that these latter words must be engrafted upon any constitution bill, especially if the two houses are elective, because we may naturally expect —if we have an elective upper chamber, whether elected by the colonies as provinces or by bodies of electors—that that body will contend for an equal authority in dealing with what are called money bills, unless we expressly provide that these bills shall originate and be amended in that chamber which is more directly and more truthfully responsible to the whole body of the electors. Hence, then, I contend that it will be absolutely necessary not to trust to derivations to be drawn from principles or practice in other countries, but to expressly provide that all money bills shall originate and undergo amendment only in the house of representatives. The next clause says:

> A judiciary, consisting of a federal supreme court, which shall constitute a high court of appeal for Australia, under the direct authority of the Sovereign, whose decisions as such shall be final.

In seeking to create this supreme court of Australia, it will be observed that I seek to create within it an appellate court from which there shall be no appeal to the Queen in the Privy Council. For that reason, if the Queen has authority in England, she can have authority here. If she forms, even sentimentally, a part of the Judicial Committee of the Privy Council she can also form a similar part of our Appellate Court. But at the same time I think we shall make a great mistake if we allow any appeal to be made outside the shores of the new Australia. I appeal to, and I shall expect several gentlemen, learned in the law, who are delegates here, to dwell further, and in a much more definite way, upon this branch of the subject than I shall pretend to do. I think I have stated the object I have in view with sufficient clearness. The resolutions conclude:

> An executive, consisting of a governor-general, and such persons as may from time to time be appointed as his advisers, such persons sitting in Parliament, and whose term of office shall depend upon their possessing the confidence of the house of representatives expressed by the support of the majority.

What is meant by that is simply to call into existence a ministry to conduct the affairs of the new nation as similar as it can be to the ministry of England—a body of constitutional advisers who shall stand as nearly as possible in the same relation to the representative of the Crown here as her Majesty's imperial advisers stand in relation to the Crown directly. These, then, are the principles which my resolutions seek to lay down as a foundation, as I have already stated, for the new superstructure, my object being to invite other gentlemen to work upon this foundation so as to best advance the ends we have in view. I again express my desire that the discussion may be as free as possible; that the amendment of my scheme may not be guided by any consideration except what will be best for the country; and that no importance whatever will be attached to the source from which these resolutions come. I think I have sketched the grounds of my resolutions with sufficient clearness, and, if so, certainly with sufficient fulness. I am sorry to say my health will not permit me to dwell very long upon the subject, but I cannot refrain from saying a few words on the general question. As to the wisdom of the great step we have now taken—for so many eminent men from different parts of Australasia meeting in this chamber as delegates from their respective colonies is in itself a great step—as to the wisdom of that step we have the warning of every country in the world which has tried government by a confederation. I know of no single instance where anything like complete success, anything like satisfactory success, has arisen where there has been a number of states of equal authority and power trying to govern by confederated authority. But we need not go any further than the striking example of the states which came into existence immediately after the declaration of independence in America. The history of those confederated states and their vain attempts to conduct their affairs is a warning for all time to a free people not to attempt to manage their affairs in any other way than by a solid united government representing the whole people. We had throughout the years

of the revolutionary war, and not only so, but for several years—I forget at this moment how many—of the new republic, we had the example that neither in war nor in peace were those confederated states able to exercise any power, and in the lamentations uttered by the great authors of the Union of their inability to get anything done we may find a warning to all future peoples who attempt to govern themselves as a whole. The thing is so reasonable in the very nature of things that it hardly admits of reference to history or elaborate argument. Take our own example. Here we find a people I suppose about 4,000,000 strong. They have afforded in the great cities of Sydney, Melbourne, Adelaide, Brisbane, and Hobart abundant proof of the power of founding an empire. Go beyond the cities: they have accomplished under responsible government what appear to me, and what must appear to any stranger who knew the country thirty-five years ago, marvels in the way of internal improvements Not only the railways but the roads, the telegraphs, and everything that conduces to the best ends of a civilised community, has been achieved by this scattered people in a marvellous manner. But all through this great, this noble, this successful effort we have had different sources of irritation, of bad neighbourhood, of turmoil, of aggression, which, if they were to go on, must make these conterminous communities instead of being a people of one blood, one faith, one jurisprudence—one in the very principles of civilisation themselves—instead of that, must make us as cavilling, hostile, disputatious foreign countries. The only way to stop that is for the whole people—and remember that the whole people in the final result must be the arbiters—to join in creating one great union government which shall act for the whole. That government must, of course, be sufficiently strong to act with effect, to act successfully, and it must be sufficiently strong to carry the name and the fame of Australia with unspotted beauty and with uncrippled power throughout the world. One great end, to my mind, of a federated Australia is that it must of necessity secure for Australia a place in the family of nations, which it never can attain while it is split up into separate colonies with antagonistic laws, and with hardly anything in common. I do not now, Mr. President, dwell upon the many conflicts in the laws of these colonies which ought not to exist, such as the conflicts in our marriage laws, in the laws governing all monetary and financial institutions—I do not dwell upon these things—they are too numerous for me at this time—but every one of us knows the extent of the evil resulting from this want of harmony. All that can be cured; but it can be cured only by one great union government which shall faithfully represent us all. I regret to say, Mr. President, that my strength is not such as will enable me to keep on my feet many minutes longer. I have submitted these resolutions—perhaps it is all the better—without any great effort in their support. I trust I have explained them with a clearness sufficient for my purpose, and I trust that I have indicated with a clearness sufficient what the great object we aim at must be, and the means by which alone we can hope to accomplish it. I do not doubt that the gentlemen present will each of them address themselves to the subject which, I think, the resolutions have the merit of fairly launching in a spirit of patriotism, always keeping in view the welfare, the prosperity, the united strength, and the ultimate glory of our common country. We cannot fail if we set about this work in earnest. I shall say no more now for the reason I have stated, but reserve anything that I may wish to advance in further support of these resolutions to the reply which I have no doubt will be accorded to me. I have the honor to propose the resolutions standing in my name.

Question proposed.

The President then resumed the chair.

Sir SAMUEL GRIFFITH: As no hon. member desires to proceed with the debate just now, and it is possible that some hon. member may be willing to speak this afternoon, I would suggest, Mr. President, that you should leave the chair until an hour which may be considered most convenient for the Convention to meet in the afternoon.

Mr. GILLIES: There is a feeling among a number of gentlemen in the Convention that it would be extremely desirable to adjourn until to-morrow, when we should go on with the general discussion. Of course, if any hon. gentleman is desirous of continuing the discussion raised by you, sir, on your resolutions to-day, I do not suppose that any hon. member would like to prevent that from taking place. But we ought to have an assurance from some hon. member that he is prepared to continue the discussion if we meet here at half-past 2 o'clock this afternoon.

Sir JOHN BRAY: It will be convenient, perhaps, that some gentleman present, who is prepared to resume the discussion, should move an adjournment until that time.

The PRESIDENT: If an intimation is made that an hon. gentleman will be prepared to take up the debate at half-past 2 o'clock, I will leave the chair now, and take it again at that hour. If there is a desire to adjourn until to-morrow, I think the adjournment must be made by motion. But I would suggest that my leaving the chair until half-past 2 o'clock is the preferable course.

Mr. DEAKIN: The understanding here was that one of the senior members of the Convention was likely to move the adjournment of the debate until half-past 2 o'clock this afternoon. If that is not the case I shall myself be prepared to move an adjournment until that hour.

The President left the chair, and resumed it at half-past 2 o'clock.

Sir SAMUEL GRIFFITH: I should have preferred, Mr. President, that my hon. friend beside me, the Hon. James Munro, Prime Minister of the great colony of Victoria, should have followed you in the debate on the resolutions that you have submitted to us. But we are all of us, I suppose, conversant with the subject which we are met to discuss, and under these circumstances I think that no useful purpose can be served by delaying the discussion. You, sir, have set us a very good example in many respects in the speech in which you opened it. I trust that the various speakers who may address the Convention will not be unduly long, while I hope, at the same time, that they will address themselves in detail to the important matters which we have to consider. I do not propose to address myself to the general aspects of the question, because I feel that I could not usefully add anything to what has been so well said by yourself, nor could I say it so well; but I propose to offer some observations which I think may be worthy of consideration before we come to a conclusion upon the important matters submitted in these resolutions. The first of the propositions, or the principles, sir, that you ask the Convention to affirm, is really, I think, the fundamental one of all. It is the question upon which public opinion in the colonies is most agitated, namely, how far the separate self-governing states on this continent are to surrender their powers of autonomy. The proposition which you enunciate is this:

> That the powers and privileges and territorial rights of the several existing colonies shall remain intact, except in respect to such surrenders as may be agreed upon as necessary and incidental to the power and authority of the national federal government.

Entirely concurring in that proposition, I do not propose to offer many words in support of it. But I will make this observation: that that indication of the functions of the federal government is really the key to the whole of the resolutions that follow. We are met here to devise a constitution, that is, a great

governmental machine to govern the general affairs of Australia. But before we can attempt to indicate what the nature of that machine should be, it is absolutely necessary that we should have a clear conception of the work that it has to perform. The work that has to be performed by independent states or provinces, of which we have several in Australia at the present time, is in many respects very different from the work that will have to be performed by that general governmental machine, and that consideration must be ever present to our minds in considering both the relative functions of the two houses of Parliament and the relation that is to exist between the executive and the legislative departments of government. For instance—and I will refer to this more particularly later on—the relationship between the two houses of parliament that is quite applicable to, and, I may say, is manifestly the proper one to adopt in, a single self-contained state may not necessarily be equally well adapted to a federation of states. It may well be that the relations of the smaller house—the senate I will call it, using the word you have used in the resolution—to the other house representing the people directly, may be different in a state of that kind. But I say that in considering all these matters we must bear in mind the functions which the general government and the general Parliament have to perform. Without referring more in detail to that just now, I will pass on to the first of the great subjects you have referred to in the resolutions as one to be dealt with by the federal parliament, the question of tariff or customs. You propose to affirm that there shall be freetrade between the provinces, and that the general parliament alone shall have the power to impose any restrictions upon trade, or to raise revenue from customs. Not dissenting in the smallest degree from that proposal, I offer no observation either in support of or against it. I do not think it necessary until some opposition is shown to it, to offer any further observations than you made in support of it. But I would point out at the present moment that the establishment of a federal tariff must be subsequent to the establishment of a federal parliament. The time that will be occupied in devising a federal tariff is at present unknown to us, and I think it follows almost as a matter of course that, until that federal tariff—that federal customs system—is adopted there must be a continuance of the existing system—and that for more reasons than one. First, because otherwise there would for some time be no source of revenue from the customs at all, and the various states would be thrown at once into a condition of inability to meet their engagements and carry on their functions. That is the first and most obvious reason; but beyond that there is another question, which is a very serious one for us all to consider, and it is this: We in these colonies have been in the habit of relying to a very large extent for our revenue upon customs tariffs. The conditions of Australia in that respect are very different from those of the American States, which have never of late years—never since the very earliest inception of their present constitution—had to rely upon the customs for revenue. Their revenue has been derived from internal sources. We, in Australia, all rely to a large extent on customs revenue; and some security must be devised that the future customs revenue will still be available, and will be sufficient when distributed for the needs of the separate provinces. I myself do not apprehend that when the federal parliament meets any practical difficulty will be found in raising a sufficient external revenue by means of the customs, a revenue equal, or nearly equal, to that now raised by the colonies separately. An equal amount certainly must be raised. In the third of these resolutions you have referred to the disposal of that revenue. It appears to me that we must carefully bear in mind throughout our deliberations here the necessity of providing a sufficient amount of revenue to be disposed of amongst the separate states. I do not at present indicate, nor am I in a position to do so, how that will be secured; but I will just indicate the great difficulty which might arise under some circumstances, which I do not think likely to happen. Suppose the federal parliament were to consider it desirable that there should be something like absolute free-trade, or as near free-trade as possible, that as small an amount of money should be raised by customs as is compatible with the existence of the Government. Then some other means of raising revenue would have to be devised by the separate states. I mention that, not because I wish to refer particularly to this branch of the subject, in respect to which a great many members of the Convention have a much larger knowledge than I possess, but because it is a subject which requires to be carefully considered. We must secure for the federal government and for the separate governments, who will derive great part of their revenue from the surplus customs income of the general government, a sufficiency of money to carry on their work. In considering that also we must not lose sight of the essential condition that this is to be a federation of states, and not a single government for Australia. I will make that clear later on. I do not at present propose to offer any observations in respect to military and naval defences. We are all agreed that there must be one command—of course, there must be subcommands—but those are matters of detail. Concurring, as I do, with the general propositions which you have laid down as to the general functions of the machine that is to be constructed, I wish to proceed to consider the question of the legislative and executive power, because that is the machine which has to work, and it is our business, if we are capable of doing our work—it is our business whether we are capable or not—to devise a scheme that will work, and to avoid any possible or probable sources of friction, as far as historical information will enable us to do so. And here let me insist upon the essential condition—the preliminary condition—that the separate states are to continue as autonomous bodies, surrendering only so much of their powers as is necessary to the establishment of a general government to do for them collectively what they cannot do individually for themselves, and which they cannot do as a collective body for themselves. You propose that there shall be a parliament of two houses—a senate and a house of representatives, you propose to call them, and I know of no better terms—that in one the states shall be represented equally, and in the other the people of Australia in proportion to population. What does that mean? I ask hon. gentlemen here to consider the full extent of all that is involved in the proposition, because I take it that is the key to the whole of what follows. For it means this, in the language of one of the writers of those admirable papers which we have all read, written for the purpose of inducing the American States, and the state of New York in particular, to adopt the federal constitution of America—that every law submitted to the federal parliament shall receive the assent of the majority of the people, and also the assent of the majority of the states. That is the essential condition of the American Constitution. It has given rise, no doubt, to much friction; but any form of Government probably will, unless one body is absolutely preponderating in power. But that is a condition absolutely new to us in Australia. It is absolutely new to us in the British empire, that every law shall receive the assent of a majority of the people, as well as of a majority of the states. And I particularly wish hon. gentlemen here to consider how that will affect the concluding words of this first proposal as to the form of the constitution, and also how it will affect the relationship of the executive to the Parliament—that everything has to receive the assent of the

majority of the people and the assent of the majority of the states. Our present system in the colonies and in the British Parliament, as well as in that of Canada, is that one house has a preponderating influence. It is practically sufficient for most purposes of government that a measure should commend itself to that house, and if it commends itself to that house it will sooner or later have the force of law. The other house is a weaker, not so independent a body; it can exercise at most a power of delay to prevent undue haste in government; but sooner or later it has to give way. But if you recognise the principle —and I think we must if we are to get federation of the Australian colonies—that the states must also concur by a majority in every proposal, then one house cannot have that preponderating influence. There must be on all important matters a deliberate and not a coerced concurrence of the two branches of the legislature. As to the constitution of the senate, I may be permitted to say that I believe it can only be satisfactorily framed on a basis such as is indicated in the resolution, that there shall be an equal number of members from each state, and that they shall retire periodically—that is to say, it shall be a body incapable of dissolution—a continuous body periodically renewed by the vacation of office of a portion of its members. The number of years that they should hold office is entirely a matter of detail. In respect to the concluding words of the resolution, in which you propose that the lower house shall have the sole power of originating and amending all bills, appropriating revenue, or imposing taxation, I desire to say that, as at present advised, it seems to me that that is quite inconsistent with the independent existence of the senate as representing the separate states. The functions of a legislative council are all more or less supposed to be founded on those of the House of Lords, the powers of which have become considerably diminished, and are now principally those of a checking and a useful revising body. This is the case with regard to our councils, especially the nominee bodies which exist in many of the colonies. The elective councils have a more real control; but in all great contests between the two houses of parliament, one representing the whole body of the people, and the other representing only part of them, the body representing only part of the people has necessarily had to give way; and it has become recognised that the two houses have not in substance, although they have in form, equal authority in the state. I understand that the first part of this proposition involves the assumption that the two houses shall have equal powers, and that all that is to be done shall be by the concurrence of the people and the states. If that is so, I take it that the least you can give to the house representing the states as states, is an absolute power of veto upon anything that the majority of the states think ought not to be adopted. I will illustrate that by one or two probable instances. The limitation suggested in this resolution is merely as to bills originating the appropriation of revenue or imposing taxes. That is, indeed, the only restriction that is in form adopted in any of the constitutions we have. Nor do I suggest for a moment that any but the house representing the people directly should have the power of originating taxation, or of originating expenditure. But if every law has to receive the approval of the majority of the people as well as of the majority of the states, it follows that they must have the power of refusing their assent to any proposed taxation or to any proposed expenditure.

Mr. PLAYFORD: That is involved in the resolution!

Sir SAMUEL GRIFFITH: It appears to me that the resolution strikes at that altogether. Suppose that it was proposed by the persons having the conduct of business in the house of representatives to expend a large sum of money, say, in establishing a federal arsenal in a particular place, or in raising a large body of troops, and suppose that the proposal were embodied, as it might well be, in an appropriation bill, should the senate representing the states have the power to veto that expenditure, or should it not? That is the form in which the question has arisen in the various colonies. It may be in Australia, where we have some very large colonies and some very small ones, that a majority, representing, perhaps, two colonies only, would have practically the power of enforcing that expenditure against the will of the majority of the states. And they would have it, if it were not competent for the senate representing the states to exercise the power of veto as to any item of expenditure of which they disapproved. That is a matter which must be considered, and I bring it up at this early stage because it requires the fullest consideration from every gentleman present. We must know exactly what we mean—whether we mean that the senate representing the states is to have the power of vetoing any law or anything in the nature of a law, because the authorisation of expenditure for important purposes is in the nature of a law, or whether we do not mean that. We must make up our minds as to what we do mean. When we have done that we can easily express our meaning. I cannot see at present how it is possible for the lower house alone to have practically uncontrolled authority over expenditure; how it is possible to reconcile that principle with the principle that everything done by the federal legislature must have the assent of a majority of the states. I hope that hon. gentlemen will consider the matter and address themselves to it. I have no hesitation in expressing what I believe to be the true solution of the question, not only as a matter of practical necessity for the purpose of establishing a federal constitution, but the best adapted for its stability when established. I do not think that the smaller Australian colonies will be content to relinquish the power of exercising the veto by a majority of states in regard to any proposal in the federal legislature, and I do not think it desirable that they should do so, because it would be departing from the fundamental principle enunciated in the first resolution, that we are only surrendering to the general government what is absolutely necessary for the benefit of the whole of Australia, leaving to the several states their autonomy. If we leave to the states a power of autonomy as ample as the resolution indicates, we must leave them their individual existence as state entities, capable individually of voting as states in favour of or in opposition to any proposed federal legislation. Without that a source of friction will exist for the future. It may be said that we are not familiar with this form of constitution. In the British empire there is no instance of two houses of parliament having co-ordinate authority; but we have an instance of it in America.

Mr. PLAYFORD: We shall have to have an executive!

Sir SAMUEL GRIFFITH: I will come to that directly. These are questions which lie at the root of the whole matter, and until we know our own minds upon them we cannot make much progress in any matters of detail. It was pointed out early in the history of America that there was great danger of friction between the two houses differently constituted. It is said it was only a compromise—that no one thought it was the best plan at that time, but it was the only compromise possible. I believe myself, as I said just now, it is the only compromise possible now, and it is proposed in these resolutions. I also believe, from the history of America for 100 years, that it was the best plan that could be devised, and that we should do well to follow it, as you do, sir. But I also desire at the present moment to point out the necessary consequence of adopting that principle, that we may know exactly what we are doing. I will not further occupy time on that matter. I desire at present rather to indicate these questions,

which must necessarily be considered and solved as preliminary questions, than to argue at great length in support of any of them. Indeed, sir, I desire to follow your example this morning of brevity as far as possible. With regard to the judiciary I do not propose to occupy the time of the Convention now. I believe there should be a supreme court, and that not on the American model, but a real court of appeal for Australia from all the Australian courts. Whether it should be absolutely final, or whether there should be under any conditions a right of appeal to a supreme court representing the whole empire, differently constituted certainly from that which now exercises that jurisdiction—whether there should be such an ultimate power of appeal under conditions, is a matter which may be considered later. I confess that on that point my mind is open to conviction either way. But next to the question of the constitution of the Parliament, the legislative body, leaving aside the question of the judiciary, upon which I believe we are nearly all agreed—comes the question of the executive government; because, after all, the legislature sits only sometimes, it is not in perpetual session, while the work of the government must be carried on every day. Now, here again, the question of the relationship of the executive to the legislature appears on the threshold. We are accustomed in these colonies, as we have been accustomed from our reading of the history of the United Kingdom for the last 100 years—not more, not so much indeed—to the system called responsible government, and I will venture to say that there are many misapprehensions as to what is the essence of the system called responsible government. We are accustomed to think that the essence of responsible government is this: that the ministers of state have seats, most of them, in the lower house of the legislature, and that when they are defeated on an important measure they go out of office. That I venture, with the greatest submission, to say is only an accident of responsible government, and not its principle or its essence. In form—legal form, I mean, statutory form—so far as our written Constitution goes, and so far as the unwritten and partly written Constitution of the United Kingdom goes, the system depends on these propositions—that the ministers are appointed by the head of the state, the Sovereign, or her representative, and that they may hold seats in Parliament. That is all that will be found in the Constitution of the United Kingdom. They are appointed by the head of the state, and some of them may hold seats in Parliament—a limited number. That is part of the written Constitution. In the Australian colonies, with few exceptions, the same propositions are the only ones that are to be found laid down by positive law. The ministers are appointed by the head of the state—the Sovereign's representative—and they hold office during his pleasure, and they may, or a certain number may, hold seats in Parliament. In two of the colonies, I believe, is to be found an innovation, an addition to this proposition, stereotyping in formal language the practice that has grown up in Great Britain and in the other colonies since the system of responsible government has been invented; that is, that some of the ministers shall hold seats in Parliament. Victoria and South Australia, I believe, have provisions of that kind.

Mr. BARTON: And Western Australia!

Sir SAMUEL GRIFFITH: But that is not common by any means to the system of responsible government, as it is known throughout the British empire, nor as it is known in the other European countries where they have adopted, after profound study, what they believe to be the essential principles of the British Constitution as at present administered.

Mr. GILLIES: It all comes to the same thing.

Sir SAMUEL GRIFFITH: I wish to point out that it does not at all come to the same thing. And here I would again refer to that fundamental principle that the two houses are differently constituted, and that one is of equal authority with the other—the one represents the states as states, and the other represents the people as people. Now, in America the directly opposite form of government from that which we call responsible government has been adopted. I submit with great deference that the essential difference is this: that there the ministers may not sit in Parliament, whereas under our form of Government ministers may sit in Parliament, and in practice do. In the other form of government they cannot sit in Parliament, they are expressly dissociated from Parliament. The origin of this difference lies in the fact that the framers of the American Constitution had been frightened by the tendency then lately exhibited in the United Kingdom of ministers to overawe Parliament, and they thought it extremely desirable to separate the executive and legislative branches of government, following the arguments of a great writer—I should rather say a celebrated writer—of those days, Montesquieu, the wisdom of whose observations and the accuracy of whose deductions and assumption of principles may be, I submit with great respect, very open to doubt. But the Americans adopted that system—that the executive shall be entirely dissociated from Parliament, and therefore may not sit in Parliament. As I believe that the history of the American Constitution has shown the wisdom of having two houses of equal and co-ordinate authority, so also has it shown the unwisdom of the system there adopted of having ministers dissociated, and the executive government entirely dissociated, from the legislature. It has taught us the lesson that the character of legislation, the manner of legislation, and the result of legislation, the orderly conduct of business, and the good government of the country, are not nearly so well attained under the American system, where the executive is dissociated from Parliament, as under the system we have, where practically ministers are intimately associated with Parliament. But this is what I desire to point out. In America we have the system of two houses with co-ordinate jurisdiction.

Mr. BAKER: Not quite!

Sir SAMUEL GRIFFITH: Well, for the purpose I am speaking of. When I use the word co-ordinate, I use it with reference to what I said before—that the house representing the states must concur in every law that is passed. We have had in America the system of two houses with powers co-ordinate for that purpose.

Mr. GILLIES: No!

Sir SAMUEL GRIFFITH: I say co-ordinate for the purpose of which I am speaking—that the states must concur as well as the people in the passing of any law. We have on the one hand the system of ministers being dissociated and excluded from Parliament. We have on the other hand, in all the British-speaking communities, the other system—the system where one house is practically predominant, and where ministers have been associated with, and have practically, during the last fifty or sixty years, depended for their existence entirely upon, the pleasure of the Parliament. Now, what is proposed to be done? We propose, as I understand it, assuming that the house representing the states is to have the authority which I think it must and ought to have, to associate with it a system which has never in the history of the world been tried in conjunction with it. We propose to have an executive government having possibly, and having probably, seats in Parliament. How shall we guarantee that the machine will work if we insist that these ministers shall hold their offices in form as well as in reality, by the will of one house only? Does not the possibility of a very serious deadlock occur here to every hon. gentleman at once? The majority of one house of the legislature will certainly be made up of the representatives of the larger colonies.

Probably two colonies in that house will be able to overshadow all the rest.

Mr. PLAYFORD: Possibly one!

Sir SAMUEL GRIFFITH: Possibly one some day; but almost certainly two at no distant date. Now, that majority representing the people of these two states in that house would have the making and unmaking of governments. On the other hand, there would be an independent body in the constitution representing the states. Suppose that independent body in the constitution representing the state differed from these two states—and I look to more than six or seven states in this territory—suppose they differed from the house of representatives representing two states, there would be certainly a deadlock at once. Such a thing, I believe, occurred in one of the neighbouring colonies not very long ago. I point this out as a thing that may happen. I point out also that the experiment we propose to try has never yet been tried. We must take into consideration the existence of those two forces possibly hostile, even probably hostile, before, say, fifty or a hundred years are over, and we must frame our constitution in such a way that it will work if that friction does arise.

Mr. PLAYFORD: We will have the referendum; we will do it that way!

Sir SAMUEL GRIFFITH: What is the way to do it I am not now considering. But I hope I am not misunderstood in calling attention to that difficulty as likely to arise. I believe myself that the system which we call responsible government is the best that has yet been invented in the history of the world for carrying on the good government of the people, and I hope that it will be instituted in the Federal Government of Australia. But, at the same time, I desire to point out the great possibility—almost probability—that that system, as we have it at the present time, if we insist upon members of the executive being members of the legislature, and insist upon their commanding always a majority in one house of the legislature, may not work. We have to devise a constitution that will work, that will have within its bounds sufficient scope to allow of any development. I would point out, by way of further illustration, that under the Constitution of England, written and unwritten, under the written constitution of Canada, New South Wales, and, indeed, of all the colonies, except Victoria, South Australia, and Western Australia, and in them to a limited extent, the whole system of the relationship between the executive and the legislative branches might be changed in practice without the change of a word in the written Constitution.

Mr. GILLIES: How?

Sir SAMUEL GRIFFITH: I will proceed to show how. It would not be contrary to the Constitution of New South Wales, or of Queensland, or of Tasmania, or of New Zealand, if no member of the Executive had a seat in either house of the legislature. The Constitution would work just as it does work. The ministers would be appointed by the Governor as her Majesty's representative. They would hold office during his pleasure, and if the legislature thought that that was a more convenient way of carrying on the business, it would be carried on in that way.

Mr. GILLIES: And they would play "ducks and drakes" with the business; no one would be responsible!

Sir SAMUEL GRIFFITH: I believe myself that would be the result. But I do not profess to know all that is going to happen in the next fifty or a hundred years. I do not profess to say that our experience in the Australian colonies, or even the experience of Great Britain, is necessarily to be set up against the wisdom of America. I give credit to the American people for having a good deal of wisdom; and although I believe their system is not nearly as good a one as ours, yet some people think that even our system is not perfect, and contains within it the elements of change.

Mr. GILLIES: It has not changed for centuries!

Sir SAMUEL GRIFFITH: The present system, as we have it, has not been in existence for one century, or nearly one century. I have had long enough experience as a member of Parliament and as a minister to have seen very great changes in the relationship of ministers to one another, and of ministers to Parliament, in the Australian Colonies. I have seen changes—changes occurring from time to time. You do not see the change when it takes place; but if you look back fifteen or twenty years, you can see how different things are in many respects, compared with what they were.

Dr. COCKBURN: That shows the advantage of having an elastic constitution!

Sir SAMUEL GRIFFITH: That is the conclusion I arrive at—that it is well to have a constitution so elastic as to allow of any necessary development that may take place.

Mr. DEAKIN: Capable of being amended!

Sir SAMUEL GRIFFITH: Everything is capable of being amended. But I am addressing myself to the problem I understand we have before us, of a constitution which we hope will work like the American Constitution has worked for so many years, without the necessity of radical amendment. Because, bear in mind the difficulty of amendment. The difficulty of an amendment on a radical question like that would be very great indeed. I am not by any means counselling a departure from the system of responsible government, which I am in favour of, which I hope will be inaugurated, and which I hope will continue to be carried on; but I cannot shut my eyes to the fact that the senate representing the states may entirely differ from the house of representatives representing the people; and that if it is laid down as a principle of the constitution that the Queen's representative is bound to dismiss his ministers when they fail to command a majority in the people's house, then we deliberately, and with our eyes open, make provision for a very serious deadlock occurring, and that at a very early period in the history of the constitution.

Mr. GILLIES: No.

Sir SAMUEL GRIFFITH: I am perfectly aware that this view is new to many hon. members.

Mr. GILLIES: Oh, no!

Sir SAMUEL GRIFFITH: I am perfectly aware that this view is new to many hon. members who have been accustomed to think that the essence of responsible government is that ministers should sit in Parliament, whereas I contend that the essence is that ministers should not be dissociated from Parliament. Our present development of the constitution requires them to sit in Parliament. I hope that will continue to be the development. But I say we are launching in this respect upon an entirely unknown sea. Nobody has ever tried this experiment of a government depending on one house, and the machinery of the state equally depending upon another.

Mr. GORDON: The senate will probably be the better house of the two!

Sir SAMUEL GRIFFITH: I am quite certain that the senate will consider itself quite as good a house as the other house. I believe also that the state legislatures will insist upon its maintaining that position. I hope that no friction of this kind will arise; but I have thought it my duty, at this early stage, to point out the apparent inconsistency, to my mind, of the system of giving equal powers to the states as represented in one house, and of making the executive government depend for its existence upon the other house.

Mr. GILLIES: It must be so, for every house that has got the responsibility of the money must have the control!

Sir SAMUEL GRIFFITH: The hon. gentleman interjects that it must be so, for every house that has the responsibility of the money must have the ultimate control. That I perfectly concede. One house must have the responsibility of originating expenditure, and of originating taxation; and, therefore, to that extent it will have a controlling effect, and no doubt finance is at the root of everything. The government cannot be carried on without money. But there are many things in the administration of government besides finance. For instance, this development might occur, and might be the result of the practical experience of fifty years or a hundred years, or, perhaps, a much shorter time—that some of her Majesty's ministers controlling particularly those matters with which it is specially the function of the house of representatives to deal, should command the support of that house; but that others, administering what may be called more permanent departments, should be independent of it—that there should be, in fact, a combination of the two forms of government; and which of us is wise enough to say that our successors will not be able to improve upon anything which we have devised? Is not that possible?

Mr. GILLIES: Quite possible; but what is not?

Sir SAMUEL GRIFFITH: I am pointing out that we are launching upon an unknown sea. We are trying to lay down two hard and fast lines, which are apparently inconsistent with one another, and insisting that nevertheless they shall both be observed. I ask, therefore, that hon. members will give their attention to this, and that in considering the formation, functions, and tenure of office of the executive, they will endeavour to provide against that contingency, by making such provision that whatever the wisdom of our successors shall find to be best it may be possible for them to do without the extremely inconvenient method of a revision of the constitution in which the federal parliament, as well as all the states, must collectively concur. A difficulty of that kind would arise in a time of great excitement. It is not like the difficulty of making a law. When you want to make a law, and you cannot all agree in making it, there is simply no law made, and you go on as before. But the government of the country must be carried on; you cannot suspend the government of the country while you call a constitutional convention, and get the consent of all the states to the amendment. Therefore, it is necessary to provide for it in our constitution. I have referred to this matter at rather greater length than I should have desired; but it is a matter of very great importance, and it underlies the whole of our work. The relative constitution and powers of the two houses of legislature underlie the whole of what we have to do. We must remember that it is quite new to all of us. We have had no experience of its working. We are bound to put ourselves in the position of men sitting in one house or the other—of men sitting in the senate representing a small state, and feeling bound to exercise a controlling influence as far as it can be exercised; or as men supported by a large majority in the house of representatives; and wishing to exercise the authority that men in that position feel they ought to exercise. We ought to put ourselves in each of these positions and imagine what arguments we should be likely to use under such circumstances. I do not propose to move any amendment to the resolutions now before us. I apprehend that it is desirable, for the present, that the discussion should be somewhat general, although I hope that, before the resolutions are finally put from the chair, we shall have an opportunity, either in Committee of the Whole or in some other way, as by taking the resolutions *seriatim*, to propose any amendments that hon. gentlemen may think desirable in order to render them acceptable.

The PRESIDENT: Before the hon. member concludes, I desire to say that it is my intention, on the floor of the House, to move that the Convention resolve itself into Committee of the Whole to consider the resolutions in detail.

Sir SAMUEL GRIFFITH: I have very few words more to say. I trust I have made my arguments clear to hon. gentlemen, whether I am right or wrong. I am perfectly open to conviction, but entertaining these views with a greater or less degree of confidence, and entertaining, at any rate, the idea that they are very important matters for consideration, I thought it my duty to bring them forward for the consideration of the Convention at this early stage, because they certainly ought to be fully considered. I shall only indicate in what respect I think these resolutions may be modified, not with a desire to alter the practical result at which the President aims in the resolutions that he has submitted—not as indicating a desire that the federation should not in practice work upon those lines, because I entirely concur with them, and hope that the Convention will concur with them—but because I desire that the machine may be made one that will work, and of which its framers will not be ashamed. I have indicated that I think the 2nd and 3rd resolutions might be transposed, the coming into operation of the 2nd necessarily following upon practical effect being given to the principle laid down in the 3rd resolution. With respect to defining the powers of the legislature, I would respectfully suggest to the Convention that we should consider whether it would not be better to declare that the house of representatives should have the sole power of originating the imposition of taxation and the appropriation of revenue, leaving to the senate representing the states the power of veto, which they, I believe, will claim upon every matter of legislation.

Mr. GILLIES: But not amendment!

Sir SAMUEL GRIFFITH: Power of veto—that is, amendment by omission, veto in part. That is what I mean.

HON. MEMBERS: No, no!

Sir SAMUEL GRIFFITH: Veto in part, because the system of tacking is absolutely inconsistent with the theory of equal authority.

Mr. GILLIES: Does the hon. member mean that the senate could take one part and leave out the other?

Sir SAMUEL GRIFFITH: Suppose a majority of the house of representatives proposed to spend £1,000,000 or £2,000,000, raised from customs, or perhaps by loan, to establish an arsenal or to establish a very large federal force, and the majority of the states disapproved of it, they ought to be allowed to disapprove of it, whether it was brought in as a separate bill or included as an item of appropriation: that is, I wish that the power of veto should be a real one.

An HON. MEMBER: Would that be veto of the whole?

Sir SAMUEL GRIFFITH: I only wish to make my meaning clear. I know that that power is exercised in some of the colonies of Australia at present, not that I believe in its being under our present Constitution. I have had the pleasure, or rather the experience, of a fight with the Legislative Council of our own colony when it attempted to omit an item in the estimates, but it became law all the same and during the same session. I do not in the least depart from that; but I am pointing out that we are trying a new experiment; that the states will claim the power of veto, and when we are considering the matter *de novo*, as we now are—not dealing with one homogeneous community such as we have to deal with in our present colonies, where the Upper House really is, under any constitution yet devised, weaker in practice than the other House, so that the principle works very well—when we are considering a thoroughly new system, it does not follow that it

would be best to adopt the same system which we have followed up to the present time under quite different conditions. With regard to the imposition of taxation, I would not allow the senate to originate taxation, but I would allow them to veto—to refuse to accept taxation.

An HON. MEMBER: Would the hon. member allow them to do so in detail?

Sir SAMUEL GRIFFITH: To veto in detail. For instance, suppose the house of representatives proposed to impose a land-tax, and, I will say, an income-tax together in one bill, why should not the senate, representing the states, have the power of dealing with each proposal? A land-tax might be in one state or in several states a most just and proper thing, while in other states it might be most unfair and improper. So with an income tax. It might be very fair, it might be easily collected, convenient, and desirable with respect to one state, while it might be absolutely impossible with respect to another. Why should not the senate have the power of veto? Why should not the senate have the power of saying, "We will have the one, but not the other"? Both houses would have to concur in the omission. I maintain that the more hon. members think of this subject the more they will see the necessity, if we are to have two houses, one representing the states and the other the people, of allowing the house representing the states the power of veto in detail as well as in the whole, instead of following what is really an artificial growth of comparatively recent years in our own system of two houses in a single homogeneous state.

Mr. GILLIES: That would be a law for one province and not for another!

Sir SAMUEL GRIFFITH: I am sorry that the hon. member misapprehends me. I have not indicated that in any way. All that I have endeavoured to convey is that a law which might commend itself to the majority of the house of representatives as suitable to the states they represented, might be entirely unsuitable to all the other states, and those states, therefore, should have the right of refusing to make such a general law.

Mr. GILLIES: That is exactly what I said!

Sir SAMUEL GRIFFITH: With respect to the executive, the suggestions that I would offer would go in this direction: Instead of providing that the ministers shall sit in Parliament we should say that they may sit in Parliament. I have doubts myself whether we might not also say that their term of office should depend upon their retaining the confidence of the legislature; but it should be provided that they may, not that they must, sit in Parliament. If we do that and do no more, we shall have gone as far as it was ever thought necessary to go in the United Kingdom, as far as was thought necessary to go by the gentlemen who sat in this hall many years ago, and who framed the Constitution which has been the mother of all the Australian constitutions, and which has certainly stood the test of time. They left that Constitution open to further development. It has had further development, and it will have much more development. I ask hon. gentlemen in considering this question to be careful to frame the Constitution in such a manner that, whatever developments the necessities of the times may require, it will be possible to adopt them without the trouble of anything like a deadlock, or the interruption of the executive government of the country. I have been much longer than I intended in addressing the Convention, but I have endeavoured to express my mind as briefly as I could. However, the subject is a large one and must be dealt with fully, and I hope hon. gentlemen will pardon me if I have intruded too long upon their time.

Mr. FYSH: As an exemplification of what I hope will be the great principle which must be established before the work of this Convention shall be closed—the principle that the colonies, at any rate in connection with our senatorial work, shall be equal—I rise now to continue the debate upon the resolution which you have submitted. I make no excuse other than the one which I have offered, except this: that I am aware that in the case of a number of gentlemen who have travelled from all parts of Australasia, and who largely represent the executives of their various colonies, they are here, not so much at their own personal inconvenience as at the inconvenience of the executives which they represent. A goodly number of the ministers of the Crown of all our colonies are now assembled in Sydney—some 600 and some 1,200 miles away from their seats of government—and practically some of the executive work of our colonies is at a standstill while we are present here. It is, therefore, almost an absolute necessity that a goodly number of the members of governments must find their way back, at an earlier period than that at which this Convention can close, to their executive duties in their own particular localities. Under these circumstances, I think it is of the utmost importance that there shall not be one day's delay in proceeding with the important business which we have before us. Therefore, although I was desirous to await somewhat the issue of this debate, to endeavour, perhaps, to gather some inspiration from what might be said by various speakers who have for a longer period ruled over destinies somewhat greater than those which I have had the pleasure of presiding over in the smaller colony of Tasmania; yet, when I think that we stand in the hall which is memorable by reason of great difficulties overcome, by spirits with whom I hope we are somewhat kindred—one of whose portraits looks down upon us at the present time—which portrait reminds us of the difficulties which, apparently, may embarass the discussion of these resolutions, difficulties many of which have been described to us by the hon. member, Sir Samuel Griffith—when I remember what has been done by the men of old, who framed our present constitutions, which we have been working under for thirty-five or forty years, I am disposed to believe that, embarrassed though we may be by the conflicting opinions—I will not say conflicting interests, for when Australia is spoken of we are no longer to have conflicting interests—we shall be able to get over the difficulties arising from those conflicting opinions which may be expressed in this chamber with respect to these various resolutions. I do not propose to follow the line of argument adopted by the hon. member, Sir Samuel Griffith. There will be opportunities of doing so, as you, sir, have told us, in Committee. And if you had not announced that it was your purpose to move that the resolutions be considered in Committee of the Whole, I should have deemed it my duty to have reminded hon. members that subjects so important, so diverse, could not possibly be dealt with by a body sitting as we now are; but that every word of each resolution would have to be weighed and debated. That cannot possibly be done unless the House finds its way into Committee of the Whole. For these reasons I purpose to address myself only to general principles, to what I deem to be the essential portions of these resolutions, treating the matter as if I were asking for or supporting the second reading of a bill, when we debate principles only, and not details. Although a measure may be 100 or 200 paragraphs in length, whatever may be the diverse opinions of hon. members when we go into Committee, it is only with the great principles of the bill which we are supposed to deal when discussing its second reading. Therefore, for my purpose, I may limit my observations to what I regard as the essential portions of the work of this Convention. I feel sure that those essential portions are discovered in the three great points of commercial union, of defence, and what I ought to have taken first—that is, what is known in America as the

sovereignty of the states. I doubt whether the general public has any particular interest at the present moment in the method in which you will frame your executive, and in the mode in which your duties will be discharged. But I believe the interest which is now concentrated around this Convention throughout the whole of the Australasian colonies, centres around those three questions which I have named, and it is with respect to those that the great masses of the people are more concerned than they are with any other. They are more concerned, firstly, as to what portion of the rights which they have been enjoying for nearly forty years past it shall be proposed by this Convention to surrender. I am glad that the term "surrender" has been used in the first resolution. It should be indicative to all those whom we represent throughout Australasia, that this Convention is unlikely to try their patience, to try their spirit of justice, in asking them to surrender any rights which they consider to be of vital importance to their local autonomies, that it is unlikely to ask them to surrender any rights which will not be more fittingly discharged by the greater executive of the dominion parliament. If, therefore, we are to explain in connection with these resolutions what we mean by surrender, I would limit my explanation to a very few words. I say that it will be absolutely unnecessary to ask the people of these colonies to surrender to the dominion parliament anything which can best be legislated for locally—anything which cannot be best legislated for by a central executive. Now, these may be far embracing words, but every man who runs may read in connection with an opinion of this kind, because he himself will be able as well as any of us to detect what it is that is best discharged locally. He will know that, with respect to the great future progress of his country, it must be by his voice that the extension of railways and of roads must be continued. He must know that it must be by his will and consent that possibly the education of the people shall be provided; and he must know that, in connection with the various developments of his own province, there can be no interference by an executive which will sit 1,000 miles away, and which cannot, except in regard to some individual members thereof, have so close an identity with the work in which he is engaged, or such a knowledge of the necessities which surround the country in which he is living, as those who represent him in the local parliaments. I believe, therefore, that we may limit our explanation of the term "surrender" to these very few words, and that the people may at once feel sure that this Convention is unlikely to ask them to give up any important right; but that its purpose will be to continue in all its harmony, in all its prestige, the position of the local parliaments, and that the dominion parliament, the great executive of the higher national sphere at which we are to arrive, will not in any way detract from it. But they will continue, most likely, under the Constitution under which they live, to have the right of appointing their own representatives to their own local parliaments, and, possibly to have also in connection therewith their Upper Chamber; and certainly in all matters their voice will be paramount. Under these circumstances, I deem it that our duty in connection with this paragraph of the resolution will not be a difficult one. We are not likely to disappoint the people; and when we come to questions of detail we shall each be prepared to agree, I have no doubt, most readily, as to what work of the dominion will be best undertaken by the dominion parliament, and what will be best understood and undertaken by the local parliaments. But, turning from this, which I believe to be the crux of the whole position—because it is to the sovereign rights of the states that the people's mind is more directed than to any other matter—if there be any other point which they are considering more deeply, and which affects their interest more deeply, it is that which is opened up by the the great question as to the form of our trading between each other, as to whether it is to be as it has been in the past, a question of wasteful competition between colonies—whether we are bound to continue to be aliens to each other and to tax our very children as they pass from their homes, or whether we are going to establish something which will be akin to the commercial bünd of Germany—something which will enable all the goods, all the manufactures, all the arrivals in the various ports of these colonies to pass to and fro through every other port without fear, let, or hindrance. It is in connection with the commercial union of these colonies that the people are more interested in our proceedings, I think, than in connection with any other subject. It is a question which affects not only commercial men, but even the lowest strata of society. Our working-classes are as much interested in the commercial union, which I hope is designed in these resolutions, as those who may be large importers, or who may be supposed to hold more important positions in our community. And when we shall have become a union of commercially-established people, no longer competing with each other in connection with matters where there is a wasteful competition, but shall have realised all the advantages of a great corporation—of a great commercial partnership, then I think will be established in Australasia the greatest good of the greatest number, and the people, the great masses of the community, will have reason to be grateful that this Convention has sat. But there is also the other third important point to which your resolutions so definitely refer—I allude to the question of defence. It is marvellous that we can for so long a period have travelled on our way accumulating wealth, distributing our commerce all over the country, sending our ships into almost all seas, and yet have never established any reliable defence for the whole. I know that a great number of individuals consider the probabilities of any attack upon these shores as very unlikely; but we must always be prepared for the unlikely, for it is the unlikely which too often happens. I hold that we have no reliable forces—there is no cohesion in our existing forces to carry out the great work for which they have been intended, and for which large expenditure is going on year by year. There can be no cohesion where the links are distributed in all corners, and although we, as public men, have sworn allegiance to the Crown, and the people themselves have owned that allegiance, we are not in a position to defend the allegiance which we owe, and irrespective of this fact, since we have borrowed over £170,000,000 from our creditors in all parts of the world, if there be any fear of some desultory marauder ever attacking some of these colonies we shall find commercially, and in connection with the depreciated value of our securities, that we have been living in a fool's paradise, and that we should have been much wiser had we discharged to ourselves, to the old country, whose flag we have reared, and to the creditors whose money we have borrowed, the responsibility which rests upon every English community of defending itself from attacks, from whatever quarter they may come. The hon. member who has just resumed his seat may possibly have borne in mind the examples in connection with the position of the upper and lower branches of the legislature and their relative powers, which have now existed for thirty-five years, both in South Australia and in Tasmania. I should not have ventured to have spoken about Tasmania in this relationship, because it might be said that it was an example which did not bear the importance which I was attaching to it, did I not find that Tasmania has been associated with South Australia in connection with the reading of the same Constitution—that she has been living under the same Constitution, and that some of the same difficulties have arisen, and have always been fairly

overcome in the end in both cases. I am not prepared to consider—or if prepared to consider, I should consider it with very great concern—as to whether it is advisable or not to remove from what may be termed the senate or the upper house of the dominion parliament, any right which heretofore we had given to our upper house, of veto, whether in respect of ordinary bills or in respect of money bills. We have lived for this period under a right which we have seldom felt to be grievous, and if the right has been exercised by the Legislative Council its existence has only been grievous for a few days; and that which has been resented at the time, and which may have been hurtful to the ministries of the day, has not always proved to be detrimental to the community and to the people as a whole; but the very check which has been exercised by the Legislative Council, I believe I may say of South Australia, as I do of Tasmania, has proved, under many circumstances, to have been the outcome of prudence; and although the legislative councils may not, on the first time of asking, have given the ministers all the taxation which they desired, or have given the representatives of the people in the popular branch of the Assembly all the public works which they needed, yet the people have always ruled in the end, and the Legislative Council has after a time given way. We have discovered in these colonies what has been so long ago discovered elsewhere, that, in the end, the popular voice must rule; and certainly we admit the very principle which is the foundation of all our liberties—that taxation and representation must go hand in hand, that where the representation so largely is there you must have the power of the purse. But we do not consider it an uncontrolled power, and we have not felt any injury from the fact that there has, occasionally, been a brake put upon the wheel in connection with our public expenditure, or in connection with our proposals for schemes of taxation. I should therefore view with very great jealousy a departure from this principle—the growth of the practice in connection with which I have watched for so many years—and should expect the mover of these resolutions, in laying down so great a departure as this from what has been the principle, at any rate, in two of the great colonies of Australia

Mr. PLAYFORD: No!

Mr. FYSH: To be able to give us exceedingly sound data for the purposes and objects which he advocates; and we shall then, in regarding those objects, take care to do what great senators and statesmen of old have done with respect to the Constitution under which we live—look well ahead to see that we are not committing ourselves to that unknown sea to which Sir Samuel Griffith has alluded.

Mr. PLAYFORD: No!

Mr. FYSH: Do I understand the hon. delegate from South Australia to say that with respect to the colony which he represents they have not found this practice in the main satisfactory? History only records one very important instance with respect to South Australia where there has been such a diversity of opinion as to lead to a rupture, and what was the result of that great diversity of opinion? If I am right, the popular branch of the legislature did in the end win, and those houses of Parliament which stand as a credit to South Australia to-day have afforded an example of what I have been alluding to. I do not purpose, having said there were three important principles which would govern me in connection with these matters, to follow those points which are so much better dealt with by the law officers of the various governments, whom I am pleased to know are associated with us in this work, but that we ought to have a judiciary which shall be a federal court for the whole of Australasia must be apparent to all of us, whether we are, or are not, largely engaged in trade. Those who have been making the laws of their own colonies, and those whose businesses have compelled the making of these laws, have felt the disadvantages of the incongruity of the bankruptcy acts, and, domestically, we regard our marriage and divorce laws as great incongruities; and when we free our ports there can be no doubt that the regulations as to the navigation of our fleets, and matters connected with our quarantine ports, and various other subjects of that kind, must be a federal concern; but as to whether it may be wise to be so self-contained in Australasia in connection with our judiciary system as not to permit an appeal outside of Australasia must be a matter of which I trust the law officers which are so well representing their respective colonies here will put clearly before the Convention. I lean strongly to the hope that the time is coming in Australasia when we shall be as self-contained in law and in manufactures as we are self-contained in climate and ability to provide for ourselves not only the ordinary and common necessaries of life, but all those luxuries which experience and wealth brings. We are warned by our very wealth and progress that there must be unanimity before this Convention closes its debates. I am glad, therefore, that you, sir, set a spirit of compromise, which I hope will continue day by day to be manifested by every member. I recognise the fact that no great good can be accomplished in a Convention of this kind any more than among cabinets and legislators, unless we are prepared to admit that wisdom does not rest with individuals; but that there is a collective wisdom in the Convention that is gathered together I have great faith, and in it and upon it I rely to overcome all difficulties, even such as those to which Sir Samuel Griffith has referred, so that we may be able to take back to our respective Parliaments the Constitution which we are charged to prepare for them, and it will be a very great disappointment, I believe, to every province in Australasia if anything shall occur in the course of our debates, or if any great point shall arise about which we cannot clearly see our way to meet at the table and to effect some compromise upon—a compromise which shall at once be judicious to the opinions of the various hon. delegates, honorable to the whole of them, and satisfactory to the communities which we serve.

Mr. MUNRO: After hearing your very important and interesting speech, sir, and that of my hon. friend, the Premier of Queensland, and also of the Premier of Tasmania, and having these very important resolutions before us for our consideration, I think we shall require at least one night to think over them. For that reason I move:

That the debate be now adjourned.

Colonel SMITH seconded the motion.

Motion agreed to; debate adjourned.

Convention adjourned at 4 p.m.

THURSDAY, 5 MARCH, 1891.

Federal Constitution (second day's debate)—Telegram from the Queen—Federal Constitution (second day's debate resumed).

The PRESIDENT took the chair at 11 a.m.

FEDERAL CONSTITUTION.

SECOND DAY'S DEBATE.

Debate resumed on resolutions proposed by Sir Henry Parkes (*vide* page 11).

Mr. MUNRO: Mr. President, in rising to address myself to the important subject before the Convention, I have very great pleasure in congratulating you upon the very excellent address you gave us yesterday. It appeared to me that it was conceived in the proper spirit. Whilst conciliatory to all of us, and giving us good advice as to how the business should proceed, it was, at the same time, very clear

and very distinct as to the principles upon which the Constitution ought to be founded. I confess that I felt very much relieved from anxiety on hearing the manner in which you laid down to us how our Constitution ought to be formed, because I felt, as the hon. member, Sir Samuel Griffith, indicated later on, that we were surrounded with a large number of difficulties—difficulties which we must endeavour to overcome as best we can. At the same time, you, sir, indicated to us the lines upon which we should proceed; and I feel assured that all the members of the Convention will feel grateful to you for the indication you gave them of your views with regard to that matter. Now, I may say that whilst the speech was very conciliatory, it at the same time followed very closely the instructions which we, as delegates, have received. We have come here to frame a Constitution, and the instructions that were given to us, I am happy to say, are very clearly laid down by the hon. member, Mr. Baker, in the book which he was good enough to distribute amongst us. He puts it in this form: That it is desirable there should be a union of the Australian colonies. That is one of the principles that has already been settled by all our parliaments. Second, that such union should be an early one—that is, that we should remove all difficulties in the way in order that the union should take place at as early a date as possible. Third, that it should be under the Crown. Now, I am quite sure that is one of the most important conditions of all with which we have to deal—that the union that is to take place shall be a union under the Crown. Fourth, that it should be under one legislative and executive government. That also is laid down by our various parliaments. Fifth, that it should be on principles just to the several colonies. I think these two points are the points upon which we shall find the greatest difficulty in arriving at conclusions which will be in accordance with the instructions we have received, and, at the same time, which will enable us to form such a constitution as will be valuable for the colonies. I confess I agree very much with the President in his remarks as to the union of the colonies, and as to his remarks in the direction that the government we are to form must be a stable government; that it must be such as will be able to carry out effectively not only the making of laws for the federated colonies, but at the same time, as an executive, will be able to carry out its own decisions and requirements, to preserve itself as a government for all the colonies. You also laid down that it must be a government as nearly as possible in accordance with the principles of the British Constitution, that is to say, that the ministry must be a responsible ministry, and that the house of representatives must represent the whole of the people. These matters were very clearly laid down in your address. I also gathered from your remarks that you were in favour of the ultimate power, that is, the final decision in regard to the finances, being in the house of representatives. I know that my hon. friend, Sir Samuel Griffith, went in another direction, though not very clearly; but you, sir, were very clear upon this point. Sir Samuel Griffith, while practically agreeing with the President with regard to these views, appeared to me to be surrounded by doubts and difficulties. I was sorry that he did not try to solve those doubts himself, because it is scarcely fair to us who have not studied this matter from the legal point of view, as the hon. member has done, to have submitted to us a number of riddles which we are asked to solve.

Sir SAMUEL GRIFFITH: I thought I did solve them!

Mr. MUNRO: Well, if the hon. member solved them, as far as my listening to him was concerned, and my reading of his speech a second time this morning, I really saw no solution—none whatever. As far as I could gather he favoured a constitutional government; but he doubted whether constitutional government would work—and whilst he informed us that he had grave doubts as to constitutional government working under our peculiar circumstances, he did not indicate to us what sort of government would work, and that is the difficulty which concerns me in this matter. If he had said to us, "Well, I feel sure, after giving full consideration to this matter, that a constitutional form of government will not work with a senate and a house of representatives—the senate representing the states, and the house of representatives representing the whole of the people—that constitutional government and responsible government will not work," it might have been different; but I found no solution of the difficulties in the hon. gentleman's remarks. He informed us that he thought the senate ought to have power to amend money bills with a view to avoiding deadlocks.

Sir SAMUEL GRIFFITH: Vetoing—amending by omission!

Mr. MUNRO: I admit that the form of amending was by veto—that is, separating one portion from another, vetoing one portion, and allowing another portion to pass. At the same time, it is purely an amendment. To omit a clause from a bill is to amend the bill quite as much as to insert a clause. The hon. gentleman pointed out that, in his opinion, we were to get over deadlocks by giving the senate power to amend money bills by discriminative veto, if I may so call it—that they were to have a veto in connection with money bills. The experience of the past, however, tends entirely in a different direction. It is entirely in the direction of showing that if the upper house or senate has the power of amending money bills it makes deadlocks more certain than would be the case under any other circumstances, because if we did not give power of amendment to the senate, eventually the house of representatives must of necessity prevail, because the people will insist on their views being carried out. But if you give the power of amending money bills to the senate, the result will be that it is not the view of the people that will prevail, but the views of a section of the people. The hon. gentleman was good enough to point out that, supposing two of the larger colonies were in favour of the expenditure of £1,000,000 on an arsenal, or on defences, or anything of that kind, and a majority of the smaller colonies combined against them, unless the senate had the power of amendment the result would be that the will of the majority of members would prevail. Let us take the reverse of that. Let us take the case of 2,500,000 people who ought to be taxed for a particular purpose, and 250,000 people, representing some of the smaller states, are to have the power of preventing them being taxed in a certain direction. What will the result be? The power of preventing taxation in a certain direction must absolutely result in taxation in another direction; and the result would be that the minority would govern the majority. That would be the practical outcome of the proposal. If the states, through the senate, are going to be empowered to veto the proceedings of the house of representatives, so far as money matters are concerned, and prevent the imposition of taxation in a given direction—if the minority can prevent that, the result will be that if you are to carry on government at all, as you must impose taxation, you must impose that taxation in accordance with the will of the minority. Surely that is not what we wish to be done; surely this Convention has not met for the purpose of giving a power to the minority of the people of this grand dominion to impose taxation on the majority against their will. That will be the practical result of Sir Samuel Griffith's proposal. One side or another must give way; and if the majority are bound to give way, the result must be that the minority will rule. Surely that is a state of affairs to which my hon. friend does not wish to bring us.

Mr. ADYE DOUGLAS: What is the use of the senate, then?

Mr. MUNRO: I will come to that in a moment; I am only dealing with the question of finance at present. The hon. gentleman also puts it that he does not think the government or the executive should be responsible to the house of representatives.

Sir SAMUEL GRIFFITH: No, no. I said nothing of the kind. I said I did not think it should be a rigid rule of the Constitution that it must be responsible to one house only. I repeated that about ten times, and I thought I had made myself clear.

Mr. MUNRO: I admit that that is clear enough; but to whom is the executive to be responsible? Is it to be responsible to both houses; will it be absolutely necessary to have a vote of want of confidence in both chambers to remove a government? Is that what is proposed?

Sir SAMUEL GRIFFITH: No, no!

Mr. MUNRO: I really want to understand where we are, and what is meant. If the vote of the house of representatives is not sufficient to dislodge a government, what is sufficient? What is to be the process by which a government is to be dislodged? What is to be the process by which a government is to be removed if the house of representatives has not the power to remove them? Whilst the hon. gentleman submitted a number of conundrums to us, he did not clearly show us how to get out of the difficulty. I followed the hon. gentleman very closely, and I read his speech very carefully this morning in order that I might understand what he really means; and it appears to me that he brings us into this difficulty. He says, "I do not want this Constitution to provide that the executive shall be responsible to the house of representatives; I want the responsibility to be divided between the two chambers." But he has not indicated how that is to be carried out; how the two chambers are to act with the view of either appointing or removing the executive. That is the difficulty submitted to us, the difficulty which we do not get over.

Sir SAMUEL GRIFFITH: I propose to leave to the future the avoiding of these difficulties, and that we should not make difficulties in advance!

Mr. MUNRO: I understand our duty as delegates to the Convention lies in this direction: that we are to form a stable and workable government. We are to form a constitution which will be so workable that all interests in this grand dominion will be as fairly represented as possible. We must have the instrument sufficiently pliable to enable us to carry on business in a proper manner. If we do not carry this out we shall probably form an institution which will be something like the congress which was originally formed in the United States, before they formed the Constitution which now exists, and in regard to which this is said in "The United States, its History and Constitution," by Alexander Johnston, page 79:

> The "Articles of Confederation," adopted in 1777, were thus calculated for the meridian of the state legislatures which were to pass upon them. The new government was to be merely "a firm league of friendship" between sovereign states, which were to retain every power not "expressly" delegated to congress; there was to be one house of congress, in which each state was to have an equal vote, with no national executive or judiciary; and congress, while keeping the power to borrow money, was to have no power to levy taxes, or to provide in any way for payment of the money borrowed--only to make recommendations to the states, or requisitions on the states, which they pledged their public faith to obey. The states were forbidden to make treaties, war, or peace, to grant titles of nobility, to keep vessels of war or soldiers, or to lay imposts which should conflict with treaties already proposed to France or Spain. Important measures required the votes of nine of the thirteen states, and amendments the votes of all. Congress had hardly more than an advisary power at the best. It had no power to prevent or punish offences against its own laws, or even to perform effectively the duties enjoined upon it by the articles of confederation. It alone could declare war; but it had no power to compel the enlistment, arming, or support of an army. It alone could fix the needed amount of revenue; but the taxes could only be collected by the states at their own pleasure. It alone could decide disputes between the states; but it had no power to compel either disputant to respect or obey its decisions. It alone could make treaties with foreign nations, but it had no power to prevent individual states from violating them. Even commerce, foreign and domestic, was to be regulated entirely by the states, and it was not long before state selfishness began to show itself in the regulation of duties on imports. In everything the states were to be sovereign, and their creature, the federal government, was to have only strength enough to bind the states into nominal unity, and only life enough to assure it of its own practical impotence.

Surely we are not going to impose a form of government of that kind. Surely we do not want to have a government which will not have the inherent power in itself, and a constitution which will not give the inherent power to those who represent the whole of the dominion, to carry on their own business. If we are to divide that power equally in connection with questions of finance, between the senate and the house of representatives, the result would absolutely be want of power to carry on business at all.

Sir SAMUEL GRIFFITH: How about the United States?

Mr. MUNRO: The United States are in a totally different position. In the United States the real executive power is in the senate, because the senate can veto the appointments made by the President, and there is no responsible government. We are now dealing, I understand, with the idea of having responsible government in this dominion of ours. I, for one, believe in responsible government. It is the only form of government with which we are familiar, and under which we are best able to do our business. But how can you have responsible government if you have a governor calling in an executive as his advisers, and if after that executive has submitted financial measures to the house of representatives, and shown that they are absolutely necessary for the good of the country, the senate vetoes the measures. Where, then, does the responsibility lie? The responsibility must lie in the senate, not in the house of representatives, because if the senate is to prevent the house of representatives carrying out financial operations the result is that the senate is supreme. And that is the difference between what we are proposing to do, and what has occurred in the United States. I quite admit that the United States system suits them; and if we are simply going to form a republic, and to establish an institution in which the executive will not be in Parliament, and will not be responsible, the state of affairs will be totally different. But I am contemplating that this Convention has in view the formation of true responsible government. Now, I quite admit that in the Australian colonies we have never had true responsible government. We have what is called responsible government, but we have not responsible government in reality. If we had responsible government we should never have had the troubles we have had in the past in regard to our two chambers. If our ministers occupied the positions they ought to occupy under a dominion government, and such as are occupied by the British Government ——

Mr. GILLIES: Have there been no troubles in England under responsible government?

Mr. MUNRO: I admit that they have had troubles there and everywhere else. There are troubles wherever human beings exist; but I say that whilst there may be troubles, we are not called upon to create them ourselves by bringing new parties into the contract who will be bound to cause troubles amongst us. The hon. member, Mr. Fysh, takes a more hopeful view of the situation, and whilst leaning, in some respects, towards giving some power to the senate, he honestly admits that the ultimate decision must be with the house of representatives; and without that I do not see how we are to form a proper constitution at all. I was well pleased indeed with the tone of his remarks in that direction. I

thought, he being a member of an upper chamber, that his leaning might be strongly in another direction.

Dr. COCKBURN: There is no analogy between a senate and an upper chamber!

Mr. MUNRO: There is a little analogy; they are not the same, I admit.

Sir THOMAS MCILWRAITH: The hon. member's argument is founded on the fact that they are the same!

Mr. MUNRO: Oh, no! I shall come to that matter directly. I am only dealing at present with the question of finance; I am only dealing with the fact that someone must be responsible for the finances. You cannot arrange the finances of a country by having co-ordinate jurisdiction in two chambers. While I state what I have stated with regard to the remarks of the President, with which I have already stated I was very well pleased indeed, I am not so well pleased with the resolutions. While you, sir, seemed to be very clear as to your own ideas of what sort of constitution we ought to have, the resolutions submitted to us do not seem to be quite so clear in that direction; and looking carefully through them it appeared to me that there was something wanting—that is, with regard to the first series of resolutions; I do not mean with regard to the second series of resolutions. The first series of resolutions states:

> That the powers and privileges and territorial rights of the several existing colonies shall remain intact, except in respect of such surrenders as may be agreed upon as necessary and incidental to the power and authority of the national federal government.

Of course we could mould a constitution upon a resolution of that sort in any direction we might think proper. There is a certain amount of vagueness about it which, perhaps, is necessary at the commencement, but which, probably, will require to be amended in Committee. I do not intend to submit an amendment, but shall merely state my views as to how the resolution ought to read. Instead of the 1st resolution I would say:

> The powers and authority necessary or incidental to the federal government shall be set forth in the constitution. The powers not delegated to the federal government by the constitution, nor prohibited by it to the federated colonies, are reserved to the colonies respectively or to the people.

That is the wording of the latter part of one of the clauses of the Constitution of the United States, and it puts the matter very clearly as to what powers are given to the federal government, and there is no difficulty in understanding it. Then, with regard to the second resolution:

> That the trade and intercourse between the federated colonies, whether by means of land carriage or coastal navigation, shall be absolutely free.

I may say that there is some doubt in the minds of some of the delegates with regard to what is intended by this resolution. I can clearly understand that it would be impossible to give effect to this resolution until the federal parliament has passed a law giving effect to it. That is my view with regard to it; but others are of opinion that it is intended to put this in the Constitution, and the result would be that there would be intercolonial free trade before the federal parliament had power to deal with the tariff at all.

HON. MEMBERS: No!

Mr. MUNRO: Of course that would be impossible, and consequently I thought that this form would suit better:

> All customs duties shall be uniform throughout the federated colonies, and the power and authority to impose such duties shall be vested in the federal house of representatives. All laws imposing customs duties shall be subject to the provision that trade and intercourse between the federated colonies shall be free.

That would be provided by the law to be passed by the federal parliament after it had met, instead of being in doubt as it is at the present time. With regard to the trade being free as between the colonies, of course we who here represent a colony which has for many years established a protective system must be guarded in the action that we take in this matter, because under our system very important trades and manufactories and establishments have been created, and unless we take some means to secure that they shall not be ruthlessly dealt with, and shall not be deprived of their position without having any power to resist the action that is taken with regard to them, I think we should fail in our duty. We are here undoubtedly to concede all that we possibly can with a view to have a proper constitution for the federated colonies; we are here for the purpose of establishing a thorough dominion, and for the purpose of conceding all that we possibly can; but I do not think we should be justified in allowing any doubt to remain upon this question—that is, on the question whether the intercourse between the colonies should be free prior to the federal parliament having power to form its own tariff. I think that that question should be put beyond any doubt. I, for one, am quite sure that we should be perfectly safe with the federal parliament; I am quite satisfied on that point, but others are not. Others hold a different opinion, and, of course, we shall have considerable difficulty in getting our constituents to agree with us in allowing the federal parliament to deal with this question; but we shall have far greater difficulty in reconciling them to the change if we are not clear in telling them that prior to any free-trade existing between the colonies the federal parliament will be enabled to form its own tariff and pass its own laws. We ought to be able to give them that assurance, and I am quite sure that that is the intention of the delegates here present, but we ought to have it put in such a form that there can be no doubt about it. With regard to the military and naval defence of Australia being intrusted to federal forces, of course no one can object to that; in fact, one of the reasons why this Convention has been called into existence, and why it is necessary to have the dominion at all, is to have the defences put on a proper footing. There is no doubt at all about that; but in order to do that it is absolutely necessary that the power of initiating taxation should be in the hands of the executive, and that the house of representatives should have the power of the purse. I have added further, altering the form of the resolution:

> After the portion required for federal purposes has been reserved, the revenue derived from customs duties shall be equitably distributed among the federated colonies on the basis of population.

I put it in that form for this reason, that the customs duties are really derivable from the colonies in proportion to population, for the larger the population the larger will be the consumption of dutiable articles, and consequently there should be some equitable system by which they would get a return in proportion to the amount derived from them. With regard to the further resolutions, I quite concur in the resolutions on this paper, with perhaps one or two slight amendments. The constitution of the legislature is thus described:

> A parliament, to consist of a senate and a house of representatives, the former consisting of an equal number of members from each province, to be elected by a system which shall provide for the retirement of one-third of the members every years, so securing to the body itself a perpetual existence combined with definite responsibility to the electors, the latter to be elected by districts formed on a population basis, and to possess the sole power of originating and amending all bills appropriating revenue or imposing taxation.

Then, for the administration of justice in its highest form, it is proposed to establish

> a judiciary, consisting of a federal supreme court, which shall constitute a high court of appeal for Australia, under the direct authority of the Sovereign, whose decisions, as such, shall be final.

Upon the latter clause I have some doubt. I am not quite sure that it would be prudent for us at this stage to absolutely prevent any Australian from appealing to the Privy Council under any circumstances. I am not quite sure that we ought to go so far as that at the present stage. I am not quite sure that we ought not to leave open some door by which, at least for the present, the power of appeal now existing should not be changed for some time. I think, Mr. President, that that is one of the links that bind us to the home country. We who are loyal subjects of the Queen are always anxious that nothing should be done to even weaken any link that binds us to the mother country, and the power of appeal in certain cases, along with the appointment of our colonial governors, are really the two important links that bind us to the home country.

Mr. DIBBS: Cutting the first strand of the painter?

Mr. MUNRO: I think so. Although we are not called upon at this stage to deal with details, I think it is absolutely necessary to mention some of the details, in order to give our interpretation of what we wish the Constitution to be, because we might talk for a month about generalities and never come to anything practical, unless we indicate some of the details which we wish to see in the Constitution; and for that reason I mention some of the things that I should like to see provided for; of course, mentioning them merely with the view of showing the direction in which my mind goes in these matters. For instance, I think we should provide, first of all, for the governor-general to be appointed by the Crown—I do not think that there is much difference of opinion on that point—that the senate should be elected or appointed by the legislature of the various colonies; that the house of representatives, or commons, should be elected by the whole people of the various colonies.

Sir THOMAS MCILWRAITH: Women, of course, included.

Mr. MUNRO: I have not the least objection to their being included.

Sir THOMAS MCILWRAITH: That is what the hon. member said.

Mr. MUNRO: When we talk of the whole people, we mean the whole of the electors.

Sir THOMAS MCILWRAITH: The males!

Mr. MUNRO: That is the law at present. If you like to alter the law, I have no objection to women having votes; but I am dealing with matters as they stand at present. At present the electors of the whole of the colonies should elect the house of representatives. Then—this is a point to which Mr. Douglas called my attention—the two houses should have co-ordinate power with regard to general legislation; leaving the question of finance out of consideration, on all other questions the two houses should have co-ordinate power. Then the interests of the various states would be protected as to general legislation. But the house of representatives, or commons, ought to be supreme in questions of finance. I have not the least doubt whatever on that point. Then, as I have already stated, there should be a common tariff and intercolonial free-trade. I think that the following powers should be given to the federal government: The regulation of trade and commerce, including bankruptcy laws and sea fisheries; navigation and shipping laws, including the management of pilots, beacons, buoys, and light-houses; control of the post-offices and telegraphs; the laws with regard to marriage and divorce and probate; the defences by sea and land; loans for federal purposes; engagement of federal officials; payment of federal salaries; banking, currency, and coinage; bills of exchange and promissory-notes; census and statistics; patents and copyrights; weights and measures; federal criminal laws, gaols, &c.; aliens and naturalisation.

Mr. MOORE: Does the hon. member associate the question of taxation with that of finance?

Mr. MUNRO: Certainly.

Mr. MOORE: Does the hon. member mean to limit the sole control of all taxation to the house of representatives?

Mr. MUNRO: I say that they should have the ultimate power. I am satisfied that under responsible government, and in justice to all the colonies, you must do that. You cannot allow a small section to govern the majority on a question of finance; you cannot give 250,000 persons the power to tax 2,500,000 against their will. Surely that sort of thing is not intended. This is all I contend for. I do not want to take up more of the time of the Convention than I have already done. I think I have trespassed too much on the time. I am very well pleased to take your advice, Mr. President. While I, as strongly as I can, give expression to my views, I think that we are here for the purpose of giving and taking. I think we are here for the purpose of stating our views as strongly as we like, but finally to take into consideration which views ought to prevail; and I am willing to do all I can to enable us to form a government which will be a credit to us all, which will be sufficiently strong to do its own work, and sufficiently effective to see that its laws are carried out, but in no way to interfere with the colonies as far as their business is concerned. I am quite sure that when we come to thrash the matter out that will be the view of nearly all the delegates, and, in fact, of all the colonies. If we are to federate at all we must federate on a basis that as near as possible will be just to the whole of the colonies, and, at the same time sufficiently effective to enable the executive to carry on its work in a proper manner.

Mr. PLAYFORD: I think that in the discussion of this question the example that has been set us by the various speakers is very good in its commendable brevity, because I look upon these resolutions as simply the groundwork upon which we are to proceed to build the bill. The great work of the Convention will undoubtedly take place in Committee, when we are discussing the provisions that should be contained in the bill. I look upon these resolutions in the same light as you, Mr. President, do, namely, as the foundation to build a bill upon, and I think that now we should not go into matters of detail at all, but confine ourselves to the more important principles that are laid down in the resolutions before us. The resolutions naturally divide themselves into two parts. Upon the first part, with regard to the powers that should be given to the federal government that we propose to create, there appears to be very little discussion, and the expression of opinion is practically in favour of the propositions laid down. The first proposition laid down is that we should not take from the various colonies any more power than is absolutely necessary to give to the federal government, so that the federal government may have power to carry on its functions properly. I pointed out at the Melbourne Conference that that appeared to me to be the principle on which we should act, and a principle which, if we affirm it, will to a considerable extent do away with the jealousy likely to be created as between the various governments and the federal government that we are endeavouring to build up. I am glad that that provision is included in the President's proposals. With regard to the 2nd resolution:

> That the trade and intercourse between the federated colonies, whether by means of land carriage or coastal navigation, shall be absolutely free—

it appears to me that the last speaker, Mr. Munro, of Victoria, has fallen into an error in supposing that, because this resolution with regard to free intercourse is here, it would mean that free intercourse between the various colonies should take place before the federal parliament had time to pass a tariff bill fixing the tariff for all the colonies.

Mr. MUNRO: I do not think so; but others thought so!

Mr. PLAYFORD: We do not intend to do anything of the sort. It stands to reason that until the federal parliament has had time to draft a bill, and that bill has become law, we shall have to continue with our own tariffs, and when that bill is passed into law a day will be fixed on which the tariff will come into operation, and all the other tariffs of the various Australian colonies will cease. In alluding to this question just now, Mr. Munro suggested some amendment. I did not take it down at the time; but I think that the hon. member was under the impression that the federal government would be able to give back to the various local governments practically the whole of the customs revenue they would raise.

Mr. MUNRO: No!

Mr. PLAYFORD: And that it would be given back to the various local governments in proportion to the population of their respective colonies. If we consider for a moment that the federal government must have an executive, and will have to provide the necessary payment for the federal forces, for the federal executive, and for various other matters, we must see that they will have to derive a revenue in some way or other; and the most difficult question, I think, which the members of the Convention will find, when they come to deal with it, will be the adjustment of that financial part of, if I may so call it, the trouble between the federal government on the one hand, and the local governments on the other. It may be necessary that, in certain instances, we should be paid back by the federal government a proportion of the money that we, as local governments, derive from customs. The great trouble you will have, after all, will be, as in the case of Canada, in connection with the adjustment of finances. In Canada they had a national debt which, compared with ours, was very small—I think it amounted to only about £10,000,000 or £12,000,000, as against our £150,000,000. Like us, however, they had local governments, which had raised money to an extent considerably more than that to which it had been raised by their neighbours per head of the population. We have local governments which have borrowed money to the extent of about £60 per head of the population, and others again who have not borrowed to the extent of more than £20 per head, While they must give up a certain proportion of their customs duties to the general parliament, there must be some adjustment by which all the colonies will be placed upon a fair footing, and whereby the federal government will take and pay back to the colonies some portion of the customs revenue; but the amount must be in proportion to the amount of the debt the federal government takes over for each individual colony. It will be a difficult question to solve; but it is one that will have to be solved. The way in which it was solved in Canada is well known to members of the Convention. I think it was the province of Quebec which had borrowed more than had any of the other provinces, and the federal government said, "We will take over your debt, but we will not pay you anything out of the customs revenue" Other colonies which had borrowed less received, and continue to receive, a certain subsidy from the federal government, in proportion to their debt, the dominion parliament taking their debts upon its own shoulders.

Mr. DIBBS: Does the hon. gentleman contemplate the federal government taking over any portion of the public debt?

Mr. PLAYFORD: Undoubtedly. I say that if the federal government take over the defences they must take over the debts.

Mr. FYSH: For defence purposes!

Mr. PLAYFORD: Exactly. We, in South Australia, have built a war-ship, for which we have paid out of loan, and we shall expect the federal government to take it over. Then there are certain forts which we have erected partly out of loan, and partly out of the general revenue. We shall expect the federal government to take over those forts, and to pay us for them, and to take over the debt in connection with them. There are other questions of a similar kind which suggest themselves naturally, and which will have to be similarly dealt with. Take the post-offices. If we agree that the post-offices should be under the federal government, that government must of course take over the debts in connection with them. Then there are the telegraphs. I presume the federal government will take over the debt incurred by South Australia in that very excellent work of hers which has benefited the whole of the colonies—I refer to the overland telegraph to Port Darwin. The members of the Convention will see that with regard to these questions of the taking over of the customs revenue and the adjustment of finances, they have a great work in front of them, and will, to my mind, have a very difficult question to solve; but that the federal government will not be able to give back to the colonies the whole of the customs revenue derived may be taken for granted. They may be able to give back a part; but a part is all they will be able to give. With reference to the next portion of the resolutions, referring to the naval and military defence of the colonies, I think very little objection can be taken to it. We are all agreed, I think, to defence forming a portion of the powers of the federal parliament. I now come to a very important part of the resolutions, which will, I think, create a great amount of discussion—I refer to the machinery by which we shall give effect to them—that is, by which we shall confer these powers upon the federal body. The resolution says:

> A parliament, to consist of a senate and a house of representatives, the former consisting of an equal number of members from each province, to be elected by a system which shall provide for the retirement of one-third of the members every years, ——

I think it will be better to provide for the retirement of more than a third. It will be better, perhaps, to adopt the American system, and to say, instead of one-third, that one-half should retire every three years, making the period for which the representatives are elected six years, one-half going out every three years. That, however, is a matter of detail.

> so securing to the body itself a perpetual existence combined with definite responsibility to the electors, the latter to be elected by districts formed on a population basis, and to possess the sole power of originating and amending all bills appropriating revenue or imposing taxation.

Now, this form of government which is proposed by the President is the form generally in vogue throughout the various Australian colonies.

Sir SAMUEL GRIFFITH: No!

Mr. PLAYFORD: In practice, it undoubtedly is so.

Sir SAMUEL GRIFFITH: Not so far as the senate is concerned!

Mr. PLAYFORD: There can be no doubt that in practice it is. We know that some of the legislative assemblies in the various colonies have greater power than have others; but the general practice is that the houses of assembly—the people's houses in the various colonies—universally object to the legislative councils of the different colonies amending their money bills. There is no doubt about that; and it is therefore stated in so many words in these resolutions what are the powers of the popular branch of the legislature in regard to money bills, so as to make the point quite clear. Unfortunately, the framers of our Constitution did not make it clear, and the result was that the two houses had no sooner set to work than a deadlock commenced between them. It is only by a compromise or compact entered into by the two houses, by means of which the Legislative

Council was allowed to make suggestions to the Legislative Assembly with regard to money bills—it is only by means of this understanding that we have been able to carry on legislation at all. In its absence we should have had an unmistakable deadlock, and we should have had eventually to appeal to the home Government to pass a bill to enable the machinery of government in the colony to work more smoothly. We may take this provision for granted if we are to have responsible government. The resolutions afterwards go on to provide for an executive, for a governor-general, and for the appointment of his advisers:—

> such persons sitting in Parliament, and whose term of office shall depend upon their possessing the confidence of the house of representatives expressed by the support of the majority.

That, at all events, carries out the same principle as is in force in the various colonies now, and unless you depart from that principle you are in this fix as to the senate, that you are about to give the senate powers co-equal with those of the house of representatives with regard to the amendment of money bills, thus creating a state of things which must result in an unmistakable deadlock.

Sir SAMUEL GRIFFITH: Why?

Mr. PLAYFORD: I represent a colony whose interest it would be to magnify the senate as against the house of representatives, because, in proportion to its population, it would be more largely represented in the senate than in the house of representatives, which, I imagine, will be elected upon a population basis. I say this: That unless we alter our system, and unless we adopt the American or the Swiss system, and provide that the senate and house of representatives at certain times shall meet and shall appoint their own executive—which will not be in the sense in which we use the words, "responsible government"—unless you do this, the scheme is impracticable. So far as the senate is concerned, while we give it all the necessary power to veto, to absolutely stop any legislation it believes to be injurious to the community as a whole, even against the will and wishes of the lower house, we must at the same time provide that so far as money bills are concerned one house must rule, must have not only the sole power of initiation, but must be able to say to the other house "You may make suggestions, but we cannot concede you the right of amendment." I should like the members of the Convention to consider these two questions. Take the first one—a question that must occupy the attention of the new federal parliament directly it is called into being, at the outset of its career—the question of tariff. Fancy for a moment the ministry of the day, whoever they may be, responsible only to the lower house having to pass a tariff line by line through the two houses. It would be practically impossible to do so. The Parliament would never be able to come to a decision upon any important question such as that of tariff if that were the case, owing to the multiplicity of details which would be taken into consideration by the two houses. I have had some experience in passing a tariff through a legislative assembly. I am informed that when the measure I passed was in Committee I rose no less than 400 times to explain various matters. I know what it is to pass a tariff through one house, and I say that if the government of the day had to pass a tariff through the senate, as well as through the house of representatives, and were to have every line discussed by the two houses, having to please two bodies of men—two houses—the result would be that your machinery of government would not work. The friction would often be very great; and in many instances the Parliament would experience great difficulty in arriving at any decision whatever. Then there is another question with which the two houses will have to deal at the outset of their career, and in connection with which, if you give them co-ordinate powers and jurisdiction, you will have a deadlock occurring, or I am very much mistaken. I refer to the estimates. They will come before the federal parliament annually, and I presume that the ordinary estimates for the year will have to be passed by the two houses. Do you propose to give to the senate the right to enter into every little detail? Do you propose to give to the senate the right to veto—as was pointed out by Sir Samuel Griffith—every line? Will you give them the right to say whether a post-office shall be built here or a court-house there? If you once do that, you will get into a state of confusion which will render the working of your constitution almost impossible. It could not be done upon such lines.

Sir SAMUEL GRIFFITH: We have 100 years of example to show the contrary!

Mr. PLAYFORD: No; we have not 100 years of example to show the contrary. We have no such example in America, to which country the hon. gentleman, I presume, refers. Have you had there 100 years of example to show the working of responsible government in connection with the house of representatives, which is, after all, in America the lower house in more senses of the word than one? The lower houses in our parliaments are more powerful than are the upper houses. Does any one here intend to make the senate more powerful than the house of representatives?

Sir SAMUEL GRIFFITH: I did not propose to do so!

Mr. PLAYFORD: That will depend upon the power you give it. If, as the Americans do, you give the executive power to your senate, if you give it the right, as it has in America, to amend money bills in whatever direction it pleases, and limit its power only so far as the initiation of those bills is concerned, no doubt it will become a body similar to the senate of the United States of to-day. But under a system of responsible government you cannot do that. You cannot graft responsible government on to the American system—a congress, as it is called, consisting of a senate and lower house—and make it work, because, directly you graft on to it responsible government, you take away at one stroke some of the powers the senate possesses. For instance, you could not allow the senate to say that the ministry of the day should not appoint such and such a person ambassador to Pekin, or such and such a person ambassador to London. You cannot carry on responsible government and give to the senate the powers which it possesses in America at the present time. You cannot give the senate such powers and have at the same time a responsible executive. I think that in drawing up the details of any measure we may adopt, we ought to do all we can to prevent the larger colonies—those having a preponderance of population—being placed in a position in which they can ride roughshod over the smaller ones. I believe the larger colonies do not wish it, and we must provide some means of strengthening the senate and preventing the house of representatives from riding roughshod over it other than by giving to it power to amend money bills. One of the great powers the house of representatives would have, if the senate had no power to amend money bills, would be to tack on to such a bill some measure which they knew to be objectionable to the senate, but which they might think the senate would not throw out lest they might injure some other provision which they desired to see the law of the land. We ought to so frame our Constitution that this power attempted to be exercised, and occasionally exercised by the lower houses in the colonies, could not be exercised by the house of representatives. We should provide, I think, that as regards the Appropriation Bill, or a Tariff Bill, each question must be forwarded to the senate separately, thus preventing the house of representatives from tacking on to, say, an Appropriation Bill a proposal for the

expenditure of money in some direction apart from the ordinary expenditure of the year, and of which the senate were known to disapprove. With regard to loans for public works, we might provide that every work in respect of which it was proposed to borrow money should be contained in a separate bill. By that means we should empower the senate to reject a certain measure involving a heavy, and in their opinion, an unjustifiable expenditure without at the same time throwing out other useful and requisite public works which they desired to see passed.

Mr. DIBBS: Would that apply to a tariff?

Mr. PLAYFORD: No; that would involve too much detail. It would be impossible for the two houses to consider a tariff line by line. Of course, it would be open to them to deal with the principles of a tariff. If the senate, for instance, objected to the principle of a tariff, they could throw out the Bill. That is the position they ought to take up in such a matter. If they were to insist upon going into every little detail the result would be an unworkable constitution. To the question raised by my hon. friend, Mr. Munro, with reference to the protection of manufactures, I have already referred. There are several other phases of the question, at which I might just glance for a moment. There is the power of veto which it is proposed should be exercised, I suppose, by the Queen. It is an exceedingly important power, and it seems to me that we should do all we can to prevent its exercise—that is to say, we should do away with it as far as we possibly can. With regard to this power, I think that when the people of the colonies have spoken out and have said unmistakably that they want a certain law passed, and that when a law so demanded has been passed in a perfectly constitutional way, the power of veto, as now exercised by the Queen, should be abrogated. I think there should be no power of veto whatever. It has not been exercised of late years to any great extent in Canada, and it has been exercised to a very limited extent in these colonies, and it is about time, I think, that it was done away with altogether. If we cannot agree that it should entirely cease at once, we might agree to something like this: that on the passing of any important measure as to the wisdom of which the minds of the people of the colony are very much exercised, or to which a large number are opposed, it might be referred to the various constituencies by referendum, and if the constituencies decided by a majority in favour of the measure so passed, it might then become law, and should not, under any circumstances, be subject to the veto of the Imperial Government.

Mr. DIBBS: That will be another strand of the rope gone!

Mr. PLAYFORD: I do not know that any strand will be gone. With regard to the question of the executive, I understood Sir Samuel Griffith to say that he thought it might be well to have an executive that would not be responsible to Parliament.

Sir SAMUEL GRIFFITH: I said that the constitution might ultimately tend to work in that direction. I prefer the present system.

Mr. PLAYFORD: But there is this danger: I can see that we ought to make provision to meet in common fairness the smaller Australian colonies. Two colonies—say, Victoria and New South Wales—might join themselves together, and might have a majority in the house of representatives, which would, of course, keep the ministry of the day in power; the whole of the ministry might be taken from the representatives of New South Wales and Victoria, and the rest of the colonies have no representation whatever.

Mr. GILLIES: Sir John Macdonald was too wise to do that sort of thing, and we may follow his example. No wise government would do that.

Mr. PLAYFORD: We might have an unwise government with a majority at their back, and who might do anything. If the two larger colonies were to join together, they could undoubtedly do that, and as long as they kept a majority, they could keep on doing it. It would be a mistake. It may not be done in the first instance—I do not suppose it would be done; but in drafting a constitution we should take up this point for the protection of the other colonies: that they should have some representatives, at all events, in whatever government is formed, and that the government of the country shall not be formed out of one state alone.

Mr. ADYE DOUGLAS: How kind you are!

Mr. PLAYFORD: I am considering Tasmania, as well as South Australia—not one colony alone. I say it is a question that we ought to consider. We ought to make provision, so that two colonies like Victoria and New South Wales, which would have their representatives elected wholly on the basis of population, should not monopolise the representation. We ought to consider whether it is not well to say that, at all events, the executive should be distributed somewhat among all the colonies of the group. I do not know that there is any other point that I wish to bring before the delegates at present. All I wish to say is that, although I have my own views as to what will be the best constitution to frame, I am here willing and prepared to give way in the matter to the will of the majority; because, unless we are prepared to give way to the will of the majority, we shall do nothing. I think, taking them as a whole, that the resolutions lay the foundation of what will be, if carried into effect by an act, a useful form of government, and the best that we can adopt. At the present time, I think it would be a mistake to go away from the old responsible government under which we have been brought up, and attempt to establish a new form of government without responsibility to Parliament, and of which we have no knowledge. I think, therefore, that we can pass the resolutions, and I understand the moving of them means that we shall go into Committee of the Whole, and well consider them clause by clause. I will, therefore, not take up the time of members of the Convention any further; but say that I trust they will approach this subject on the give-and-take principle which we should approach it, and not allow our own individual views and opinions to lead us into saying that, if we cannot carry all we want in a matter of this sort, we will do nothing.

Sir THOMAS McILWRAITH: I should like to have heard the representatives from all the colonies address the Convention before I rose, being myself in a secondary position at the present time; but, as Sir Harry Atkinson has assured me that the New Zealand delegates do not intend to speak at the present stage, I have taken the floor. I was very much pleased with the speech in which you, Mr. President, introduced the resolutions—a good deal better pleased with the speech than with some of the resolutions themselves. The first is:

> That the powers and privileges and territorial rights of the several existing colonies shall remain intact except in respect to such surrenders as may be agreed upon as necessary and incidental to the power and authority of the national federal government.

That is the germ and foundation of federal government, and if carried and believed in conscientiously by the delegates, I believe it would be a foundation on which we could form a federal government. I look upon it as the cream of the resolutions put before the House. The other two in inverted order bring in a very large question:

> That the power and authority to impose customs duties shall be exclusively lodged in the federal government and parliament, subject to such disposal of the revenues thence derived as shall be agreed upon.

And then following that:

> That the trade and intercourse between the federated colonies, whether by means of land carriage or coastal navigation, shall be absolutely free.

These introduce a very large question, and although the debate up to the present time has been more confined to the difficulty of framing a constitution that will work and to the details of that constitution, I think if those two resolutions are carried they will form the foundation of a federation, whether the whole of the colonies come in or not; that is, if two such colonies as Victoria and New South Wales were to agree to terms like these, they would form the nucleus of a federation into which the other colonies in the future would be bound to come. I look upon the commercial aspect of the matter as of much greater importance than the legal aspect which has been taken by so many members. I have no doubt that when we get to business it is our position as colonists and as traders which will really influence the whole of the votes of the delegates. We cannot hide that from ourselves, because we are bound to consider the interests of the colonies that we represent as well as the interests of the federation. There is no question in my mind that the two resolutions which I have read imply free-trade between the federated colonies, and protection against the world. There is no doubt in my mind that that is implied, because in the present position the protectionists will of course vote for it; at all events, the protectionists of Victoria and New South Wales will vote for it, and the free-traders will require to vote for it too if they desire federation, because it is the only means by which they can get the revenue. Unless they did, the effect of the first law passed would be to dislocate the revenue branch of the governments of the separate colonies. Take the case of Queensland, which I represent here. They cannot say to that colony all at once, "We intend to have free-trade, and the money previously got by your government through the customs, you must get from another source." That would burst up the confederation before it was fairly started. We must proceed on the supposition that there will be free-trade among the colonies, and protection against the world. I believe the opinion of the colonies in general is that this would be a good national Australian policy, and one in which I thoroughly believe. At the same time, those who have, I will not say benefited by protection, but whose interests have been nourished under protection, must look with a great deal of consideration and sympathy towards colonies which have never tried it. At the immediate start, the result is plain. Who will get the trade? Those who already have protection. If a general tariff is adopted by all the colonies, it will enlarge the area of trade for the manufacturers who have already obtained protection. The fact that they have been engaged in the industries so long will make competition more difficult. In considering this question, therefore, we must consider the weak colonies that have industries started. This question will come up in Committee, and we shall have to give a great deal of consideration to those colonies which are going to lose at once, so far as that branch of the subject is concerned. Victoria is protectionist, and many think that the people of New South Wales are protectionist too. I believe that, if they were looking after their own interests, they would be protectionists, because I do not know a country in the world better adapted for manufactures than this colony. You have a magnificent climate, land, minerals, splendid material for textile manufactures to your hand. These are now being exported, and the only great advance in manufactures has been made in the neighbouring colonies. If there were no other gain to Australia as the result of federation than the increased production which would follow from the adoption of protection against the world, it would be sufficient. Take the manufacture of wool alone. Why is it that we see only a few small places for manufacturing tweeds at Geelong, Ipswich, and a few other places?

Mr. GILLIES: Labour!

Sir THOMAS McILWRAITH: Labour will come where the coal is accessible, where there is cheap land and food, and nowhere can these things be obtained more advantageously than in New South Wales.

An HON. MEMBER: What about Queensland?

Sir THOMAS McILWRAITH: Excepting Queensland, of course. I happened to be speaking for the moment of New South Wales, but the same may be said for the other colonies. We must, therefore, recognise the fact that this is going to be a big protectionist colony. I shall say nothing with regard to the 4th resolution, which affirms that the military and naval defence of Australia should be entrusted to federal forces under one command. That follows as a matter of course, and the resolution might have been omitted. The resolution ought simply to affirm the principles on which the bill should be founded. But when we come to the other conditions, which, though not ranked as such, really are the conditions upon which we are asked to form a federal government, I altogether disagree with the proposal which you, sir, have placed before the Convention. What do we say in order to procure federation? What do we say to the Australian colonies? We say to the smaller states, "Federate." When they ask in reply, "What is federation?" we tell them of all its advantages. But we are immediately asked this one thing, "Well, we have the power of making all the laws within ourselves, and of making them without consulting you; why should we come under federation and consult you about our laws at all?" That is the answer given by the small states to the big states that want to swallow them up, as it were. What is the reply when the small states say, "We cannot lose our nationality; we are a unit now, and we must preserve our nationality in any kind of federation that may take place?" They are answered at once, "Very well, we will allow you to be a unit and will create two houses of legislature, one of which shall be a senate in which each colony as it stands now shall be represented; no matter what its length and breadth and population may be, it shall have the same voice and the same influence in that senate as is enjoyed by the other chamber." That is a substantial *quid pro quo;* that is something given on each side; that is business. But what does this resolution propose? As soon as we have given up our rights to the federal authority we are asked to withdraw the right that has been given to be allowed to be considered a unit in the legislature. We are to give back that gift that the federation has given in consideration for something else, and to take something else; because we are asked in the most important question that can possibly come before the legislature that this state representation in the federal council shall be a great deal less than was bargained for—it is to be less than one unit. The gentlemen who have spoken on this subject, with the exception of the hon. member, Sir Samuel Griffith—even you yourself, sir, though you did not say much about it—took it for granted that the senate proposed in the resolutions would be something like the Upper House, which forms a chamber in the different legislatures of the colonies. But where is the resemblance between the two bodies? Why is there a distinction drawn between the powers of the members of the upper house and those of the members of the lower house? It is only for one reason. When the constitution originally came to us from England, this distinction did not exist. The two houses were given equal powers. But when it came to be seen that one chamber was elected to represent the whole of the people—though it does not really do that, for it does not represent the women—but at all events, when it came to be recognised as the chamber that was supposed to represent the people, and that the other chamber represented only a section of the people, namely,

those who had property, it naturally came about that this popular chamber said to the upper house, "In money matters we will not give you the same power that we possess." It seems to be assumed by members of the Convention who have spoken that it is quite impossible in the very nature of things that a money bill can be settled by two houses—that there is sure to be a deadlock. But the deadlock does not arise because two chambers deal with a money bill, because the two chambers, having equal powers in respect to those subjects, deal with a great many other questions besides that of finance. It is only here that we are to be curbed, and we are to be curbed here when no reason for doing so exists; because I have pointed out that in the senate Queensland is to be represented by the same number of members as New South Wales, although its population is only one-half of that of the mother colony. They may say that is unfair, but it is part of the bargain. Why are the terms of that bargain to be made unfair to the smaller colonies? Why is the power of those smaller colonies to be restrained? Those hon. gentlemen who have spoken have assumed—which is not the fact—that in the legislature shadowed forth in these resolutions the senate is to represent property.

HON. MEMBERS: No!

Sir THOMAS McILWRAITH: It is only on that assumption, and on no other, that their arguments can be based—that the house of representatives will represent the people, and that the senate will represent the monied class.

Mr. PLAYFORD: No!

Sir THOMAS McILWRAITH: That is the only ground on which their arguments can be based. In the disputes that have taken place between the two chambers in all the different colonies, that has been the only reason that has been given. It cannot be assumed that there being two chambers, there are sure to be deadlocks, because the same reason would apply to deadlocks arising on fifty other occasions. The contention has simply been that the people who find the money should have the sole right of saying how it shall be spent. Now, why should we assume that the senate will not represent the people of Australasia? I hold that it will represent the people in every possible way. How do I know that the first men who are elected for Queensland—the colony that I, as one, am here to represent—will not be elected by the plebiscite? There cannot be a more thorough representation of the people, so far as numbers go, than by that system, which is one of pure democracy. There are no conditions stated on which the colonies shall elect their members, and the senate may, and no doubt will, represent the people quite as much as will the representatives chosen by the people in any other way. A good many reasons can, of course, be given why this part of the resolutions, affirming that the sole power of originating and amending all bills appropriating revenue and imposing taxation, should be given to the one house alone. I have given my views on the subject as a non-legal man. My hon. friend, Sir Samuel Griffith, explained the matter thoroughly to all legal minds, and I have not heard a single word in answer to his speech. I have heard it evaded, but I certainly have not heard one word in answer to it. There is one matter, and it is of far greater importance even than that aspect of the question, that has not been touched upon at all, and it concerns the position of Queensland at the present time. I think it is a very important matter where state rights are to be represented, and to be represented by one chamber in the new federal legislature, that provision should be made, or at all events that an indication should be given as to how provision shall be made, for the admission into the union of other provinces, and for the subdivision of colonies now existing. Not a word has been said as to that up to the present time. In Queensland we are on the eve of dividing the colony, if we can, into three parts. We shall require some guarantee that Queensland is going to be recognised as three provinces in this new federal government, and at all events, unless the thing is to come to a deadlock, we must provide some method by which the subdivision of a colony shall be made, when demanded by the people and approved by the legislature. No provision has been made for that; yet it is a question that will arise before a federal government can possibly be established. The question, I say, is bound to arise, and is in fact to the front now. I will not take up the time of the Convention any longer, because I am glad to see that the rule of the day is to make short speeches, and to speak to the point; and I adopt that rule the more cordially because I consider that the passing of these resolutions is a mere formal matter, and that they will be thrashed out thoroughly by the Committee in detail.

Captain RUSSELL: I see that the order-paper is headed the "National Australasian Convention," and, therefore, being a member of the Australasian group, I may say that so far, in listening to the debate, it has struck me, to use a quotation from the Bible, in which I am afraid I may not be absolutely correct, that "Whilst ye worship me with your mouths, your hearts are far from me." I have been listening, as a representative of a remote part of Australasia, for the true federal spirit. It has been supposed that the federal spirit does not exist in New Zealand. I venture to say, without hesitation, that in any debate in New Zealand on the question of federation, we should have heard more of Australasia and less of Australia. It is a broad question that we are here to deliberate upon, and as I am now only filling a gap of five minutes, and have most distinguished colleagues to follow me, I am unable to enter upon the different subjects at the length I should wish; but the great question that we have before us now is not the creation of one large colony on the continent of Australia, but to endeavour so to frame a constitution that all parts of Australasia shall be able to attach themselves to it should they now or hereafter think fit to do so. It is perfectly true that New Zealand has decided to send but three delegates to this Convention; but I would point out that, at the deliberations of the conference last year, though nothing was affirmed on the subject, it was held by all the speakers that in all probability the voting at the Convention would take place by colonies; and if that is the case, surely the voice of three men expressed in one vote might in itself be held to have as much effect as the voice of a host, inasmuch as it would be the still small voice of a strong feeling, and not the loud popular clamour which so often means nothing at all. The great question that Australasia has to consider at this moment is whether Australasia will constitute herself the mother state to which all the other peoples in the neighbourhood shall attach themselves. There are many questions of great importance which hinge on that, and which have not been alluded to in this resolution, and which could not have been alluded to by any of the previous speakers. The great object of any federal constitution, according to my mind, at any rate—I speak for myself—the great desideratum should be to so frame a constitution that the remoter portions of Australasia should be able to join themselves on to what we may term the mother colony, should they think fit so to do. My hon. friend, Sir Samuel Griffith, in speaking yesterday, dwelt much, and I think very properly, upon the question of the senate. It has been said that the people should have the entire power, seeing that they represent the purse. That is a truism. It has become, I think I may almost say, a fetish throughout all British-speaking communities, that the power in every question should rest with the bare majority. That majority is often

very bare and very narrow; and though, to the very fullest extent I concede that the power must rest with the people, it is a very open question whether countries ought to be submitted to the cyclonic effects of popular gusts of passion, unchecked by any authority whatsoever, and I venture to affirm, though it may seem paradoxical, that the senate might possibly more truly represent the majority of Australasia than might the people's representatives in the house of assembly. In the first place, I would say that it is absolutely essential if the weaker colonies are to come into a federation that they shall have a numerical majority for the time-being, because we are not speaking now for an ancient people in a country fairly populated, but we are speaking for large territories which yet have to be colonised, in which great numbers of people will be settled on places which at present are waste and uncultivated—and if we say that the sole power shall rest in the hands of those who chance at the moment to represent a majority of the colonised portions of Australasia, how can we expect that we shall have a true federal union? How can we imagine that the outlying districts will submit themselves to what, I believe, may be the tyranny of a chance majority? Let us give to the senate, then, full power, seeing that in all probability it will represent numerically the majority of Australasia rather than those who chance to be the people's delegates for the moment in the house of representatives. There are many points which have not been considered, and with which I will not bother the Convention at the present time; but I would ask them to bear in mind that if we are to adopt the present system of responsible government—and I may mention incidentally that in New Zealand there is a very strong section of public men who are beginning to doubt the wisdom of responsible government, and I appeal to the premiers of the neighbouring colonies in this Convention as to whether they themselves do not admit that they are very many drawbacks and defects in the system of responsible government; that is to say, one of the principal questions which affect the deliberations of representative institutions throughout Australasia is who is to be premier and who is to go out of office. Great public questions are subordinated in nine cases out of ten to personal popularity and the maintenance of a certain set of people in office, and no hon. member here who has sat long in a representative chamber can deny that business of the greatest importance is perpetually shelved, that stone-wall is set up periodically—I might almost say perpetually—to endeavour to prevent public opinion being given effect to, because it chances that the large minority in the house have some other views which they wish to put before the country; that, in other words, we have failed during recent years by representative government to get a true expression of opinion from the people. I maintain that such is the case in almost every colony in Australasia. I have watched it with some care and with great pain. But if we give considerable power to the senate I venture to say that that power will to a very great extent diminish. It is not necessary that I should now go into details as to what the business of the senate may or may not be; but so soon as Australasia develops into a nation, so soon as it becomes a power having dealings with foreign nations, I maintain that the system of turning out governments upon some small question—I will not say of public policy, but some very small question, the continual shuffling of the cards, the ejectment of men from office owing to no failure of duty on their part, will become a very great inconvenience. When we begin to have ambassadors, or something similar to ambassadors, negotiating with foreign countries, when we have an agent-general representing us in England. I venture to say that the ejectment of ministers from office continually and perpetually without any good reason at all will interfere very materially indeed with what I may term the foreign policy of Australasia; and, therefore, we ought by some means or other to endeavour to put a check upon the system of the ejectment of ministers from office without reason, thereby curtailing the benefits which they could confer on the united colonies, and also interfering materially with the foreign policy of Australasia. The reason why I think we should have a system of federation as loose as possible is this: that all the more outlaying portions of Australasia must be allowed to work out their own destinies. When you think that we, in our own colony, have what may be termed a foreign policy, inasmuch as we deal with an alien race, that we have laws very materially affecting them, that the questions of native title are matters of very grave moment, and that any interruption in our relations with those people might be of the most serious importance to the colony, I think you will agree with me that we shall require to see that we have a safeguard in all such respects as these before we submit ourselves to a federal authority. And so, in the colonies of northern Australia, you yourselves may yet find that you have difficulties unforeseen to cope with. It is true that the native races of the more settled portions of Australia have given you but little trouble, and you have dealt with them summarily, but possibly when you go to northern Australia you will find there a race more resolute and more difficult to deal with.

Mr. PLAYFORD: No!

Captain RUSSELL: Of course I must bow to the wisdom and experience of those who have already had to deal with them; but be that as it may, if New Guinea is ever to become a part of Australasian federation, there, at any rate, is a people that will require to be dealt with most carefully. Yet I have heard no member of the Convention speak on that subject. There is nothing in these resolutions contemplating the possibility that there will be a foreign race to deal with. But consider this difficulty, which I merely outline to you. The great and all-pervading question that occupies men's minds in all parts of the world at the present moment—it is undoubtedly doing so now in Australia, and it is a question more advanced in my own colony than here—is the great social question—what is termed the social upheaval, and I venture to say that every colony must be left to deal with a question like that. It is a matter for social dealing. It is a matter with which men will deal rather through municipalities than through a great federation in advancing, what I believe it is necessary we should advance, the true liberties and freedom of the people. Therefore, what we want is not the unification of Australasia, but a federation into which all portions of Australasia may be drawn. Bear this in mind: That in the plenitude of your power, feeling yourselves now the masters of the whole Pacific, it should be your duty to attract, as it were, by centripetal force, the whole of Australasia to yourselves. The day is coming when the countless islands throughout the Pacific will be colonised, and though your power is great, and though you have an enormous start in colonisation, there will be an enormous power in those southern seas that must be either part of Australasia, or more or less inimical to our interests. There is another point of view which seems to have been overlooked; that is, if we are to be the centre of a happy and prosperous power in these seas we must have strong cohesion, because really not far away from parts of Australasia lies the great continent of America, and the question has yet to be solved whether America may not attract the majority of the trade, the majority of the power and influence of the southern seas to her coast, and divert them from Australia. It is, therefore, our duty to consider how we can make the federation so loose that we shall attract all these various atoms to ourselves, rather than allow them to fly off to the

great continent of America, which, I venture to say, is quite within the bounds of possibility, if Australasian statesmen are not sufficiently wise to attract those atoms to themselves. Although we do hesitate, of course, in New Zealand, to submit ourselves to federation, I should not like the world to think that we are inimical to the idea at all. Though we may be unwilling to submit ourselves to any drastic laws, although we are unwilling to abrogate any of the powers of government necessary for our internal management, which we possess at the present time, there are all sorts of laws to which we shall be only too happy to submit ourselves if we are able to do so. It is a matter of great importance to us that we should trade with Australia. In round numbers, one-fifth of the trade of New Zealand is done with the continent of Australia. It would be a great loss to us to lose that trade; but, great as the misfortune would be to New Zealand, I venture to say that the loss would be three times as great to Australia to lose our trade.

Mr. DIBBS: No!

Captain RUSSELL: That is so long and broad a question that I will not go into it; but I venture to say that there are other markets open to New Zealand besides Australia; but Australia, whether she likes it or not, must consume many of the products of New Zealand.

Mr. PLAYFORD: No.

Captain RUSSELL: Hon. members may say "No"; but nevertheless I still hold my opinion. I venture to say that a great portion of our vegetable products will come into Australia; let Australia do whatever she may to keep them out.

Mr. DIBBS: Only if you federate.

Captain RUSSELL: Surely the hon. member, Mr. Dibbs, is not so narrow-minded as to believe that you can bring anything about by coercion. Has he forgotten the fable of the east wind and the sun—how the east wind howled and blew on the traveller; but the more it howled and blew the closer he wrapped his cloak about him? Then the sun came out and shone upon the traveller, and he threw off his cloak. So I say that if you wish to attract New Zealand, if you wish to attract Australasia to your shores, it is not by taking any hostile steps that you will bring it about, but by the genial sun of Australia shining upon the whole of us.

Mr. DIBBS: There is a disposition to be embraced!

Captain RUSSELL: Yes, there is a disposition to be embraced; but we think it should not be a bear's hug. We are anxious that the trade and intercourse between the federated colonies should be as free as possible. We are anxious by every means to trade with you. We recognise that our marriage laws might fairly be assimilated. While we recognise that certainly in the matter of land defence we can gain nothing, yet with regard to maritime defence it is of great importance that New Zealand should be combined with Australia. I would also point out, as a very important factor of the case which has not been alluded to, that probably the great coaling stations of the Pacific for marine purposes will be upon the west coast of the Middle Island of New Zealand. It is, therefore, a matter of great importance, and absolutely essential to you, that the colony possessing these great coal-mines should be in close relationship with Australia; because in the remote future—we are not acting for to-day, but are framing a constitution which may, I hope, last for thousands of years—if alien races spring up, it will be a matter of great importance that the magnificent harbours and great coal resources of New Zealand should be one with and inseparable from the dominion of Australia. So, again, with the matter of the judiciary. I am not now prepared to give definitely my opinion upon that subject; but, at any rate, I believe that I shall be right in saying that we should be anxious to do all we can to assimilate the laws on all important points throughout Australasia, and no difficulty would occur in agreeing to some such scheme as that. As to the executive, I said in commencing my speech that I thought it was, at any rate, a matter of debate amongst a considerable section of the population of New Zealand as to whether the present form of responsible government is the best that could be established. I confess that my mind is somewhat nebulous on the point at present; but, undoubtedly, one feels more and more, as time goes on, that there are anomalies in our present form of government. All these, I venture to say, are matters of no moment at the present instant. All we have to do is to consider how we can most broadly lay down the lines upon which our federation shall be built. It ought not to be built solely with a view to the circumstances existing at the present moment. Many portions of the Australian continent which at present would be practically unrepresented will, at some future time, have a great say in the government of the country; and therefore the constitution ought to be so framed that we should not take into consideration only the great centres of population which exist at the present time; but we should also offer inducements to all the outlying portions of Australasia to come under the federation. If that is done, I venture to say the day will come when there will be a truly federated Australasia, and not a union of Australia only.

TELEGRAM FROM THE QUEEN.

The PRESIDENT: Before the Convention adjourns for luncheon, I desire to announce to hon. members that I have received from his Excellency the Governor a message from her Majesty the Queen. His Excellency telegraphed to her Majesty the success of the Convention banquet on Monday night and the opening of the Convention, and he has received from her most gracious Majesty the following reply:—

> Have received your telegram with great satisfaction, and am much pleased at the loyalty evinced on this important occasion.
>
> VICTORIA, Queen and Empress.

I am sure we will give three cheers for the Queen.

Hon. members gave three cheers for her Majesty the Queen.

FEDERAL CONSTITUTION.

SECOND DAY'S DEBATE RESUMED.

Mr. DEAKIN: Fortunately for the Convention, I was not called upon to undertake the onerous task of opening this debate last afternoon. Fortunately for the Convention, again, a delay on my part led to our listening to the charming speech of the hon. delegate, Captain Russell, and I could have wished that other and older members had now been prepared to continue a discussion so ably opened by the premiers of the various colonies. Among these gentlemen, the last speaker, although not at present a premier, occupies a somewhat singular position, representing a colony whose affections we are clearly led to understand are with us, but whose judgment is not yet convinced as to the wisdom of adopting the course which it is proposed to pursue. The hon. member, Captain Russell, is so ardent a New Zealander that in his reproaches, mild though they were, of the sister colonies, there appeared to be a certain desire to realise that Irish reciprocity which is all on one side. He was careful to tell us that we must not at the present time expect anything from New Zealand; but he laid down with great fullness and freedom the duties which we immediately owed to that most beautiful, important, and wealthy colony, whose position, he led us to understand, was that of the coy maiden, not unwilling, and indeed expecting, to be courted, and whose consent would be granted by-and-by as a favour. It may be

that because they fell from a lady's lips, or from the representative of a lady, as I may be permitted at present to regard him, that we may pass by certain heresies about responsible and democratic government which might otherwise seem to challenge a rejoinder. At all events, if the hon. member will permit me, I will only endeavour to deal with them in connection with the remarks which have been made with reference to the proposed constitution for Australasia. The fact that the Premier of Queensland has seen fit to throw the apple of discord at once among us is, to my mind, extremely fortunate, and if, as the hon. Premier of Victoria considered, he favoured us with a greater gift of difficulties than of solutions, that, after all, was natural from the opener of such a debate. The one solution which the hon. member has proposed I intend shortly to examine as well as I can, treating especially the particular side of it which was so admirably put before the Convention by his colleague, Sir Thomas McIlwraith. One might be pardoned for dwelling upon this occasion, and forecasting its possible future; but our responsibilities are so great as to sober the most sanguine, as well as to arouse the most confident. I take it that if this Convention is to leave its mark upon the history of Australia, it will do so not by disquisition, but simply by the results which it will leave behind it. We have been termed most properly and accurately a parliamentary committee—and a parliamentary committee we are; but such a committee as has rarely been seen in any constitutional country, and such as has never been seen in Australasia—a Committee representing seven Parliaments, with the concurrence of seven Governments, and the sanction of fourteen Legislative Chambers, having the direct approval of every existing voice of the people of Australasia given through all its different political organs, and, therefore, claiming an authority second only to that of a chamber elected directly by them. The duty imposed upon us is simply that of advising, and, therefore, the latitude permitted to us is, in some respects, large; but, on the other hand, the sphere within which we move is narrow, and must be narrow. It is not possible that any question of moment in this Convention can be settled by count of heads, or even by count of colonies. Any conclusion arrived at, which is to be of practical value, must be a unanimous conclusion, and the smallest of the colonies requires to have any considerations which it may urge weighed with exactly the same attention as those which proceed from the most wealthy and the most populous. We are here, therefore, sir, committed from the first to a policy of compromise, to all compromise that will be possible to us, seeking to be honest representatives of our several parliaments and colonies, and indicating to the best of our knowledge and belief the attitude which they will take on each question. The principle upon which we must proceed is that embodied in the well known church maxim, "In essentials, unity; in non-essentials, liberty; and in all things, charity." If we claim an indirect authority from the electors we are none the less conscious of the fact that whatever is proposed by this Convention must be of such a nature as to meet with their sanction, or else it will be proposed in vain. We know from the outset the bar of public opinion before which we are to be judged, and we know from the commencement of our labours that the conclusion of them rests in other hands than ours—in the hands of no less a body than the assembled peoples of all the Australasian colonies. This, sir, is sufficient in itself to make us careful in our deliberations, and guarded in our conclusions, especially if we take into account the further fact that the verdict of the electors—whether taken directly through the electorates, or not so taken, will also require to be taken through all the present Parliaments of Australasia. We have to consider not only the interests of the people regarding them as a whole, but also the different and sometimes conflicting localisms which are created owing to the fact that this people is at present bound up within artificial boundaries into a certain number of communities. If the constitution or proposal for a constitution which is to be drafted in this Convention is to be a success, it must command the sanction of the several parliaments of those several communities. Then, as to the objects which we set ourselves in preparing the draft of a constitution, I fancy that we may without impropriety, in fact, with entire propriety, adopt the unequalled language employed in the preamble of the superb Constitution of the United States, and may, without qualifying a single syllable claim that our labours are intended to achieve a similar result. We shall be entitled to announce, after receiving the popular verdict in its favour, that

> we, the people of Australasia, in order to form a more perfect union, establish justice, ensure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution.

The resolutions which have been proposed by yourself in order to accomplish these objects contain in what may be considered their preamble, one phrase which has not yet been commented upon, but which appears to me to deserve comment, as indicating on its face the object which you had, sir, in submitting these resolutions in their present form. You say:

> That in order to establish and secure an enduring foundation for the structure of a federal government, the principles embodied in the resolutions following be agreed to.

Thus at once indicating to us that these resolutions, as they stand, are not laid before us to be accepted and criticised word by word, as if they were sought to be placed on permanent record; but that it is the principles embodied in them which we are now called upon to consider. That course appears to me to have been most wisely adopted; and I shall therefore seek, in treating these resolutions in their order, not to dwell upon the language in which they happen to be couched, but endeavour, as far as possible, to cope with the principles which they seem to embody. The first of these establishes beyond doubt the sovereignty proposed to be conserved to the several colonies of Australasia, subject to the limitations and surrenders which will appear set out in detail in the constitution proposed to be adopted for the federal parliament. Subject to the express terms of that constitution, every liberty at present enjoyed by the peoples of the several colonies, and every power of their legislatures, and every potentiality which is within their constitutions, remains with the mand belongs to them for all time. You lay this down at the outset as a cardinal principle, and as it has so far received the cordial approval of every delegate, I shall not proceed to debate it further than to note that it was exactly this principle which guided the founders of the existing Federal Council in their draft of that measure—it puts into a fresh form with regard to this federation the very root idea of the present Federal Council Act. This is the postulate that to the several colonies should be left all possible powers and prerogatives, defined and undefined, while the federal government itself, however largely endowed, should have a certain fixed and definite endowment within which its powers would be circumscribed. In the first resolution which you, sir, moved at the conference held in Melbourne twelve months ago, you most gracefully recognised the valuable services to the cause of federation conferred by the founders of the Federal Council, which, in Victoria, stands indissolubly associated with the name of the Honorable James Service, a gentleman whom we regret, by his own choice, is not one of the Victorian delegates on this occasion. He, sir, and the other great representative men, among whom the late Right

Honorable W. B. Dalley, must always be gratefully remembered, when facing a similar problem to be dealt with in a somewhat limited way adopted this principle. It is something to note that the years that have passed since then, and the experience gained since then, have only strengthened the opinion which they arrived at, that no union was possible in Australasia which did not preserve in the fullest form the power and dignity of the several communities which compose it. Indeed, if we regard their present extent, their present known wealth, and their future prospects, we must admit that in the future they will rival in all respects kingdoms in Europe and states in America; and that the parliaments which belong to such communities cannot be other than bodies clothed with the highest power, dignity, and influence, to which it will be an honor to belong, and which will play a great part in shaping the destinies of this continent. Then, sir, we come to your 2nd and 3rd resolutions, which I propose to briefly consider together. It seems to me that they might have been legitimately placed in an opposite order — that we should first have asserted the power and authority of the federal government to establish a common tariff, and that then we should have had as a corollary the principle of free interchange between the several provinces of the union. This, however, has been already dealt with. The point which presented itself to the hon. member, Sir Samuel Griffith, in this connection was the probability of delay on the part of the federal parliament in dealing with this most grave and important issue. Indisputably the first task of the federal parliament will be to organise itself and its administration. Indisputably the task of framing a common tariff for all Australasia will be no ordinary task. The difficulties which have been felt, and which have already been graphically pourtrayed by the hon. the Premier of South Australia in his admirable speech this morning—the difficulties which have been felt in each province in coping with such questions will be multiplied sixfold in dealing with the interests of Australia. If we have found it difficult for politicians to collect information to enable them to deal with this intricate question, when we have only had the interests of one colony to consider, if it does not follow in exact arithmetical ratio, it yet does follow most distinctly that there will be much more difficulty in framing a tariff acceptable to the people of the whole of Australia. It is quite clear, then, that time must elapse before this common tariff can be proposed; and those who have preceded me, including the Premier of Victoria—with whom I am in hearty general agreement, so far as his remarks touching some questions are concerned—appear to consider that this time, of itself, would offer sufficient grace to those colonies which have already adopted the policy of developing their manufacturing industries by special legislation. With all respect to them, I take a contrary view. I believe that it is not sufficient that an indefinite time must necessarily elapse before the federal parliament can deal with this issue. I believe that if we are to obey the language of the resolutions which sent us here—if we are to propose a constitution which shall be just to the several colonies—we cannot be content with leaving the question as open as it is proposed to leave it. What is the position of those colonies which have advisedly, in pursuance of the powers intrusted to them, and in obedience to the dictates of their parliaments, adopted a protective policy? They have created, within longer or shorter periods, vested interests, in which millions of capital are invested—millions of private capital of the citizens of this country. Now, sir, I would be the last to suggest, the last to believe, that a federal parliament, representing Australasia, would ignore considerations of this kind. I would be the last to suppose that they could be guilty, in obedience to any doctrine of economic practice, of what might be termed the crime of sweeping away, at a blow, the protection under which these industries and interests have been built up. I believe that to be impossible. But the question here and now is, not of individual belief, or the belief of this Convention; it is our duty, in a matter of this kind, not to rest upon beliefs, but to obtain guarantees for the preservation of interests such as these. What are the guarantees which can legitimately be asked by those colonies which have established industries under the shelter of protective tariffs? What is the consideration which they can reasonably ask from their fellow-colonists, and especially from that one great colony in which we now stand, which has not yet seen its way to follow a similar policy. Let me say, at the outset, that I, for one, frankly admit that a customs union is a *sine qua non* of federal union; that without a customs union there can be no federal union in the true sense of the term, and that all our efforts and all our labours must be directed to securing that customs union so soon as it may be compatible with the interests intrusted to us. With that premise, let us ask what might fairly be demanded, seeing that ultimately, and at no distant date, the question of the tariff to be imposed upon our seaboard must be settled by the people of Australia as a whole, no matter what the verdict of individual colonies may be. That is the goal towards which we are progressing, and towards which we ought not to progress too slowly, but which it would be impossible, which it would be unjust, to attempt to gain at a single bound. I will not venture at this stage to suggest what, in my humble judgment, would be a sufficient guarantee to satisfy those colonies that their interests would not be too soon, too rapidly, too hastily imperilled. I will only indicate that it appears to me that we might safely lay down in the constitution the condition that during the first years of its existence it should only be possible to reduce existing tariffs by a certain percentage in a certain number of years; so that if the first federal parliament should feel bound to reduce duties it could only do so to a certain extent. The people of the continent, as a whole, would be appealed to at least once, if not twice, before protective duties were reduced to revenue duties. In point of fact, the federal parliament on this question should be asked to proceed by steps, to advance by degrees; and the guarantee should be set out on the face of the proposed constitution that those who have embarked their capital in these industries under state encouragement and state sanction, should know the period of time within which they could hope to retain the command of their markets, even if the federal parliament should give its judgment against a protective policy. I need scarcely repeat here that, in my opinion, the federal parliament is in no danger of giving any such verdict. I believe that the portion of the speech in which the hon. member, Sir Thomas McIlwraith, set out the conditions under which protection might be applied, expresses the opinion of the bulk of the people of this country, and that this is an opinion which, the better it is understood, the more it will find popular favour. Personally, then, I have no more fear than any member of this convention, as to what the ultimate result would be. It will mean without doubt an Australasian protective tariff; but I say it is incumbent upon us not to rest upon individual beliefs in a matter of so much moment to special colonies; we must request and require some such guarantee as that which I have rudely outlined. I would remind hon. members who are apprehensive of such a proposal that we all fondly hope and believe that the union which it may be our privilege to inaugurate, will be an eternal union—a union for all time of the states of Australasia, or into which all the states of Australasia will, within a comparatively brief period,

be irresistibly drawn. That being the case, why should a concession of a few years be denied, when the object to be attained is permanent?

Mr. ADYE DOUGLAS: The hon. member has no confidence in his own people!

Mr. DEAKIN: The hon. member must pardon me if I do not now see the pertinency of his interjection. I was about to point out that, supposing this principle to be adopted, this guarantee to be given, it does not necessarily imply that nothing should be done in the way of free interchange between the Australasian colonies in the meantime. On the contrary, that would rest with the several colonies themselves; and the sense that at no distant date an absolute union was inevitable, would no doubt prove an argument of considerable weight to induce them to prepare for it by every means in their power. Consequently, the condition which has been suggested would not prove an absolute bar to progress in this direction even during the term of the guarantee; but, on the contrary, it might be reasonably anticipated that, with such a guarantee, offered and accepted, the several colonies who were for the time-being protected by it would see their way to enter into mutual arrangements for a more or less unrestricted exchange across their borders; and, saving the rights and the vested interests to which I have referred, no one would more cordially support such a policy than myself. With regard to the 4th resolution, I have only to say that the promise which it offers is one of efficiency in the defence of Australasia, an efficiency which I trust will be based upon as small a standing army as is compatible with the safety of the country, and upon as large an extension of the principle of citizen soldiery as is possible with the funds at our command. Then, sir, we approach the article of your resolutions—the first in the second part—which has, up to the present moment, called for the most criticism, and evoked the warmest debate. Your proposition that there should be two houses of parliament has been, so far, accepted with unanimity. Your proposition that the house of representatives should be elected on the popular basis has not been challenged. The proposition that there should be a senate retiring by sections has also been adopted. The one article in this particular resolution which has been challenged is that which, in accordance with the established principles of the British Constitution, endows the popular chamber with the sole power of originating and amending all bills, appropriating revenue, or imposing taxation. Those, sir, who follow your resolution, and adopt it most cordially, have been accused of keeping in mind throughout the existing upper chambers of Australasia, of ignoring the difference between the second federal chamber and the second chamber in the several colonies. But those who have made this accusation have not themselves been precise, nor could they be precise, in indicating the particular mode of election which was proposed to be adopted in order to obtain this senate. Some have inferred, it is evident, that the local legislative bodies would elect the members of the senate. Others have vaguely indicated the possibility of an election by the whole body of the people, or by provinces, and others have indicated a mixed method of election. I wish merely to point out from the beginning that, until the method of election is settled, the question in what degree the upper chamber really represents the state which it claims to represent must remain in some doubt.

Sir THOMAS MCILWRAITH: No!

Mr. DEAKIN: It may nominally represent the state, without really representing it. If, for instance—and I do not think it would be an unwise proposition—it is suggested that each colony shall determine for itself the method of election which shall be followed for the proportion of members which it is entitled to claim in the senate—and that would be a liberty which, until I hear reasons to the contrary, I think might be judiciously intrusted to the several colonies—if the several colonies be left free to frame their own constituencies for their own senate, then we shall, not impossibly, have a body which will have differing claims to represent certain states. I shall maintain from now, until I find the principle refuted by much stronger argument than I have heard brought against it, that there is only one means of thoroughly and effectively representing the people, and that is by direct election. No other choice, however it may be based upon the indirect authority of the people, can claim to stand for a moment in comparison with that of men who receive their trust from the hands of the electors themselves, and who speak their sentiments, without the intervention of any other body, or subject to any other influence than the judgment and reason of the manhood of their colony. I say that, however high the title, however lofty the claims, of the senate, if it derives its origin from an indirect method of election, the representative character of its members cannot equal that of men who face the people directly, and win, in their own person, at the sword's point, and after fierce conflict, the confidence of a majority of the electors.

Sir SAMUEL GRIFFITH: Why not?

Mr. DEAKIN: I say I shall accept that as a first principle until I hear stronger reasoning to the contrary than I have yet heard; and I shall adopt, in this particular, the excellent plan of the hon. the Premier of Queensland, who has interjected, and whose politic practice, throughout the whole of the debate, has been to request his opponents to find plans and then proceed to criticise them. I think that we who lay down a principle so generally accepted as this, are entitled to ask to be furnished, not with reasons for supporting it, but with reasons why we should not support it, or why we should accept some other principle in its place. Therefore, with all consideration and respect, I return the hon. gentleman's interjection, and invite him to show what method of appointment can claim, in directness of authority, to rank with that of immediate election by the whole body of the people.

Sir SAMUEL GRIFFITH: Any kind of election!

Mr. DEAKIN: Any kind of election!

Sir SAMUEL GRIFFITH: If it represents the state!

Mr. DEAKIN: I cannot conceive of an entity called the state apart from the people whose interests it embodies; nor can I conceive anything within the state which can claim an equal authority with the final verdict, after solemn consideration, of the majority of its citizens. If the hon. gentlemen has any metaphysical entity in his mind which can be placed above this, I shall be glad to learn its nature; but at present I prefer to rest upon what has been the solid substratum upon which popular and responsible government has been carried on, of which we have had centuries of experience, and which, the more it has been honored, the more it has endowed us with liberty, and all that follows in the train of liberty. Until we have the method of the election of the senate distinctly before us we cannot tell exactly with what degree of authority it should be intrusted. But I will not quibble about words. I will confess that, if elected, it is quite possible and justifiable to intrust it with a very large authority. I would assure the hon. member that, in endeavouring to answer his contention, I shall seek to meet his argument, so far as I understand it, not at its worst, but at its best; to state it, as far as I can, as I conceive he would state it in order to put it in its strongest form; and if I cannot answer it in that form I will not attempt to answer it at all. I merely pointed out at the outset—and perhaps the hon. member's interjection has led me to appear to attach too much consideration to it—that this is a circumstance that will require to be taken into consideration,

which has not yet been taken into consideration, and which those who advocate the intrusting of the federal upper house with extraordinary powers have not yet thought fit to absolutely define. I think that we may fairly challenge them to define the method of election for this senate of theirs, to which they wish to give exceptional powers. To remove any misapprehension, let me say that personally I have no ambition to see a second chamber in these colonies which should be a mere replica of the Canadian Upper House, which is confessedly inadequate for the position which it occupies; nor do I even desire to see a body whose authority would be as capable of variable interpretations as is that of the House of Lords under the British Constitution. I believe that we cannot have a better ideal for our second chamber than the House of Lords as its functions are now interpreted; at the same time I will confess to hon. members that in defining its exact position we might possibly have some difficulty. If we follow the lines upon which I believe the British Constitution is now interpreted, we should require a second chamber embracing just such members as you, sir, specified in your opening speech, men of mature experience, of ripe judgment, of high character, qualified to give counsels to the nation with the certainty that they would be received with respect. Of such men should a second chamber be composed, and the powers intrusted to it should be those powers that have always belonged, under responsible government, to a second chamber, namely, the power of review, the power of revision, the power of a veto limited in time. The hon. member, Captain Russell, described in poetic language that I am afraid I would find almost as much difficulty in repeating as I should in imitating, the danger incurred in the absence of a veto. He spoke, I fancy, of the "cyclonic fury" of the popular mind, and conjured up before us the spectacle of a democracy carried hither and thither by violent impulses to opposite points of the compass within short periods of time. If there be such a democracy—and far be it from me to insinuate that Captain Russell has had any experience of it—then I fancy that the second chamber which we have in view would prevent and provide against any such possible accident. It would be a chamber speaking with weight, and acting with authority, able to amend or reject all measures other than financial—able to absolutely reject financial measures, though not to amend them, and able by this means to challenge the verdict of the country whenever and however it pleased, and as often as it might please. Will it be contended that these are small powers? On the other hand, will it be contended that if that "cyclonic fury" proved not to be the momentary outburst to which reference has been made, but the settled determination of the popular will—does Captain Russell, and do those who think with him, contend that this is to be defeated? On the contrary, he agrees in theory, at all events, with the practice of the British Constitution which we are supporting. So, I take it, did Sir Samuel Griffith himself. He also indorsed the principle that, in the last resort, and after due consideration, the popular determination must prevail, and the attempt of any body, short of that of a majority of the people, to obstruct its execution must be defeated and set aside. This, I understand them to admit; we admit: all admit. It is simply a question, then, of the degree of veto—of the degree of check which a second chamber shall be authorised to present to the execution of what the popular chamber believes at the time to be the will of the people. If we are agreed that the authority to be intrusted to the senate is to be only a limited veto, then I ask how that is to be reconciled with the propositions which provide for a permanent and perpetual veto capable of being imposed by the second chamber upon measures which might under conceivable circumstances be passed again and again by the first chamber, and be indorsed again and again by the people to whom they had appealed? I think this is another point on which we, who accept our governments as we find them, who rest on the established practice that has come down with the precedents of at least a century, if not two or three centuries, in its support, may say to our opponents, "It is for you to come forward with some new and original defence of this absolute and permanent veto with which you propose to intrust the second chamber. If you contend simply for a limited veto—if you contend, as the hon. member, Captain Russell, said, simply for such a veto as would enable the body of the people to reflect, to reconsider, and, if necessary, to amend their judgment—then we are heartily with you; and the question of details need not long occupy us." But what we feel to be the real and important point in the proposition of the hon. member, Sir Samuel Griffith, and others, is that they propose to establish—and I wish to impress this upon the Convention—a second chamber, which is to have the power of absolute and continuous veto upon the proposals sanctioned by the popular chamber, and sanctioned by the people. Such is the possibility.

Mr. MOORE: No!

Mr. DEAKIN: Such is a distinct possibility. With the probabilities I will presently deal.

Mr. BROWN: A veto for one session!

Mr. DEAKIN: If the hon. member says a veto for one session, I cordially agree with him. I go further, and am prepared to make greater concessions to the upper chamber than he asks. What I say is that the proposal that emanates from the Premier of Queensland, supported by the hon. member, Sir Thomas McIlwraith, in his able speech, is a plea for an absolute veto to be vested in the second chamber. To that I wish to draw attention, for the purpose of clearing the argument. Hon. delegates will perceive, probably, the relation which this bears to the former argument. If the second chamber is to be endowed with an absolute veto, we are bound to ask, what is the constituency of that chamber—from whom does it derive its authority to override all other powers in the state?

Mr. CUTHBERT: From the people!

Mr. DEAKIN: We will ask, how from the people? What proof shall we have that the senate has the approbation of the people?

Mr. CUTHBERT: If elected by the people!

Mr. DEAKIN: If elected by the people, will they undertake, in the event of dispute, to face their electors in order to discover on which side the people are?

Mr. ADYE DOUGLAS: Yes.

Mr. DEAKIN: If so, then, we will narrow the question. If one chamber is to be compelled to undergo what is known as a penal dissolution—a dissolution which is a personal penalty, an individual private penalty inflicted upon every member of the popular house—if we are called upon to undergo that trial at the pleasure of the upper chamber, let the upper chamber also enjoy the sweets of a similar appeal, and be bound by the same verdict. If hon. members are prepared to take that stand, we would, I confess, be obtaining a basis on which further argument would be possible; but I have not yet understood from any of those who have spoken that they are willing to concede so much. Although the senate would claim to speak in the name of the people, and to act in their name, and although its authority is claimed because it represents the people, I have yet to hear that its members are willing to face the people, so as to discover whether they represent them or not. I will not state for a moment that it will be possible for any federal second chamber to act as, in remote periods, we will say, upper chambers in distant countries have acted with regard to the popular chamber. We have heard of an upper chamber which has been compelled to pass measures demanded by the people, revenge itself on

the government in power, and on the house that compelled the upper chamber to pass these measures, by emasculating or rejecting other measures in order to prove that the government could not carry on the business of the country. We have heard of an upper chamber turning on a ministry which simply expressed the popular will and using the authority intrusted to it in order to injure that ministry.

Mr. MOORE: Where did that take place?

Mr. DEAKIN: In remote times and far distant countries. It has been done. I can appeal even to hon. members' recollection of constitutional history as to whether it has not been done; and why should it not be done? Do you intrust a body with powers unless you expect it to exercise them? The American Senate has been intrusted to some extent with certain executive powers, and what is the result? There is not only their public action with reference to presidents' appointments; but their action with regard to those appointments before they reach the table of the House? Is it not a fact that the senators of the United States in their own states claim to, and practically do, exercise the patronage of those states when their party is in power? By these means they have been elevated—and we all desire to elevate second chambers: but their elevation has been the means of depressing the house of representatives, and depriving it of its due influence. Although it has strengthened the senate—has aggrandised that body—it has seriously injured the popular body and rendered it less fit to discharge some of its most solemn duties.

Sir JOHN BRAY: Do they admit that?

Mr. DEAKIN: When I speak of Americans, I speak of 60,000,000 people. I need not say that there is great diversity of opinion; but the hon. member will find competent authorities quoted in so recent a work as that of Mr. Bryce—quoted by him as the verdict of Americans, and not as his verdict. To return to the point from which this digression led me: If we endow the second chamber with special powers, we endow them for the purpose of their exercising them; if not, why endow them at all? If we endow them with an absolute veto, we must mean them to exercise it. If not, we must say with what degree of veto we endow them. When we know the constituency of the body which is to be intrusted with this absolute veto, we shall discover a body which is to be placed above the people—a body in which is to be vested a higher authority than that of the whole people.

Sir SAMUEL GRIFFITH: No!

Mr. DEAKIN: Then I fall back on Sir Samuel Griffith's policy, and say that I require to have this explained to me.

Sir SAMUEL GRIFFITH: Of separate states, as aggregations of their own people!

Mr. DEAKIN: I suppose that Sir Samuel Griffith means that they could elect senators whose policy they approved of, whose views might be different from that of the body of the people.

Sir SAMUEL GRIFFITH: The majorities of the separate states might be of a different opinion from the majority of the people of Australia, taken as one!

Mr. DEAKIN: It is quite conceivable that immense majorities in the large states might be neutralised in the senate by small majorities in the small states. This is a state of things that has to be faced, although it is not likely to occur frequently. The other position I was putting will also happen occasionally, namely, that the senators elected by the several states will, at times, be at variance both with the majority of the states and with the majority of the people of the states, and the one case will occur as often as that to which Sir Samuel Griffith alluded. This arises because it is proposed to elect this body of persons for long terms within which great changes may take place. So far as any scheme is before us, it is not proposed that they should be in any way amenable to their constituents for seven or nine years. These have been mentioned as probable terms of office for the senators in the federal parliament, and if we have men elected for seven or nine years, do we not clearly endow a body with power to reject legislation of which the people may have approved since the commencement of the seven or nine years?

Sir SAMUEL GRIFFITH: Hear, hear!

Mr. DEAKIN: The hon. member admits that this might be the case. I ask, is that the most reasonable and practical way of securing the limited veto which we desire? An hon. member thinks it is. I beg to differ from him. I think that we might have senates based on the principle of the British Constitution, which could offer a more reasonable control on better grounds, and with a better surety for believing that their members had the confidence of the people. That is why I fail to see that the hon. member has established his argument in favour of endowing this senate, whose method of election we do not yet understand, with the power of absolute veto. Then, one more condition. I do not wish to argue, or to be understood as arguing in the interests of the other branch of the legislature. I have spoken repeatedly of the popular house, it is true; but I look beyond it, as I do beyond the second chamber, to those from whom their joint authority emanates. I am willing in all cases to endow the second chamber with the utmost independence as regards the first. I do not wish to see the second chamber existing at the pleasure or acting under the control of the popular chamber. What I wish the second chamber to do is to act under the control, and only by the authority of the people—acting under the direction of the electors of the country; and provided this be granted, I would never seek to aggrandise the popular chamber at the expense of the upper house, any more than I would reverse the process. I will not repeat, as it appeared to me, the clear and convincing argument of the hon. the Premier of South Australia with reference to the manner in which the proposal of the hon. member to allow the senate to discuss estimates and amend money bills would be certain to promote deadlocks; nor will I dwell on the other points so ably urged by the hon. member, the Premier of South Australia, with most of whose statements I personally cordially agree. I believe that the experience of hon. members in this chamber, all of whom I think have been members of governments, must coincide with that of the hon. gentleman; in fact, the hon. the Premier of Queensland admitted as much. His arguments on this question are all for exportation, none for home consumption. As regards his own upper house, he is just as clear as ever that they have gone far beyond their rights. It has been his duty, as leader of the popular chamber, to limit and confine them, and will be so in the future.

Sir SAMUEL GRIFFITH: This is another senate altogether!

Mr. DEAKIN: I am coming to that.

Mr. FITZGERALD: The hon. member takes the two things to be synonomous?

Mr. DEAKIN: The strong point of the hon. gentleman—although I could not conveniently deal with it earlier—is that he admits this difference: he admits—and he has just reiterated his statement—that he is dealing with the federal senate in a manner different from that in which he would deal with any second chamber in the colonies. Sir Thomas Mcllwraith repeated the point with emphasis, and made it plain that it is the federal character of the new second chamber which is relied upon absolutely and entirely to justify its veto. Were we endeavouring to establish any absolute unity among the people of Australia, both gentlemen would be found arguing on the same side as I now am.

Sir SAMUEL GRIFFITH: I should, certainly!

Mr. DEAKIN: And I believe Sir Thomas McIlwraith would also. If we were to be one people, and to forget all local divisions, then Sir Samuel Griffith and Sir Thomas McIlwraith would be found on one and the same side. Therefore, the whole case is narrowed down to one point—and I hope they will correct me if I am doing them an injustice—they contend that this departure is justified because the several states are to have equal representation in the second chamber, which is to be the custodian of state rights. The second chamber is to be intrusted with a power of absolute veto, and with the power of amending all bills, because there is to be equal representation in the senate from each colony, and because the several colonies will assist to form the federal government.

Mr. FITZGERALD: And because of the weaker states, of which this will be the chief protection!

Mr. DEAKIN: That, I think, is included in the argument. We have heard continually, through this debate, of state rights which are to justify this supreme authority on the part of the second chamber; but we have never yet had the slightest indication, except from one or two illustrations of what state rights mean—of what state rights are, and of what peril they are about to be placed in.

Sir SAMUEL GRIFFITH: Something must be taken for granted!

Mr. DEAKIN: Yes; but, as it seems to me, much to the prejudice of the argument. We are entitled to ask for some specific justification for this great departure, something more than a general statement about unknown state rights being in danger. It is not a question of establishing a federal legislature, which is to have unlimited authority. The federal government is to have a strictly limited power; it is not to range at will over the whole field of legislation; it is not to legislate for all conceivable circumstances of national life. On the contrary, its legislation is to be strictly limited to certain definite subjects. The states are to retain almost all their present powers, and should be quite able to protect their own rights. Thus we get rid of the vague fear of the infringement of state rights, and we are entitled to ask those who use this term to take up the short list of federal powers which it is proposed to intrust to the federal government, and to show us where state rights can be impaired by their exercise. I put aside the question of taxation for a moment, and in fact all financial questions, with the intention of dealing with them a little later. I am extending my remarks more than I had intended to do; but the interjections with which I have been met—and I am very happy to answer them—are partly responsible for that. The list of authorities conferred upon the national Government of the United States of America is a short one. Putting aside the power to collect taxes, duties, imposts, and excise, and the power to borrow money, the main powers are to regulate commerce, to establish a uniform rule of naturalisation, to coin money, to provide for the punishment of counterfeiting, to establish post-offices, to grant copyrights, to constitute tribunals inferior to the Supreme Court, and to provide for defence. I hope that in the warmth of my advocacy, I am not leading members to misunderstand my position. I am arguing for the purpose of elucidation, and not intending for one moment to imply that there is nothing to be said in reply. Turning, then, to the United States, we find the powers intrusted to the central Government limited, defined, particularised. If we take the longer list of powers—because the longer it is the more it may tell against my argument—of the Dominion of Canada, we find a number of subjects in which it must be clear to hon. members no question of state rights can be conceivably involved. I will briefly read them. There is the question of penitentiaries, criminal law, marriage and divorce, naturalisation, copyrights, patents, bankruptcy, legal tender, interest, bills of exchange, weights and measures, savings' banks, banking, currency, ferries, fisheries, quarantine, navigation, beacons, salaries of officials, military, census, postal service, borrowing of money, taxation, trade, and debt.

Sir JOHN BRAY: Borrowing of money!

Mr. DEAKIN: In the case of all but a few out of this list of nearly thirty topics, it is almost inconceivable to imagine a case in which state rights will be involved. Putting financial questions aside, the question of state rights cannot be involved in about twenty-seven out of the thirty subjects in the list. What is proposed in regard to our new Senate? Understand that I am seeking for elucidation. It is proposed that this body should have an absolute veto upon all subjects, whether they can affect state rights or not. The contention of those who support the argument is by implication that the whole of these subjects, if legislated upon, will involve state rights. I meet the argument at once with a direct negative by challenging hon. members to point to an instance in which any questions such as those to which I have referred can be legislated upon in such a way as to affect state rights. Let us now take the chief of them, that which relates to finances, and connected with which we have had the greatest amount of argument. In the first place, it is usually admitted that it is essential that financial questions should be settled as far as possible with less delay than pertains to other legislation. The business of a country requires to be carried on, the state's creditors require to be paid, public works have to be continued, and is highly desirable that there should be a speedy settlement of any financial legislation. When you give the second chamber a power of absolute veto in regard to these matters you cannot by any possibility obtain such a speedy settlement. Again, the senate is a body which unless it be elected by a direct vote of the people and can be sent at an emergency to its constituents, will not have a direct responsibility to those people whose taxation it is about to govern, and whose expenditure it is about to direct. That is a question that requires to be taken into consideration. I presume, also, that it will be a cardinal principle of the federal constitution that taxation should be uniform.

Sir JOHN BRAY: Not all taxation!

Mr. FITZGERALD: When the hon. gentleman says "uniform," does he mean that the same taxation will be in operation in all the colonies?

Mr. DEAKIN: What I mean is that all federal taxation must be uniform.

Sir JOHN BRAY: That is a very different thing from what I understood the hon. member to say!

Mr. DEAKIN: That being so, I may fairly ask future speakers to point out in what way the question of state rights can be involved.

Sir JOHN BRAY: The expenditure must be just to the several colonies!

Mr. DEAKIN: I have not yet come to the question of expenditure. The hon. member is a little "previous," as the Americans say. I was talking in the first instance of taxation, and asking, taxation being uniform in all the colonies, what magic you find in the artificial boundaries drawn between one part of Australia and another which justifies you in considering that the question of state rights is involved when the taxation operates uniformly on both sides of the borders?

Sir SAMUEL GRIFFITH: Take the case of income-tax!

Mr. DEAKIN: It will be the greatest satisfaction to me when we get into Committee to meet interjections point by point; but having regard to the time which I must occupy, I could not do so without neglecting other portions of my argument. But a few words with regard to the question of income-tax. My mind is open on the subject; but I cannot see how an income-tax can in any sense affect the question of state rights. The taxation falls upon men

in proportion to their income whether they be on this side of the Murray or on the other side, whether they be on one side or the other of the imaginary boundary which separates South Australia from Queensland, or whether they are in Tasmania, or elsewhere. What I want to know is how any province, how any colony, can consider that its rights are impaired when it is proposed to deal with its residents in exactly the same way as the citizens of Australia in every other colony of the group are dealt with? How is it conceivable that any distinction can be made? How can we suddenly make an artificial boundary a real boundary?

Mr. MOORE: What about the expenditure?

Mr. DEAKIN: As to the question of expenditure, I gather from the "nods and becks and wreathed smiles," with which supporters of the proposal have favoured me, that expenditure is considered to be their strong point—that expenditure may in some way or other impair a state right. What does this mean? There is something in the apprehension, though it has nothing to do with states as such or their rights. It means what we have all to face in our several colonies—the constant cry of the country districts that towns in which the population is concentrated receive an undue proportion of the public expenditure, that they are unduly favoured in comparison with distant localities, that more money is spent among them than would be spent in a perfectly equitable distribution. The same principle would apply—and I do not attempt to disguise or conceal any argument that tells against my case—under the federal government. The more populous towns or districts might argue that as they paid most, they ought to receive a greater benefit than others; but the probability is that on the whole they would receive a little more than their due.

Mr. GILLIES: Precisely the same argument would apply in every municipality in the colony!

Mr. DEAKIN: Exactly; there is no local body in these colonies in connection with the expenditure of which the same argument might not be used. It is perfectly true that individual localities are interested in expenditure. But this suggestion is made, not in the interests of the state, but of the most petty localism that can be imagined—in the vain and futile endeavour, as it always was and will be, to mete out to each little borough the same amount of expenditure as to every other borough.

Sir SAMUEL GRIFFITH: No!

Mr. DEAKIN: It has nothing to do with the several states as states. It is conceivable that one part of a colony may be greatly benefited by federal expenditure and another not; but there is no state right involved. Some portions of some colonies may be more and others less fortunate. But I have yet to learn how that is to be prevented. Sir Samuel Griffith pointed to the expenditure upon forts and arsenals. He pointed out that a great deal of money might be expended upon a fort at one place, and none in another. Does the hon. gentleman imagine that it will be possible, if we are to have national defences, to consider whether a particular locality would not like to have a fort because one is required in the public interest to be erected at another place? Are the central government to say that no fort can be erected here because a fort has not been erected there?

Sir SAMUEL GRIFFITH: No!

Mr. DEAKIN: If the hon. gentleman's argument does not mean that, what does it mean?

Sir SAMUEL GRIFFITH: That the expenditure must be just to the several colonies!

Mr. DEAKIN: I am in accord with the hon. gentleman if he can lay down any principle by which the expenditure can be made just to the several colonies. That reminds me of a point I was nearly passing. I may be pardoned for leaving this part of my argument in a confessedly imperfect state; because, to answer all interjections would take too long. I shall be delighted to resume the argument in Committee, to obtain more knowledge, and to challenge the advocates of the policy to show that any expenditure can conflict with state rights properly so-called. Let them in the first instance define state rights, and then let us see how they will be impaired. I will be second to no delegate in my anxiety to preserve what I understand to be state rights. So anxious am I to preserve them, that I would never dream of intrusting them to a senate. Let us know what state rights are, and let us be careful to secure them under our constitution, so that they may never be liable to be swept away. We should fail in our duty if we did not embody in our draft such a distinct limitation of federal power as would put the preservation of state rights beyond the possibility of doubt. If state rights are involved in the question of taxation and expenditure of the federal body in any way, let us impose some special conditions to meet the case. These should receive the highest sanction, that of the constitution, and not be left to the care of any second chamber, which might fail in the hour of need. I would support any proposal in this direction as cordially as would any delegate in the Convention. We have yet to see the senate which would long resist a house of representatives and a powerful executive backed up by the popular will. In the course of your resolutions, sir, you distinctly set out the principles of the British Constitution as to finance, and I find that one of the resolutions carried by the Canadian Convention expressly indicated its adherence to a principle which, so far as my poor judgment goes, this Convention will do well to adopt. The 3rd resolution of the Canadian Convention was as follows:—

> In framing a constitution for the general government, the conference, with a view to the perpetuation of our connection with the mother country, and the promotion of the best interests of the people of these provinces, desire to follow the model of the British Constitution, so far as our circumstances permit.

For my own part, I do not see how it perpetuates the connection with the mother country. That would be perpetuated under one form as well as under another. But I do believe we should be promoting the best interests of the people of this great country if we too were to follow this safe and splendid model. With reference to an Australian court of appeal it appears that questions of imperial interest must necessarily be reserved for the Privy Council. It may yet be a subject for argument, to which I shall bring an open mind, whether issues involving important principles of common law ought not also to go to the Privy Council, in order to preserve uniformity of interpretation throughout the empire. I cordially agree with the resolution, however, and believe that by far the greater part of the appeals which at present go to the Privy Council might be better settled here by a federal court of appeal. Not only that, but I should be glad to see the federal government take under its control some of the superior and criminal court business at present transacted by the several colonies; but that is a question distinctly for Committee. Then we come to the last clause in the resolution, which deals with the appointment of the executive and the governor-general, the advisers of the governor-general to be members of Parliament, and their term of office to depend upon their having the confidence of the popular house. If my opinion were asked in conversation or in a debating society as to whether responsible government had any defects I should be prepared to admit that it had; if asked whether the United States Constitution, which is so widely revered, and obtains so much admiration, does not in some respects possess advantages which even the British Constitution does not possess, I should admit that also. If asked whether the Swiss system of electing ministers from the House did not also possess advantages I

should say, "Yes." Consequently, so far as theoretical argument goes, I am in agreement on those points with the hon. delegate, Sir Samuel Griffith; but when he suggests that because we personally approve of certain portions of foreign constitutions that we should at once adopt these innovations upon our traditions and be prepared to embody them in a scheme for a federal constitution I come to a pause.

Sir SAMUEL GRIFFITH: I made no such suggestion, nor anything like it. I suggested that the future should be allowed to work out its own destiny!

Mr. DEAKIN: I take it that the future will be allowed to do that whether the hon. gentleman suggests it or not.

Sir SAMUEL GRIFFITH: The hon. gentleman puts an erroneous construction on what I said!

Mr. DEAKIN: I will say that Sir Samuel Griffith did not say it. What he said led me to infer that he doubted the wisdom of continuing the system of responsible government in its present form.

Sir SAMUEL GRIFFITH: Of insisting on its continuance!

Mr. DEAKIN: He doubted the wisdom of insisting upon its continuance in its present form. In this I cordially agree with him. But the hon. gentleman made no specific proposal. I regret that I have done him a momentary injustice; but it was only a momentary injustice. I understood him to cast grave doubts on our constitutions as they exist, and to imply that it would be a great improvement—that it might be preferable—to adopt some parts of the American, and even some parts of the Swiss, Constitution.

Sir SAMUEL GRIFFITH: I am totally misunderstood by the hon. member!

Mr. DEAKIN: Then I withdraw the statement. If the hon. gentleman had said so, I should be prepared theoretically to agree with him; but not on that account to support their immediate introduction into the federal constitution. The hon. delegate from New Zealand—Captain Russell—indicated that some of these ideas had been passing through the minds of the people of New Zealand. Surely we shall be far safer in adhering as much as possible to the Constitution with which we are all familiar, and grafting upon it as little as possible that is new. I do not say for a moment that the premiers of Queensland and New Zealand have not made out a case for the consideration of the Convention with regard to the upper house.

An HON. MEMBER: There is no upper house. The federal senate!

Mr. DEAKIN: I use the names indifferently. I do not know which it will assume.

An HON. MEMBER: They mean two different things.

Mr. DEAKIN: I have been trying to argue ——

An HON. MEMBER: The name was wrong.

Mr. DEAKIN: I should be sorry to base an argument upon a name; yet for all that there is something in a name. We require to recollect what upper houses have been, and what they may be when re-born with a new name.

Mr. BARTON: I suppose the hon. member bases his argument upon an upper house?

Mr. DEAKIN: I should be sorry to think that it ever rested upon such a perilous foundation. It is not a little thing to create a new Upper House on a new pattern as is proposed. The Constitution which we now enjoy, it appears, is to be set aside with less ceremony than one would have expected from gentlemen who have lived under it, and have exercised its highest powers for many years. We seem to be ready to depart from institutions which have the sanction of long experience, almost entirely on theoretical grounds. It is true that hon. members have looked to the experience of other countries; but in doing this they have ignored some of the most pertinent lessons of our own, which is that if we establish two chambers of equal authority, we prepare the way for dissension, and encourage deadlocks. The constitutional history of Victoria gives ample evidence of this. What we have been so long striving for, and what we are still striving for in that colony, is some means of arbitrament for the settlement of disputes between the two chambers.

An HON. MEMBER: Simply mechanical!

Mr. DEAKIN: I care not whether it is mechanical or not, as long as it is there, and as long as it proves effective. If we allow the present state of things to exist, it must lead to dispute and contention. The final point to which I think it necessary to direct the attention of the Convention most seriously, in order that in drawing the constitution proposed to be adopted by federated Australasia we may not shape it without regard to recent interpretations of colonial constitutional rights, is to be found in the judgment in the case of Ah Toy *versus* Musgrove, delivered by the Supreme Court of Victoria. In that case the powers of the Executive and those conferred upon the colony under the Constitution were challenged in the courts and before the Privy Council. The finding is one that will demand the most careful consideration when the federal constitution is being framed, because it has been the common belief in Victoria that we had all the powers and privileges attaching to responsible government, sufficient to enable us to perform all the duties and to exercise all the rights devolving upon us as a people. The gravest doubt is now thrown upon this belief. The people of Victoria are under many obligations to their distinguished Chief Justice—and especially for his judgment in this suit, in which he has displayed the acumen of the lawyer, the eloquence of the orator, and the grasp of the statesman. Chief Justice Higinbotham said:

> It was the intention of the Legislative Council to provide a complete system of responsible government in and for Victoria, and that intention was carried into full legislative effect with the knowledge and approval and at the instance of the Imperial Government by the "Constitution Statute," passed by the Imperial Parliament.

He was supported in his opinion by Mr. Justice Kerferd, who for some time was Attorney-General of Victoria. Mr. Justice Kerferd said:

> All the prerogatives necessary for the safety and protection of the people, the administration of the law, and the conduct of public affairs in and for Victoria, under our system of responsible government, have passed as an incident to the grant of self-government (without which the grant itself would be of no effect) and may be exercised by the representative of the Crown in the advice of responsible ministers.

These two quotations embody the belief which was held until lately in Victoria. The majority of our own Supreme Court overruled this reading. Mr. Justice Williams said:

> I have been for years, in common with, I believe, very many others, under the delusion (as I must term it) that we enjoyed in this colony responsible government in the proper sense of the term. I awake to find, as far as my opinion goes, that we have merely an instalment of responsible government.

Mr. Justice Holroyd considers that we have only a measure of self-government, and two other judges concur. My colleague, Mr. Wrixon, who argued the case with great force and ability before the Privy Council, says:

> If the reading put by the Supreme Court in Victoria upon our Constitution Act be correct, then not only in the colony of Victoria, but in all the groups of Australasian colonies, the governments which we now enjoy are without warrant of law.

That is a strong statement, and the judgment of the majority of our Supreme Court justifies me in asserting that this Convention cannot too soon face the issue involved in it. I take it that the people of Australasia will not be satisfied with any "instalment" or any "measure" of responsible government, or any limitations, except such as are necessary to the unity of the empire. We claim, without shadow of doubt or vestige of qualification, all the powers and privileges possessed by Englishmen. The governor-general as representative of the Queen in these federated colonies, should be clothed by statute with all the powers which should belong to the representative of her Majesty. He should be above all risk of attack, because he should act only on the advice of responsible ministers, who should be prepared either to obtain the sanction of parliament for their acts or vacate office. Parliament, in its turn, should be brought into intimate relation with the electorates. This is true, popular government. This will satisfy the people of Australia. Nothing less will satisfy them. And why should we distrust them, or question their capacity, or seek to impose the bonds of an absolute veto upon them? The people of this continent were not landed upon its shore to-day, ignorant of the responsibilities of self-government. They have amply proved in the past that they are entitled to be trusted with all the powers appertaining to a free people. They have believed that they enjoyed freedom under their present constitution second to none in the world. When the question of a second chamber comes to be considered, they will assuredly not be satisfied to possess less freedom. More than this: In framing a federal constitution, we should set out with the explicit claim to possess and exercise all the rights and privileges of citizens of the British empire to the same extent that they are possessed and exercised by our fellow-countrymen in Great Britain itself. Australia is entitled to absolute enfranchisement. In our union we attain political manhood and the stature of a full-grown democracy. We can wear no constitutional garb capable of cramping a muscle or confining an artery of national life. We claim the fullest means of developing all its energies and all its aspirations, and of encountering all that can oppose them. Why place wisps of straw upon the arms of the young giant, only to become a cause of complaint and to be burst the first time his strength is put forth? Establishing a constitution "broad based upon the people's will," we shall be securing the safety and security of the state which we propose to raise; but to do anything short of this would be to sow the seeds of discord and disunion. We are dealing with a constitution which has not yet reached the full period of its growth, which always has been and always will be steadily progressive, expansive, and adaptable to national growth. There are many things in the suggestions made by the hon. members from Queensland and other delegates, which are worthy of the fullest consideration. These can be adopted as soon as they commend themselves to the federal parliament. Under this system of government all things are possible. I have addressed myself to the subject hurriedly; but I trust I have not been misunderstood. I am prepared to reconsider and review the whole question with the aid of those older and abler than myself, in the sincere desire to arrive at a sound conclusion. But I do trust that we shall not throw aside the constitution under which we have had experience, we shall not forget its triumphs and successes, its proud history, and its splendid promise; we shall determine not to hastily interfere with its harmony, or destroy the symmetry of its proportions. What we should aspire to see is a strong government upon the broadest popular basis, and with the amplest national power. We should seek to erect a constitutional edifice, which shall be a guarantee of liberty and union for all time to come, to the whole people of this continent and the adjacent islands, to which they shall learn to look up with reverence and regard, which shall stand strong as a fortress and be held sacred as a shrine.

Motion (by Mr. BARTON) proposed:

That the debate be now adjourned.

Question put and division called for.

The PRESIDENT: I propose, if there is a division, instead of appointing tellers, as we should do in a house of parliament, to call upon the officers of the house to take the division.

The request for a division was not pressed.

Motion agreed to.

Sir SAMUEL GRIFFITH: I wish to say one word with reference to the division that did not take place on the motion of adjournment. I was aware that one of the members of the Convention was prepared to speak this afternoon, and I understand that others were prepared to speak. But I wish to say that I took my seat on your left, sir, just now, for the purpose of emphasising by doing so the fact that the members who come from distant parts of Australia cannot afford to adjourn at 4 o'clock every afternoon; and I sincerely trust that members whose homes are nearer Sydney than those of many of us will bear that in mind and give consideration to distant members.

Mr. PLAYFORD: I only wish to say that if we cannot go on more expeditiously than we have to-day —that is, stopping the debate soon after 4 o'clock— we shall not be able to afford the time that will be necessary to enable us to complete our work. It will be simply out of the question unless members are prepared to go on with the work. Those who represent distant colonies cannot afford to give more than six weeks at the outside to the work; but according to the progress we are now making, the time occupied will be more like three months.

Mr. ABBOTT: I would like to point out that those who are complaining are hon. members who have themselves spoken and taken up a considerable portion of the time. It is all very well for those gentlemen to complain of waste of time; but they are certainly under some obligation to those of us who have patiently listened to them. So far as I am concerned, as one of the members resident in New South Wales, I am prepared to sit here day and night. It is quite as inconvenient for us, who have our business to attend to, to be here, as it is for those who come from the other colonies. The New South Wales members are prepared to give every consideration to those who represent the other colonies, but it is not fair to say we are wasting time. What about those gentlemen who have made long speeches? I do not charge them with wasting time, but would only observe that it is a strange thing that those who complain of an early adjournment have already made their speeches.

Mr. BARTON: I feel that I owe the Convention a word of explanation. I was quite unaware that there was a disinclination to adjourn at 4 o'clock, or that the question of an early adjournment would have borne itself so strongly on the mind and heart of the Convention, as it appears to have done all of a sudden. It was proposed this morning that we should adjourn at half-past 12 o'clock until half-past 2 o'clock because somebody was not ready; but Captain Russell, with that gallantry which we might expect from the hon. member, filled the breach, and took us on to a quarter to 1 o'clock. It might have been supposed that those who were so anxious that the sittings of the Convention should terminate in a more reasonable time would have suggested then that the adjournment should take place until 2 o'clock. Instead of that, when you, sir, proposed that we should meet at half-past 2 o'clock, everybody was

ready. Yesterday we adjourned at 4 o'clock; previously we adjourned at 4 o'clock. Was I wrong in assuming that the sense of the Convention would be in favour of adjourning at the instance of the gentleman who desired to speak? I must confess it rather surprised me to find that, as the hon. member, Mr. Abbott, has put it, at the instance of certain gentlemen who had already spoken, there was a sudden desire that, they having spoken—of course not for that reason—the debate upon these resolutions should be conducted with the utmost celerity. I would join with these gentlemen in this way—if they will suggest that the remaining sittings of the Convention last from half-past 10 o'clock until 1 o'clock morning sittings, and from 2 o'clock until half-past 4 o'clock afternoon sittings, and that we should sit twice a week in the evenings. I am quite sure that the other delegates, who have not come from a distance, and who have not such large interests awaiting them in their colonies, will only be too glad to consult their convenience and adopt any proposal of that kind which they may bring before the Convention. But to save myself from misapprehension I must say that when I moved the adjournment to-day I thought it was in pursuance of a general desire to adjourn at 4 o'clock as indicated by the whole of our antecedent proceedings.

Colonel SMITH: I quite agree with what has fallen from the hon. member, Mr. Barton, and, personally, I am prepared to sit here all day, if necessary, and a reasonable part of the night in order to get through the business. Of course, short sittings are less inconvenient to the New South Wales delegates, because they are able to attend to their private business, while we are not, and on that ground we are entitled to some consideration. But what I wish to say is this: that I think we might sit occasionally—and I am glad the suggestion came from the hon. member, Mr. Barton—in the evening. We might sit three nights a week, on alternate evenings, for a reasonable time, and it would enable us to get through our business much quicker. The debate now going on is, of course, a most important one; but I was in hopes that a good deal of the business of the Convention would be referred to two or three committees, which would save an enormous amount of labour to the general body of the Convention. If we appointed committees, which should take certain subjects into consideration and report to the Convention, we should save an immense amount of time and trouble, and perhaps annoyance. I shall suggest this course later on.

Sir JOHN BRAY: I was one of those who favoured the adjournment. It seemed to be the impression on the part of some of the delegates that only those who had made long speeches favoured the adjournment. I have not had the pleasure of making a long speech, but still I am anxious to go on with the business. I feel that in this, as in other things, we must be bound by the wish of the majority, and it was clearly the wish of the majority to have an adjournment until to-morrow. As one of those coming from a distant colony, I hope the delegates will agree to expedite business as much as possible. Whether we shall sit late in the evening or not must depend on the will of the majority of members, and if it is understood that all those who are prepared to speak will have an opportunity of doing so, and that the business will not be concluded until they have had that opportunity, none of us can grumble; but I trust that adjournments will not be too frequent, and that we shall do all we can to expedite the business.

Convention adjourned at 4·22 p.m.

FRIDAY, 6 MARCH, 1891.

Federal Constitution (third day's debate)—Addresses—Federal Constitution (third day's debate resumed).

The PRESIDENT took the chair at 11 a.m.

FEDERAL CONSTITUTION.

THIRD DAY'S DEBATE.

Debate resumed on resolutions proposed by Sir Henry Parkes (*vide* page 11)

Mr. BARTON: I am fain to say that the kind cheer just accorded to me gives me more trepidation than encouragement, because since I moved the adjournment of the debate yesterday upon the momentous questions that are now before this Convention, I have been wondering at my own audacity. Nevertheless, I trust not to be too long in addressing this Convention, and I trust at any rate that I shall not wander away from my subject until I shall have found it necessary to close my remarks. It does seem to me that you, sir, deserve the commendation of this Convention for having introduced these resolutions in the form which they take. It would not have been, at this stage of our proceedings, a wise thing to endeavour, for instance, to enumerate completely the powers which should be given to the general government and to the provinces respectively. Nor would it have been wise to enter into details of any kind, because there are certain matters which precede detail, and which must be dealt with by us before we can even come to the conclusion that it will be within our power to draft or bring up the scheme of a constitution which will be acceptable to the several provinces. But the form in which you have brought forward these resolutions rests so much upon principle and so little upon detail that they are eminently calculated to secure that general acceptance which will be the basis of our future labours, and which will enable us to attain the end for which we are working. I concur strongly with the hon. member, Mr. Deakin, in thinking that the form in which the first batch of resolutions is introduced is also one that should commend itself to us—that is to say, what is endeavoured to be affirmed by these resolutions is that certain great principles should be agreed to rather than that there should be anything like a hard and fast delimitation of any lines. The first of the resolutions I shall deal with in a minute or two in connection with the question of the parliament; but dealing now with Nos. 2 and 3, I do not find it at this stage necessary to debate them at any length. I cannot fail to agree both with the 2nd and 3rd resolutions, of course presupposing that the power and authority to impose customs' duties, given by the 3rd resolution, also conveys the power to impose duties of excise corresponding. But it is suggested that, before these resolutions can be implanted in any constitution, they should be accompanied by certain guarantees. That raises a difficult question, and I am not quite sure that upon that point also I am not in some agreement with the hon. member, Mr. Deakin. No doubt there are some of the states which have given almost certain guarantees to their citizens of the continuance of certain forms of taxation under which vested interests have arisen; and, no doubt also, that is an argument which will prevail—and it has prevailed even with free-traders, much more, therefore, with myself, as a protectionist—that such vested interests, when they have sprung up, are not to be lightly dealt with, and that the security which they have enjoyed, and under which they have been raised, shall not be lightly removed. Although I cannot say that I agree with the method proposed by my hon. friend—at any rate, until I hear further argument about it—that it should be for the federal government to impose a gradual reduction of the

higher tariffs until some point is reached at which it can be said that the interests which have sprung up are let down lightly; still, I think means may be provided under which all he asks for may be secured, and at a price which, at any rate, it is worth while for these colonies to give for their federation. If, for instance—and I only mention it as an instance—the provision were, and it were also implanted in the constitution, that the individual states should maintain for themselves their rights as to the imposition of customs and excise—their tariffs—until a certain specified period after the proclamation of the constitution, it seems to me that that would be a more effective and more simple method of doing that which the hon. member requires. Speaking humbly for myself, I cannot see that, looking to the spirit of compromise with which we enter into this Convention, the colonies generally—those ones, or that one which is not attached to protection—will be paying any unreasonable price for the benefits of federation. I take it as a matter of course that at some period, and at an early period, after the federation of the colonies, the trade and intercourse, whether by way of land carriage or coastal navigation, shall be absolutely free. It is impossible to suppose a perfect union, except under such a condition. But while that is laid down, it is equally open to us to say that for a certain time we may be able, and must be able, to put up with a union somewhat imperfect. I must say that it does appear to me, when one endeavours to look at the matter from the point of view of others as well as from one's own point of view, that some compromise of this kind is one to which probably this Convention will be impelled if anything secure by way of a constitution is to arise and come from its labours. Passing away from that question, which, of course, will be vastly more fully debated in committee, I wish to deal with resolution No. 1:

> That the powers and privileges and territorial rights of the several existing colonies shall remain intact, except in respect to such surrenders as may be agreed upon as necessary and incidental to the power and authority of the national federal government.

I should have liked to see added to this, unless indeed it is intended to be included, something which will specify that the actual territory of any existing province shall not be subject to any kind of diminution or absorption for the purpose of constituting new provinces, except with the consent of the legislature of the province affected. That, sir, you may have intended in this resolution. If that is stated to be so, I am perfectly satisfied; but I am also equally satisfied that we are not likely to base federation on the good-will and union of the colonies unless a guarantee of that kind be provided. With respect to the question of the powers, privileges, and territorial rights of the existing colonies, I said that I would endeavour to consider it in connection with the question of the parliament alluded to in the first resolution under the second heading. I take it that this first resolution must be an essential of any just union of the colonies. Unless, indeed, these territorial rights and privileges are conserved, federation would appear to be well nigh impossible; and I think I may be pardoned for saying that it seems an obvious construction that the powers and privileges and territorial rights mentioned here are all those state rights as to which the hon. member, Mr. Deakin, yesterday asked the question, "What are the state rights?" The state rights, it seems to me, are claimed by rather a narrow term. It is state interests we have to deal with, and unless the state interests are effectually preserved in a federal scheme, that scheme will be worth nothing, because it can be worth only so much as consists of the goodwill of the parties to it. If that is so, all those state rights which are not to be specially assigned to the general authority must be religiously preserved to the various states, and it will, therefore, be essential that the constitution provide—and I take it as a necessary consequence that the constitution shall provide—for a legislative body which, in addition to the functions of a house of representatives, and in addition to the functions of a second chamber, will also be the guardian of those individualities, those state rights or interests. If those state rights or interests are threatened in any legislative proposal, whether or not it is contained in a money bill, they will be under the especial care of the federal senate; and if state rights are threatened, whether in a money bill or not, it seems to me that it is not good argument to fall back upon the representative principle to the extent of saying that there is only one representative legislature, and, therefore, only one which can deal freely with questions of money and taxation if the very spirit upon which the federation rests is threatened by any scheme in a money or taxation bill.

Mr. DEAKIN: If!

Mr. BARTON: The "if" is not a long way off.

Sir THOMAS MCILWRAITH: There are precedents!

Mr. BARTON: When I heard the hon. member, Mr. Deakin, in his very brilliant speech, talking so positively about the representative principle as being the only safeguard of the federation, it struck me that he to some extent ignored the fact that it was possible for the representative principle to be preserved and instituted from its very foundation in two chambers just as well as in one. It is not because the representative principle has not been preserved, or not well preserved, in most of these second chambers, commonly called upper houses, that we are to come to the conclusion that the representation of the people from the very foundation of representation is not to be found in a second chamber; and I take it that a senate founded upon some such basis as the Senate of the United States, not only really conserves the representation of the people, but is part of the organ by which the will of the people is expressed. The organ by which the will of the people is expressed is not necessarily the house of representatives alone. Because one chamber is called *par excellence* the house of representatives, because one house rests on local representation, it does not follow that we cannot make another house of representatives, which will represent not only the states themselves, but also, as Mr. Deakin put it, cannot represent those states without representing their people. If that is so, and if the representative principle is as much implanted in one of those chambers as in the other, upon what principle can it rest that the senate should not deal with the question of money or taxation, but may with any other question in which any state interests are likely to be threatened? What is the object? Is it because we are simply accustomed to have the representative power placed in one body that we cannot conceive the idea of there being a form of federation, or a union of states, in which there cannot be any thorough representation unless we have two such bodies? It seems almost an obvious proposition that where you have not what may be called—I do not speak from a religious point of view—a unitarian constitution, but a legislative union such as we propose in this case, unless you are going to maintain the principle of representation—you may call it the representation of state individuality if you like—in the second chamber, you are not forming a federal constitution at all. If you are forming a federal constitution, and upon federal principles, you cannot kick the principle of representation out of the doors of the second chamber. If I am right in that contention—and I believe that, at any rate, it is a contention founded upon a correct sequence—it will be obviously as unwise as impossible at the same time to maintain a constitution resting upon goodwill, and during that time to deprive the second chamber of a veto, even in detail, upon propositions which may affect the rights, and possibly

the existence, of the states. It is not difficult to imagine an illustration. An illustration comes to us in the most familiar form. I am not going to enter too much now upon ground that may be debatable: but if we are to have the primary chamber—the house of representatives, resting, as I hope it will rest, upon universal suffrage and local representation—there is no doubt that, being based upon population, it will give a very large preponderance of power in that chamber to the most populous states. All of us are accustomed to legislative propositions in which questions of policy, questions affecting local or state interests, are so inextricably interwoven with questions of money, that to deny the power of veto in detail upon these is to prohibit the exercise of state right at all. I venture to say, therefore, that if you once admit the principle of the custody of state interests in a representative chamber, resting not upon mere locality, but upon the individualism of the states—representing through the states their people just as the other house represents the people through a locally elected assembly—you can no more deny the right of veto in detail on questions of money and taxation than you can deny it in respect of anything else. It is clearly upon reasons of that kind that the framers of the Constitution of the United States saw they must give the power of amendment to the senate. I am not here, as has been suggested to-day somewhere else, to make a speech in favour of upper houses. My views in that respect have undergone some change, and I am, probably, no fonder than the hon. member, Mr. Deakin, is of the nominee principle in legislation, or, as I think Goldwin Smith has called it, "the barefaced proposal" to permit the leader of a dominant faction to secure the interests of his faction by appointments which are not under the will of the people. But there is one result of the argument which I now put forward, if it is correct, which I will ask hon. members to bear in mind. If you resolve to accept the Constitution of the United States Senate for our federal constitution you will find it to be an almost absolute necessity of the case that all your second chambers in your individual states shall be elective. If that has the approval of the hon. member, Mr. Deakin, as I am sure it has, he will see that one good result will flow from the custody of state rights being as much without limit as it is safe to make it. I said an illustration in this matter is to be found in the case of the capital, and I wish to handle this subject as delicately as one may, looking at the various opinions which of course exist all round as to the place which should be the capital. If we consider the very large preponderance of voting power gained by the principle of representation according to population in the house of representatives, as I suppose it is to be called, we can conceive this state of things: the introduction of a bill fixing some place or city—either an existing city or some arbitrarily defined area—as the capital of the federal dominion. We can conceive that bill being surrounded with all the necessary provisions to bring into effect the desire to constitute this capital, and then we shall see that it is impossible that a bill of that kind can be anything but a money bill—a bill of expenditure. If the principal of vetoing in detail is to be withheld from the federal senate, what is to be done with that bill? Are all the senate, except the one state which shall find the capital within it, to combine in rejecting the bill, and ensuring its rejection time after time until each state finds something to its liking? Is that the way in which the thing is to be done, or is it to be subject to proper restrictions—subject to some other method of settling what may be a cause of friction and deadlock? Is it not better that such a matter should be dealt with separately from the money provisions? If it is not—and we can quite conceive those who are in a large majority in the house of representatives—a government with a large majority—taking this means of enforcing their will—and it cannot be called tacking in any sense—it is impossible to foresee an end to the trouble and friction that will ensue. That is one instance of the harm that will result if the federal senate is not intrusted with some power of veto as to details, because the result will probably be that bill after bill for this purpose would be brought in, and be rejected one after another. Is it not more desirable for the prevention of friction—is it not more desirable in order that there may not be deadlocks, which my hon. friend seems so to anticipate—that the second chamber should not be confined to the veto, as I may say, *in globo*—the veto of a measure altogether? What is likely, for instance, to be the result of such a proceeding? Do we not know what it has been in other places? I am not going to enter into any discussion of the justice of the position many times taken up by second chambers—upper houses, as they may, perhaps, be more technically called—in dealing with proposals coming from the representative chamber. But when we examine the course of these things we find that where the right of amendment, or the right of veto in detail has not been secured, the greatest friction has occurred. I do not say that has not been necessary; I do not say that it may not have been wise—for that is a matter which we need not carry into this debate—to limit the powers of second houses, many of which are nominee; but what I do mean to convey is this: that we have seen in our own experience that in cases where a right of amendment has been exercised, or a right, at any rate, of veto in detail, it has been possible to excise an obnoxious provision, and pass the rest of a measure, and that that has frequently been accepted subject to future action. On the other hand, especially when you find that the whole custody of state rights as respects national measures is in the federal senate as the last resort, how great a temptation the restriction of the veto to an entire rejection will be to them to do one of two things, either to get rid of a whole measure of public policy because it in part interferes with state interests, or, on the other hand, to surrender their function of safeguarding those interests in order that a measure of public policy may not be lost. Is either of these things good, and is not either of them likely to be avoided by granting a veto in detail? So, therefore, I do not share the very powerfully stated objection of my hon. friend, Mr. Deakin, to the proposition raised by Sir Samuel Griffith. I think that when we come to examine this question a little more fully we shall find that we can get rid of any confusion arising from previous experience of bodies which do not embody the federal principle. We shall be inclined on the very ground of the theory of representation to concede this veto in detail to a body which does embody the federal principle. And I take pleasure in stating that this argument appears to me to be correct, because I find that there is an insinuation, out of doors at any rate, that the settlement of the principles of a federal constitution is likely to result in some sort of conflict between those who represent the large and populous states and those who represent the weaker ones. I trust that there will be no conflict of that kind, and speaking for myself—and I think I can speak for the whole of my brother delegates, though as to whether they are at one with me in this argument I know not—but speaking as to their wishes and desires, I am quite sure that they will not, at any rate, and that they feel that nobody else will be, parties to any attempt to take away anything which ought of right to belong to less populous and less wealthy communities, simply by the exertion—as they may exert them under the federal constitution, if it is not righteously guarded—of powers which would collocate too much in the hands of the union, if it were under the unitarian system of government, in oblivion of the very fact that those rights rest on the federal principle. I think, then, that the course of veto in detail tends

rather to lessen than to increase friction, because the danger of friction does not rest in legislatures alone—the friction that will be dangerous will be the irritation of individual states in their political capacities. It must not be forgotten that there is to be a double citizenship conferred by this constitution upon every citizen of these states and of the great nation which we hope to found. If there is that double citizenship and there is not in all essentials a due representation of it even in questions of money, then the friction of which my hon. and learned friend sees so much danger in the relations between the senate and the house of representatives on occasions in other places, say in America, would be merely a surface indication of deep-seated irritation, which any negation of proper rights will evoke within the states which are parties to the compact. It is upon the question whether you secure their goodwill or provoke their irritation that the dangers exist, and it depends upon our care in that respect whether these dangers will grow to a head or wither away. Mere specifications or schedules in acts of parliament are not the only things to look to—mere delimitation of rights and powers—because it is in what we may call the overlap that the danger arises. However religiously you may separate and guard the functions which you give to the one great legislature and to the subsidiary legislatures, there are points on which it has been always found that they sometimes will overlap; and following out the principle of the 1st resolution here, especially considering the vast growth to which they had attained before this movement was taken in hand, unless we conserve to the states not a mockery of their rights, but an effective assertion of them in case of such overlap, we shall soon find many who will regret their compact, and if it is a compact that they find indissoluble, then so much the worse for the union. So I take it that if you wish to preserve the goodwill of the states, and their adherence to the general constitution, not as a matter of compulsion, but as a matter of loyal good faith, you will do all that you can to secure, and not to reduce, the power to provide against any encroachment. And to reduce a great representative body, founded upon the very recognition of state individuality, if I may use the term, and highly representative of the component communities—to reduce that body because of some experience which we have under a wholly different system to the level of a mere revising nominee chamber, would not be good work. It would be dangerous work; it would be work which would result, if it resulted in any union at all, in one which would be the subject of friction and regret from day to day, and from year to year. Let us not run into this danger. It is incumbent upon those who represent the large states, while taking care that neither they nor anybody else shall make too large a surrender, to see that no form of government is established which may place states weaker in population at the mercy of others. And let us all recollect that these are changeful communities; that they are in various stages of development; that that which is to-day the least populous may in fifty years be the most populous; that we are not legislating for ourselves alone. Let those who are anxious—of course, as I know well, without any desire to be agressors—for a form of constitution which may result in an encroachment upon those rights recollect that any of the states may one day be the victim of that very encroachment; and therefore legislating for the future, as we hope the parliaments will legislate upon our initiative, and not legislating for to-day, let us take the utmost care to introduce those protective provisions which after all will be the protection of ourselves—the protection of ourselves as citizens of a federated state in all our relations as such citizens, and our protection for the future in respect of our state individuality. The best way to do this is, I think, to recognise the fact that while the ordinary will and impulse of the people is conserved, and its operation is conserved in the house of representatives, still the senate will be a part, and a necessary part, of the expression of the people's will, because if it be not, we shall forget that each citizen has a double citizenship to perform. Now, the Senate of the United States is, I have said, elected on some such system as, subject to further arguments, I hope to see existing in this federation, and we know what the result of that system is. The election is based on universal suffrage—because the senators are elected by the legislatures of the individual states who are elected by universal suffrage—and the result is a legislative body the judgment and capacity of which comes quite up to the ideal or the standard outlined by the President in his opening speech. It is worth while considering on this point whether there is not a sacrifice of the intellect and power of a state when you take means to secure the representation which in the United States has been proved to have commanded the respect of all citizens, if you at the same time withhold from those whom you deem so capable the power of beneficently guarding the interests of the states, and without which the states themselves might at any time, if they did not become rebellious, become at any rate wholly dissatisfied. It is not, we hope, all of us, to be the result of our labours that a constitution will be framed the possible result of which may, even in the far future, be a resort to violence. It is upon harmony and good-will that this constitution must be based, and the only way to base it so is to protect individual state rights in such a manner that there will be no suspicion, no distrust, at any time harboured in the general work of legislation by those who represent, in one body or the other, the states which are not the most numerous, and not yet the most advanced. Especially is it necessary in the condition at which we have arrived. When we consider that this is a state which is as large, or almost as large in itself as the thirteen states which formed the original American United States; and when we consider the hugeness of the individual state interests with which we have to deal, caution in this respect is more incumbent upon us than it ever was upon any body of legislators addressing themselves to a similar task. Now having, I trust, made myself plain upon that, and having, I hope, shown that unless there is something more than a mere power of rejection of money measures in the federal senate there is at any time a possibility of a gormandising process being indulged in by the representatives of states in the greatest numerical superiority, I should like simply to pass on to express, as we must all express, approval of the remainder of the first sub-section, that is to say, the formation of the house of representatives to be elected by districts formed on a population basis, with the sole exception that, instead of possessing the sole power of originating or amending all bills for raising revenue or imposing taxation, they, in the exercise of their power, or any serious portion of the exercise of it, should have the assistance of the federal senate in the highest form, at any rate, in a higher form than my hon. friend, Mr. Deakin, seems ready to give it. Now, with regard to the judiciary—and I hope that now I have come near to the close of my remarks. It is no use, I take it, our establishing a federal supreme court, if it is to have merely the academical functions of a court of appeal, if the term is admissible. A federal supreme court must have power to enforce its decrees in every way, Its process must run throughout the length and breadth of the federal states, and it must have power to enforce its decrees against any individuals, just in the same way as the supreme court of any of the existing states has power to enforce its decrees against any citizen therein, otherwise federal laws will lose

their sanction; because the executive, legislature, and judiciary, constituting the three great arms of state, if every one of them does not rest upon and reach the individuality of each citizen, then, as far as one of them falls short, the constitution will be imperfect on one side. Therefore, the power of reaching, and reaching in the strongest form and way, the individual components of the states of the federation must be as strongly reposed in the federal judiciary as in either the executive or the legislature; and the wider the jurisdiction for necessary purposes that is given to them the safer the federation will be, because you are more likely to preserve that harmonious working of the constitution by intrusting the interpretation of it to a tribunal which will deal with the citizen in his individual relations than you are to preserve it by leaving the interpretation in the hands of those who may act as between state and state, and who may provoke the very kind of friction between community and community which it is our object to avoid. To make the thing plainer—where it becomes necessary to construe the validity of a statute, either the statute of one of the provinces, or where the statute of the federal parliament may seem to impinge upon the state statute itself—in either of those cases the safest course is to trust to the interpretation of the federal court, because by that means the interpretation by individual cases is likely to meet with a more harmonious acceptance than would be the result if jealousy were provoked by endeavouring to settle it as between state and state. Quoting from Munro's book on the "Constitution of Canada," at page 218, I find that there is cited a piece of legislation, which, instead of taking the form, as it does, of a separate act in Canada, might almost well be incorporated into our constitution as a provision binding on all. Munro says:—

> In the case of those provinces that passed a law to such effect, provision was made for conferring a special jurisdiction on the supreme and exchequer courts in controversies between the dominion and a province, or between provinces, or relating to the validity of provincial laws.
>
> When the legislature of any province forming part of Canada shall have passed an act agreed and providing that the supreme court and exchequer court or the supreme court alone shall have jurisdiction in any of the following cases:—
>
> (1.) Controversies between the Dominion of Canada and such province.
>
> (2.) Controversies between such province and any other province or provinces which may have passed a like act.

The two following are the provisions to which I more immediately refer:—

> (3.) Suits, actions, or proceedings in which the parties thereto by their pleadings shall have raised the question of the validity of an act of the Parliament of Canada when, in the opinion of the judge of the court in which the same are pending, such question is material.
>
> (4.) Suits, actions, or proceedings in which the parties thereto by their pleadings shall have raised the question of the validity of an act of the legislature of such province when, in the opinion of the judge of the court in which the same are pending, such question is material, then this section of the act is to be in force in the class of cases in respect of which such act may have been passed.
>
> In (1) and (2) the proceedings are to be in the court of exchequer, with an appeal to the supreme court. In (3) and (4) the judge who decides that the question is material is to order the case to be removed into the supreme court for the decision of such question.

And the decision of questions, I take it, by a high tribunal possessing the confidence of all the citizens of the federation will be much more likely to lead to peace and goodwill among them than any decision outside of it imposed as an over-burden upon the legislative or executive arms of the state. I see that it is proposed that this supreme court, this federal judiciary, is to constitute a high court of appeal for Australia, under the direct authority of the Sovereign, whose decisions shall be final. It was well pointed out by the mover of the resolutions that the endeavour to get rid of the jurisdiction of the Privy Council for the Dominion of Canada was a fruitless one, because the Imperial Government refused to assent to such a transfer of power. Whether they would assent to such a transfer of power now seems very doubtful. By precedent, they would not; but I do hope that the mere fact that the action of the Imperial Government has in a previous case been against the granting of any such power will not deter the framers of this constitution from inserting provisions which will claim the power. It may be refused, and, if it is refused, the refusal may be provocative of more or less dissatisfaction; but that it is a power to ask for, and a power which will be beneficial when gained, I have not the remotest doubt. Of course there may be exceptions, as the hon. member, Mr. Deakin, has so well pointed out, in cases where Imperial interests are concerned, or in cases—but I am more doubtful as regards following his argument in this part of it—in cases where the stability and uniformity of interpretation in matters of common law may be endangered by not resorting to the Privy Council. In the first case there may be an exception, but with regard to all other cases, I trust that this Convention, and the Parliaments to whom its conclusions are to be presented, will use their utmost efforts to secure the abolition of the jurisdiction of the Privy Council and the transfer of supreme authority to the colonial judiciary, which I am sure will be beneficial to the whole of the colonies. I say this without attempting to derogate from the authority of the Privy Council, but those who have watched the course of its decisions are aware that that tribunal is not always constituted in its best aspect; that there are occasions when that board—because it is a board—is presided over by judges who, whether as regards their past judicial career, or, at any rate in some cases, as regards their existing capacity, would not be one whit superior, but—I almost tremble to say it—are not equal to the class of judges to be found in this continent to constitute a federal supreme court. I feel no doubt at all that from the ranks of the very eminent members of the bar and of members of the amalgamated profession, as probably it may be, in these colonies there is ample material to be found for the constitution of a supreme court of appeal to which no citizen of Australia need fear to entrust the final adjudication of his claims, and I feel equally sure that the institution of a change such as this will be hailed with loud acclaim as one, if not of the most valuble provisions in principle in the constitution, yet as one of the most beneficially workable provisions which will accompany it. I have to thank hon. members for having listened to me so kindly, and before sitting down I should like to read a few words which struck me on looking into a well-known authority last night as to the advantage of a federal union and the division of power. I find this in Story's "Commentaries on the Constitution of the United States," section 291—a book, as I said, that is of the highest authority, and I think the passage is calculated to give a clear indication in a very few words of the result that will follow upon the exercise of proper caution in the maintenance, on the one hand, of the executive, parliamentary, and judicial strength of a general government within the powers assigned to it, and on the other hand, the maintenance of state rights in all matters which it is not considered necessary to hand over to the federal authority.

> If there were but one consolidated national government to which the people might look up for protection and support, they might in time relax that vigilance and jealousy which seem so necessary to the wholesome growth of republican institutions. If, on the other hand, the state governments could engross all the affections of the people, to the exclusion of the national government, by their familiar and domestic regulations, there would be danger that the union, constantly weakened by the distance and discouragements of its functionaries, might at last become as it was under the federation—a mere show, if not a mockery, of sovereignty. So that this very division of empire may

> in the end, by the blessing of Providence, be the means of perpetuating our rights and liberties by keeping alive in every state at once a sincere love of its own government and a love of the union, and by cherishing in different minds a jealousy of each which shall check as well as enlighten public opinion.

As to the executive, I must say that the question raised by Sir Samuel Griffith has given me, for one, considerable perturbation. I know that it is very easy to pooh-pooh the whole matter and to say, "You must look to the representative chamber, and that alone as the seat of ministerial responsibility"; but, as I venture to think, I have shown that we do not find, or shall not find, in a properly constituted federal body, the representation all collocated in one chamber; and if we do not find it there, that admission places us at once in face of the difficulty which Sir Samuel Griffith has suggested, and I am afraid that it is a difficulty very hard to solve. But British communities have been in the habit of solving difficulties sometimes by anomalous means; and, where they have had to make a choice, they have made it sometimes not altogether in accordance with principle, and have been rewarded for their pains by the very beneficial working of their constitutions. Now, let us endeavour to get at some solution in this way. Is it certain that the question of legislative power and the question of ministerial responsibility rest on the same lines? It is quite clear that where it may be necessary to embody even the representative principle in two chambers for the exercise of legislative power it is unfair or unjust to intrust the working of the constitutional principle—the principle of ministerial responsibility—to one chamber alone? I am afraid we shall have to solve this difficulty by making the executive of the dominion responsible to the chamber called the representative chamber—to that one which has not the custody of state rights specifically within its control. One reason why I am led to conclude that this would not be a dangerous result is the remark which fell from my hon. friend, Mr. Playford, yesterday. He said, if I understood him correctly, that we should not find it possible to graft on the American system the system of responsible government, and make it work. Well, I think that by allowing the operation of the principle of responsible Government to rest in the responsibility of the executive of the day to the house of representatives, we shall, at any rate, be able to make the constitution work. Although it may be impossible at the present stage to suggest any better provision, I must confess that I am not in love with the solution that has been suggested, that a proportion of the ministry of the day should retire upon the vote of one house, or of both, and that the others should remain in office.

Sir SAMUEL GRIFFITH: That is not proposed by any one!

Mr. MUNRO: Suggested!

Mr. BARTON: I am not sure that it was not proposed, but at any rate it struck me that it had been suggested.

Sir SAMUEL GRIFFITH: As a possible working out in time!

Mr. BARTON: As a possible working out in time. I do admit that there is a great deal of force in the suggestion that there are certain phases of constitutional development which, to a great extent, must be left to the working—to that which express provisions will evolve from themselves, rather than to attempt to define them too strictly at the outset; but I fail to see how the working of any such constitution as is likely to be framed will result in a limited ministerial responsibility of that kind. I take it that we shall be shut up to the choice of one of two things, the American system of dissociation of the executive, or the adhering to that which we individually have found to work as well as anything else can work in the present stage of political development—that is, the ordinary principle of constitutional government, In that respect I think that, irrespective of any question of a referendum, which I have heard suggested, we shall find ourselves safer in relying on the old lines of constitutional responsibility at the hands of one chamber, although it may not take unto itself the whole of the representative principle, than we shall be by attempting either to weld two chambers together for executive purposes—which I think would be a clumsy expedient—or by venturing upon the dissociation of the executive from the representative body, the segregation of Ministers from Parliament, resulting, as we know it has resulted elsewhere, in a body of Ministers not possessing indeed the whole executive power, and whose working is hampered to this extent: that, being individually amenable to a President, they are only in the very slightest degree animated by a common policy so far as regards their common action. That is a state of things which I do not think would conduce to good government, and I therefore think, notwithstanding the embodiment of the federal principle in our second chamber, notwithstanding the embodiment of a proportion of the representation of the country in it, we must give up the idea that we are to dissociate our executive from our Parliament. We shall be much safer in taking our stand upon the solid constitutional ground of responsibility to one house alone. And there is a reason for it in this case to be found in this way: that the chamber to which it is proposed that ministers should be responsible, is that chamber which is most charged with the conservation of the general rights of which the executive is the exponent: that is to say, viewing the federal executive in its distinction from the various executives of the provinces, the chamber which has most to do with the conservation of the powers and functions of that executive, and within the lines of which it will oftenest act in its relation to the individuals of the state, will be the house of representatives; and if we work upon that line, I think we shall find it to be, perhaps, by no very great stretch of principle, a decided gain in the working of our political system, and we shall find it possible to conserve the principle of ministerial responsibility, and responsibility to that house alone. I again thank hon. members for the kindness with which they have heard me. I hope, as I promised, that I have not wandered from the point, and that I have not wearied by repetition. I have ventured to address myself to this subject because I think that, after all, no one can be blamed, however young he may be in so august an assembly as this, for bringing into the common stock his ideas and reasons, where the interests of his country and the interests of the very much greater country which he hopes to make his own are so much concerned. I hope that I am at any rate acting in the spirit in which we all labour together, and that the result of our labour will be to found a state of high and august aims, working by the eternal principles of justice and not to the music of bullets, and affording an example of freedom, political morality, and just action to the individual, the state and the nation which will one day be the envy of the world.

Sir JOHN DOWNER: I am sure we all appreciate the modesty which has led the hon. gentleman who has just sat down to apologise for what he called his presumption in moving the adjournment of the debate yesterday and in resuming it to-day. I believe the feeling of every hon. member present, whether the views of the hon. gentleman do or do not happen to precisely coincide with his own, is to join in congratulating him on having made a speech which will be of very great service to us in this discussion—a speech most admirably conceived, most logical in its construction, and one which, as it to a large extent falls in with my own views, not unnaturally carries the greatest conviction to my mind. Sir, the hon. gentleman devoted himself, during the greater part

of his address, to the discussion of the question raised in your resolutions, and developed greatly in that most able speech which we heard from my hon. friend, Mr. Deakin, as to the power of veto to be lodged in the senate. It occurred to me at the time the hon. member, Mr. Deakin, was speaking, that we could scarcely carry out his wishes without, in so doing, negativing the very first branch of your resolutions. It appears to me that the "powers and privileges and territorial rights of the several existing colonies" cannot remain intact if the people's will, as defined by that hon. gentleman, is to be supreme, and if the colonies, as a whole, are to be coerced by the individual votes of the inhabitants of the whole. We are sent here, all of us I think, under practically the same conditions. We are directed to endeavour to frame a constitution which will bring about union between the Australian colonies; but we are also directed, in doing that, to take care that that constitution is based on terms just to the several colonies. That, sir, of course, is a sentiment which will, I am sure, run through the intentions, although it may sometimes fail in the expression, of every hon. delegate, and it is one which, I fear, would be entirely outraged if this resolution were carried without the qualification indicated by the hon. member, Sir Samuel Griffith. Sir, as we all know, we are not altogether without precedent and experience in this matter; we are not embarking altogether on an unknown sea. We have the experience of a great republic before us. We have that constitution which was framed by some of the most eminent men living at that time—framed, sir, not in any hot impetuosity, but after mature deliberation. We have not only that before us, but we have also seen the working of it now for upwards of 100 years. We have seen that whatever doubts there may be as to the working of some portion of the constitution, the general verdict of mankind as to the value of the general articles has been entirely in their favour. We know, too, the difficulties which met the able gentlemen who drafted those articles in the very inception. We know that this same question, about which my hon. friend feels so strongly, and without which he thinks this federation is impracticable, was discussed amongst the states represented at that convention, and discussed from identically the same stand-point as this question must be discussed here. We know that the states insisted on union, but objected to unity; that they wished a federation of independent states, but not an amalgamation into one empire; and we know, too, that the representatives of that convention were equally divided, and it was only by resorting to a committee that the difficulty was finally overcome. And, sir, the difficulty was got over in precisely the manner which the hon. member, Sir Samuel Griffith, suggests should be resorted to here, by recognising in one branch of the legislature the states, and by recognising in another branch of the legislature individual members of the whole community of states, and giving both those houses, each of which, in its own position, was absolutely necessary to the preservation of the autonomy of the individual states, jurisdiction which was practically co-ordinate. I say practically co-ordinate, because, in one particular, and in one particular only, the jurisdiction was not so, and that was in the right to introduce money bills. But that convention finally agreed in going further than my hon. friend, Sir Samuel Griffith, wishes to go now, and not merely gave the senate the power of vetoing either wholly or in part money bills sent up from the house of representatives, but gave them a general power of amending any bills which should be sent to them. Without this agreement the United States of America would not have been constituted, at that time at all events; and under that agreement the states have progressed to the position which they have now attained, and although, as in every constitution, difficulties, jars, and discords will exist, still, on the whole, the jars and discords there have not been appreciably greater than those in the constitutional governments to which we are accustomed. No objection has ever been very seriously made by any large body of people, or, I would rather say, by the people generally, to the co-ordinate authority reposed in the senate, or to the method in which that authority has been exercised. There was then a greater disproportion, or as great, at all events, between the populations of the largest and smallest of those states as there is now between the populations of the largest and the smallest of the Australian states proposing to federate. Nevertheless, equal representation, co-ordinate legislative authority, was given to the smallest as to the largest. Experience has shown us that that has worked thoroughly well, and has proved as satisfactory to the larger populations—to the states containing the largest populations, one of which, I think, sends forty representatives to the house of representatives, whilst another sends only one—as to the smaller populations upon whom co-ordinate power was conferred. I do not intend, even if I could, and I could not if I wished it, to go over the arguments so closely and logically put by the hon. gentleman who has just sat down. I say that, if I wished to do it, I have not the power, and I am certain that everyone here, whatever his views on the ultimate question, must have been profoundly impressed by the manner in which the hon. gentleman submitted and stated his arguments. I should be sorry to be supposed to be expressing my own concluded opinions, because we are met here for deliberation; but whilst I think, at the present at all events, that it would be impossible to establish this federation at all, and certainly not in a satisfactory way, without the point raised by the hon. member, Sir Samuel Griffith, being at least conceded, still, when we have settled that question, of course we are not out of our troubles, because there is more to be looked at. If we do agree, as I think we must, that the two houses shall have co-ordinate legislative authority, and that it shall be competent for the senate at least to do what the hon. member, Sir Samuel Griffith, suggests—to veto in detail any bills sent up to them, whether money bills or not, still we have got the further difficulty to settle, as to how the executive is to be constituted. I cannot say that I have quite come to the same conclusion as that of the last speaker on this subject. Although some of us are Australians by birth, all of us have had English traditions handed down to us, and have a natural prejudice in favour of the methods of government in the country from which we sprang. At the same time we must recollect, as the hon. member, Sir Samuel Griffith, said, that we are considering something about which the mother country's laws know nothing, something quite outside the ordinary orbit of imperial concerns, and it may be that we may, in framing our constitution, find it impossible to work this new federation properly unless we strike out on some new lines. The proposal in the resolution before us is that the executive should be responsible to the house of representatives, and liable to be removed on the vote of the majority of the members of that house. While the hon. member, Mr. Barton, tells us that he sees difficulties in carrying out that proposal, and feels the difficulties which the hon. member, Sir Samuel Griffith, suggests, he nevertheless appeared to conclude that that is about the only method which we can expect to work satisfactorily. But I would ask the hon. gentleman, with his strong views in support of the authority of the senate, with his convictions that to preserve the authority of the senate is at least as important as to preserve the authority of the house of representatives, does he think that that authority can be preserved intact, and will not inevitably gradually be frittered away, if the government of the country is comprised in a body selected exclusively from the other branch of the legis-

lature, and responsible only to them? What weakens responsible government? The upper branches of the legislature, be it the House of Lords or the legislative councils of the different colonies, have, so far as either common law or written law is concerned, authority almost co-ordinate with that of the Commons or the assembly. It is the practice of the community, superadded to the law, which has gradually deprived the upper branches of their authority, and neither common law nor statutory maxim is responsible for the encroachment which has taken place. Now, sir, supposing we make the executive responsible to the house of representatives only, can we doubt for a moment, by analogy from what has happened in the past, that we shall see in the future the authority of the senate gradually dwindling until it becomes a body that is practically, if not absolutely, subject to the house of representatives? This is really the difficulty of the situation. The difficulty in reference to the executive is greater than the difficulty as to the precise constitution of the two houses; and my strong opinion, at present at all events, is that it will be absolutely impossible to preserve the rights and privileges of the house representing the colonies, if the government is solely responsible to the house which represents the individual electors. The representatives, say of the two colonies of New South Wales and Victoria, would probably represent the proportion of eight to three, compared with the other colonies; and the result undoubtedly would be that, supposing these great colonies, settling their ancient feuds, and with the customs barrier removed, which I think has alone kept them apart, and made them unfriendly, happened to come into sweet concord once in a way, we might expect the result to be that the executive would be selected exclusively from these colonies, and that the minor colonies would have very little voice in the government of the dominion at all. It seems to me quite impossible to conceive the privileges of the one house being retained if the executive authority is entirely reposed in the other. Then, sir, what is to be done? There, of course, comes the difficulty. The method adopted in Switzerland might be resorted to. The two houses might meet as one—the senate and the house of representatives—and appoint their ministry, who should retain office—there it is for three years—for a time to be determined. That would be a government which would have the confidence of the house, not responsible in the ordinary sense, and it would impinge upon our English notions to that extent; but still, I think, a government much more consistent with the federation which is to be brought about than a government which can only properly exist under an empire. I take it that in these matters we are all striving for the same end, that we are not necessarily obstinately pledged to any particular view which may be expressed upon this introductory motion, but simply endeavouring to assist each other in arriving at a conclusion that may bring about the federation which we all desire to see attained. As to the federal judiciary, I will just say that I entirely agree with the views of the hon. and learned member, Mr. Barton. I think that, for the federal constitution to work well, there must be a strong judiciary. That has been the experience of America; in fact, the Union could not have worked there without the assistance which from time to time it has received from the judicial bench; and the stronger and more powerful the judicial bench, the stronger and better will the union be. So far as my experience as a professional man is concerned, it agrees with the experience of the professional men of other colonies, which is that there is no necessity at all for appeals to the Judicial Committee of the Privy Council, not merely on the ground that was gently hinted at by the hon. and learned member, Mr. Barton, namely, that the constitution of that tribunal was not always as satisfactory as it might be, but also because, in the first place, we think that justice should be speedy; in the next place, that we are satisfied with our own tribunals, or we will be when we have a federal judiciary, and, in the last place, where any appeal would be required from a tribunal of such high eminence as the federal supreme court, the question as to the right or the wrong of the matter would practically have come to so fine a point as probably to be almost a question of temperament as to which way the case would be decided. But, if we wish to make Australia self-sufficing, one of the first things which I think we must insist upon is having our final judiciary here. I do not say this without any limitation. I agree with the limitation that the hon. member, Mr. Deakin, mentioned. When imperial questions arise her Majesty must have some supervising authority; but so far as the other matter to which the hon. gentleman referred is concerned—as regards any important common law questions—I think that the Supreme Court and our federal judiciary will be quite competent to settle those, and I am not aware of any reason which makes it imperative that the decisions here and the decisions in the old country should always follow on precisely the same lines. So far as your resolutions, sir, generally are concerned, I agree with them. I agree that the border custom-houses must be removed; but I also agree with what is the general understanding throughout, at all events, a large majority of the Australian colonies, namely, that whilst intercolonial free-trade is to be permitted, it is on the condition that for a time, at all events, there shall be protection against the outside world. Without that limitation and understanding—whether the understanding be expressed or not is another question—the Australian colonies will certainly not be federated at the present time; and I think that it would be a good thing to fix some date when this intercolonial free-trade should begin, and to allow each colony meanwhile to collect its duties in its own way. Of course time has to elapse, and probably a good deal of time, before any legislative effect can be given to our consultations here; but, I think, nevertheless, that it would be satisfactory to most of the colonies—to all the colonies which have adopted protective duties—if a date were fixed in the constitution when this new law should take effect. When we go into Committee we shall all of us no doubt have many opportunities of expressing our opinions on the different questions that arise. I simply have endeavoured, sir, to imitate your brevity in addressing myself as concisely as I could to the principal points contained in your resolutions, and particularly taking the opportunity of expressing my opinion as to what I consider the crucial point of all, which is, that so far as the constitution of the senate is concerned we must follow the precedent of America, and, whilst showing every respect to the views of individuals as represented in the house of representatives, we must still take care that the views of the states shall be studied in an equal degree in the representation of the senate.

Mr. THYNNE: As there appears to be considerable hesitation on the part of older members of the Convention in continuing the debate, and as we have a little time before the usual hour for adjournment, I propose to claim your attention for a few minutes. I think I may be pardoned if I point out what appears to me to be a misapprehension of the views which the hon. and learned member, Sir Samuel Griffith, expressed in connection with the matter of the executive. It seems that the discussion has proceeded upon the idea that the hon. and learned member, Sir Samuel Griffith, in his speech advocated an immediate change from the present relation of responsibility of the executive to the popular house. I understood that hon. and learned gentleman not to support that view, but to recommend that the Constitution should be left open for such developments in government in these colonies in future years as the circumstances of the times may require.

Sir SAMUEL GRIFFITH: Hear, hear!

Mr. THYNNE: I think, sir, that it would be very unwise for us to impose any fetter that is not absolutely necessary upon the free and full development of the future Constitution which may be in force in these colonies. The function that we have to fulfil in meeting in this Convention is that of framing a Federal Constitution. We are asked to now advise the parliaments of the colonies, and also to advise the Imperial Parliament—for its assistance will probably be required in bringing federation into being—as to the best mode of initiating a federal government in these colonies. I think that under the terms of the resolutions that have been passed by all the parliaments any general arguments in favour of federation are now quite out of place. We may assume that it is our duty to avoid considering that question, for it has been settled by the authorities that sent us here, and we ought to devote ourselves immediately and seriously to the work of framing a Constitution which we hope will prove acceptable, because it will be just to the different colonies. I wish to make a few remarks upon the work which we have to do in this Convention. In the first place, in framing a Constitution, we are called upon to assist in putting the highest stone upon the great edifice of the political development of these colonies. That development has proceeded from very small beginnings, namely, in the first instance from a military garrison in a Crown colony governing not only people subject to servitude, but also a small proportion of free settlers, until it has now expanded into colonies with certain limited powers of self-government, but still dependencies of the British Parliament and the British people. I was surprised to hear from two such well-known statesmen in these colonies as the two hon. gentlemen from Victoria who have spoken, that they have been under the impression so long that these colonies enjoyed the privilege of responsible government. It is an old saying that "a prophet is without honor in his own country," and it seems to me that that proverb applies to the colony of Victoria as well as to other places. Some years ago I had the privilege of reading a book written by a most distinguished Victorian, in which this question is dealt with, and the words which he made use of at that time have remained engraven on my memory ever since. I think they are words which must never be forgotten by the people of these colonies until such time as the responsible government which he defines in his work is attained. Professor Hearn's definition of responsible government is:

> Where a legislature is established, and a promise is made by the Crown of the exercise of the prerogative exclusively by the advice of ministers having the confidence of Parliament.

That is a complete and satisfactory definition of the system of responsible government, and I think that no one can for a moment be under the impression that in Australia up to the present time we have been able to claim that full measure of responsible government. The Crown, in the exercise of its prerogative in connection with many Australian matters—matters even of internal interest in Australia, matters of social interest in Australia—has exercised its prerogative, not by the advice of Australian ministers, but by the advice of ministers responsible to the people in Great Britain and Ireland, through the parliament representing them. I think that the work in which we are engaged in framing a federal constitution directly involves the assumption in these colonies of that complete measure of responsible government. The Crown, in all matters relating to Australian interests, must exercise its prerogative exclusively by the advice of Australian ministers—the veto to which my hon. friend, Mr. Playford, referred must be exercised, not by the advice of ministers in other parts of the world, but by the advice of ministers who are charged with Australian interests. It seems to me that in some portions of the discussion that has taken place, the object or meaning of federation or a federal constitution has been, to some extent, lost sight of. The union of these colonies must take place in either one or two ways, namely, either by a unification under one all-powerful parliament, or by a federation which gives to the central federal parliament certain limited powers and reserves to the other parliaments all other powers. As I think we may be in danger of overlooking some of the first principles connected with federation, I may be pardoned if I briefly define some of the characteristics of a federation. I shall quote from Mr. Dicey's recent work, which is very clear in its language. He says:

> One of the characteristics of a federation is that the law of the constitution must be either legally immutable or else capable of being changed only by some authority above and beyond the ordinary legislative bodies, whether federated or state legislatures, existing under the constitution.

That opens up a matter of very large consideration for this Convention. In the first place, what is the authority above and beyond the legislatures which is to have the power of changing the law of the constitution, or of regulating it in any form? The answer, of course, is that it is the people of these colonies who are to be charged with that important function, and I would therefore point out—and I think several hon. members who have had considerable experience in leading what may be called democratic parties in these colonies have forgotten for a moment—what the democracy of Australia is to be. It seems to me that some of the sentiments that have been expressed here are the sentiments of gentlemen who are so fresh from the struggle which they have been engaged in recently, in connection with the privileges of the people in the particular colonies, that they have forgotten what will be the position of the democracy of Australia when this federation is completed. The constitution of this federation will not be charged with the duty of resisting privileged classes, for the whole power will be vested in the people themselves. They are the complete legislative power of the whole of these colonies, and they shall be so. From them will rise, first of all, the federal constitution which we are proposing to establish, and in the next place will come the legislative powers of the several colonies. The people will be the authority above and beyond the separate legislatures, and the royal prerogative exercised, in their interest and for their benefit, by the advice of their ministers will be practically vested in them. They will exercise the sovereignty of the states, they will be charged with the full power and dignity of the state, and it is from them that we must seek the giving to each of those bodies that will be in existence concurrently the necessary powers for their proper management and existence. Each assembly, each legislature, whether state or federal existing under this constitution, will be as Dicey again says—a merely subordinate law-making body whose laws will be valid, whilst within the authority conferred upon it by the constitution, but invalid and unconstitutional if they go beyond the limits of such authority. These are two necessary consequences of every form of federal government, and this Convention must address itself seriously to the work of devising such a constitution as will preserve these two principles in their full operation. I think that the power of the people which is involved by the considerations I have mentioned is such as will put in the shade all those sentiments and ideas with which notably the speech of Mr. Deakin was charged with regard to the danger of the want of popular power in the new state. It seems to me that the democracy which he would like to see would be insecure and unsteady, and without those guards against the tyrannic exercise of the power of temporary majorities which are necessary to the peaceful government and continuance of every state in the world. The democracy I am anxious to see, and which I am sure we are all anxious to see,

would be at the same time calm and secure, without any danger of sudden revolution, without any fear of an invasion of its ordinary rights and privileges on the part of any class of people in the community. It is for that reason that I am so anxious to see that what have been called state rights and the rights of minorities are guarded in the new Constitution against hasty, corrupt, or dishonest action on a part of any section, no matter how large it may be, in the new state. Unless the senate be charged with sufficient power to protect the people of the federation against hasty and ill-considered legislation, the union consummated will be a weak and vacillating one, which will not inspire confidence either among our own subjects or among the peoples of the world with whom our government will have to deal. There must be some continuity, there must be some security against fickleness, some guarantee that petulant changes will not be made either in the policy of the state or in its internal legislation. For these reasons, I think it is essential that the senate should be invested with a large amount of power, in fact, with powers almost co-ordinate with those of the house of representatives, as proposed under these resolutions. In no case in the world's history will it be found that a federal institution has been successful otherwise. In no case have the stronger democracies of the world dispensed with those necessary safeguards of state rights and individual rights—those provisions for the proper conservation of the public policy of the country. I think the resolutions proposed by you, sir, in so far as they are in the direction of limiting the powers of the senate, do not go in the right direction, and I trust that in Committee we shall see our way to make a very necessary amendment in that respect. I have perhaps needlessly offered my arguments upon this subject, because, excepting by the speech of the hon. delegate from Victoria, Mr. Deakin, I do not think the position taken up by Sir Samuel Griffith has been seriously challenged by any member of the Convention.

Mr. BIRD: Yes, by Mr. Munro!

Mr. THYNNE: At all events by not more than two, and the arguments offered already in response to the views of those gentlemen have been so strong that it was perhaps almost unnecessary for me to allude to the subject. However, I thought those pregnant words of Professor Hearn, and their application in the present instance, might, with utility, be brought under the notice of the Convention. There is one other phase of the subject to which I think no allusion has yet been made. It is a provision which I think would add very much indeed to the weight and influence of the resolutions if it were introduced hereafter in Committee. I think these resolutions would be much embellished and improved did they contain a provision which would establish the right of the people of the colonies to pass not only the proposed Constitution, but to have all future amendments of it submitted to their direct vote for approval. That is a thoroughly democratic system, by which the people are guarded against hasty and ill-considered changes of the Constitution; and the suggestion which I make is one which, I think, might fairly receive from gentlemen who will follow me a little consideration. It has already been suggested that the introduction of the referendum would be a very useful thing. I am not now prepared to fully discuss that question. It would take me a long time to elaborate it; but I do think that, whether we do or do not at any future time introduce the referendum, as in Switzerland, in its application to all legislation, we may very well, and with great advantage, adopt that particular portion of it which deals with constitutional changes. It is in accordance with the theory which I put forward, of the people being the great power—really the sovereign power—in these states that, before the Crown is asked to give its assent to any legislation making changes in the Constitution, the people themselves should be asked to give their sanction to it. There is one other subject in connection with these resolutions, to which I will very shortly refer. It seems to me that the executive, as proposed in these resolutions, is liable to become the creature of the populous colonies. We must guard against that. Unless we desire to postpone federation indefinitely, we must consider the institutions with which we have to deal. We have to consult them; we are asking for a surrender of power on the part of the different legislatures, and we have to reckon with them with regard to the *quid pro quo* they are to receive for that surrender. Unless they have some evidence that there is a thorough and complete intention to deal fairly and evenly with all of the colonies, whether large in population or not, I think those with large populations will be as ready to reject our work as those with small ones. There is one other element which has been suggested to me by the paragraph of the resolutions with reference to military and naval defences. I think we shall do a useful work, that we shall do a good thing, by making it a part of the Constitution of Australia that in time of war every man in it shall be liable to be called upon to undergo military service. I think that would be a great step in advance—a step that would secure for us the active interest and support of all the people in these colonies; and I am sure we cannot afford to disown or to disregard any one of those sources of influence we ought to exercise upon the people. I have to thank hon. members of the Convention for the patient hearing they have given me. In taking advantage of this opportunity to express a few ideas upon this subject, I trust I have made some slight contribution to the debate; and I hope that in later discussions which will undoubtedly take place in Committee on each of the different proposals, we shall have as instructive a debate as we have had from those hon. members who have preceded me upon this question.

ADDRESSES.

The PRESIDENT: I have to announce to the Convention the receipt of the following letter from the Wesleyan Conference:—

Sydney, 5th March, 1891.

The Secretary, the Federation Convention.

Sir,

The conference has prepared an address to the Convention, and the Revs. A. J. Webb and John Gardiner have been appointed to present it.

Would you please be so good as to obtain for us the information as to when we may present it. I have, &c.,

ARTHUR J. WEBB.

I propose instructing the secretary to inform these gentlemen that the Convention will receive their address at 11 o'clock on Monday, unless that course be disapproved of.

Sir JOHN BRAY: Before that is done, I desire to call attention to this fact: that provision has been made for the proceedings of the Convention being governed by the standing orders of the House of Commons. I understand, therefore, that it will be necessary that any address should be presented by a member of the Convention. The question arises, is it desirable to permit the presentation of addresses in the way suggested? We are all deeply indebted to the Wesleyan Conference for their address, and we shall be glad to receive it; but I think we ought to consider whether it should not be presented through a member of the Convention in the ordinary parliamentary way.

The PRESIDENT: Since the views expressed by the hon. gentlemen appeared to be generally concurred in, I will instruct the secretary to inform the conference of the proper course of procedure.

The secretary read the following telegrams :—

The Australian Natives' Association of Victoria sends greetings to the Federation Convention, and trusts that its labours will result in a real and permanent step being taken towards an early establishment of Australian federation.

The president and members of the council of the Victorian Chamber of Manufactures congratulate the president and delegates of the Australian colonies upon having to-day assembled in conference at Sydney for the purpose of drafting an Australian constitution, and fervently pray that their labours may be guided by wisdom and patriotism, and result in the adoption of a federal constitution which will prove acceptable to the whole of the peoples of Australia, and may God save the Queen.

Victorian Manufacturers recommend free-trade throughout Australasia, also free-trade with Great Britain for all goods not produced or made in Australasia, except alcoholic liquors.

The Federated Builders and Contractors Association of Australasia congratulates the Federation Convention on having laid the foundation of Australian national unity, and trusts that the structure built on it during the remaining days of the Convention will be of a solid and enduring character, and satisfactory to the whole of the Australian people.

FEDERAL CONSTITUTION.

THIRD DAY'S DEBATE RESUMED.

Mr. BAKER : I move :

That the debate be now adjourned until 2 o'clock.

It will be observed that I have named 2, instead of half-past, as heretofore.

HON. MEMBERS : Commence from Monday !

Mr. GILLIES : Some hon. members may have made appointments on the strength of the practice of adjourning until half past 2.

The PRESIDENT : It is not necessary that any motion should be made. I intimate that I will leave the chair now and resume it at 2 o'clock.

Mr. FITZGERALD : Some hon. members have made engagements for to-day. Commence the new hour on Monday.

The PRESIDENT : Then I will leave the chair until half-past 2 o'clock.

Mr. BAKER : I am extremely obliged to hon. members for greeting me in the cordial way they have done. I take it to be a mark of appreciation of what I have done in the way of providing them with information and enabling them to take practically the first step towards, as Aristotle says, successful investigation by asking the right question. I intend to follow the example of those members who have been as brief as possible in their remarks and have not wandered away from the resolutions placed before them. It will be sufficient, it seems to me, to discuss matters which are not included within this paper when they are submitted to us. We undoubtedly shall have to discuss a great many questions other than those which are embraced in these resolutions, and I think I shall be meeting the wishes of this assembly if I confine myself as strictly as possible to the great questions which are involved in the resolutions on the paper. I am exceedingly obliged to the hon. members who have preceded me for the very talented and able speeches they have delivered, because they enable me to confine my remarks within a very small compass. I do not wish to reiterate arguments which have been put forward ten times more forcibly, clearly, and logically than I can put them, and although I hope that I may be able to make some supplementary remarks, I can assure hon. gentlemen that I do not wish to take up the time of the Convention by any vain repetition. The first resolution contains two words which have been alluded to only once, I think, during this debate. Those two words are "territorial rights." The resolution lays it down that the territorial rights of the several existing colonies shall remain intact. Now, those two words seem to me to be more pregnant with meaning than would at first appear. I have heard it stated outside—in fact I have seen it in print—that one of the objects of the proposed federation was to take away from some of the states—for I suppose I may now call them states—which have large unsold territories those unsold territories, in order that the proceeds may be placed in the common fund. Now I am glad that we can give a direct negative to that at the first starting of our discussion. But these words appear to me to carry with them a fundamental principle. If all the existing states are to retain the whole of their territory, it seems to me that we shall be laying down a principle which I hope will be rigidly adhered to, of separating by as salient and distinct a line as possible all federal finance from provincial finance. We know that the different states have borrowed various amounts—amounts which in some cases come up to £60 per head, and in others are as low as £20 per head, and it seems to me to follow, that if all the unsold lands of each state are to continue to belong to that state it will be unfair for the federal government to assume the liabilities of the several provinces. If we are going to make a common fund we must make a common fund of everything; but if each state is going to retain its unsold land, it seems to me to follow that we shall do what was done in the United States when they first framed their constitution. In that country they did not mix up their federal finance in any way whatever with their provincial finance. The two things were as separate and distinct as possible. I will admit that we cannot, perhaps, altogether refrain from taking over some of the public works of the colonies, and consequently paying for them. If, as the hon. member, Mr. Playford, remarked the other day we are to assume possession of all the ships, arsenals, and post-offices belonging to the different states, these will have to be paid for by the federal government, either in cash or by assuming the responsibility for an equivalent amount of states debt. That we must do no doubt; but further than that I hope we will not go. History has shown us that of all questions none are so pregnant with quarrels and jealousies as that of finance. If we once commence as a federal government to mix up federal finance with state finance, we shall inevitably arrive at the result which has followed in Canada, where the greatest friction and the greatest jealousies and contentions have arisen between the Dominion Government and the provincial governments on this very question as to whether one state has, or has not, received an undue amount of federal money. As Mr. Goldwin Smith says, the Dominion of Canada is held together by what is euphemistically defined as "better terms"—that is, each province of the Dominion of Canada is constantly trying to get the better of its neighbours, trying to obtain more from the federal government; and I am afraid that the authors of the Canadian federation, in mixing up federal finance with provincial finance have laid the seeds of the dissolution of that union. The second question involved in resolutions 2 and 3 seems to be unanimously conceded, and I shall only say a word or two in reference to the remarks of the hon. member, Mr. Deakin, on this point. That hon. gentleman, as a representative of the great colony of Victoria, does not wish, I understand, to postpone the power of the federal government to alter the tariffs of the different states; but he wishes to curtail that power by enacting in the federal constitution that although in any particular colony they may increase the tariff, they cannot diminish it, except in pursuance of limitations fixed and defined in the federal constitution. At least I so understood him. Another aspect of the case was put by a subsequent speaker, the hon. member who wished us to consider the question whether it would not be advisable to fix a definite date, and to say that up to that date all the present tariffs should continue in existence, to be collected, I presume, by the federal government, or

collected by the states governments and handed over, and that up to that date the federal legislature should have no power in the matter. Both these proposals are advocated with the same object in view, namely, to protect people who, acting under the law of the land, have invested large sums of money in establishing manufactories, trades, and industries which would be seriously crippled and imperilled if the tariff were suddenly lowered, and the protective duties which now exist suddenly done away with. I admit there is very great force in the argument, and it ought to be carefully considered; but I am somewhat astonished to find it come from one of the delegates from Victoria. We, in our small colony, consider, whether rightly or wrongly, and have considered for some time, that Victoria is eager for larger markets, that having, as we all admit, obtained the start of us in her manufactories, and having outrun her home market, she desires to obtain markets in the other colonies for her productions; and we look upon it that one of the prices which we are to pay for this boon of federation is to allow Victoria to obtain this advantage. But I was rather astonished that the hon. member, Mr. Deakin, should be the first to bring forward that view of the case. However, it does not matter very much who brings it forward. I admit there is great force in it, and I admit that either in the manner suggested by the hon. member, Mr. Deakin, or in that suggested by the hon. member, Mr. Barton, it is worthy of our consideration, and that we ought to weigh the interests of the people whose claims have been advocated by them. The next resolution affirms:

> That the military and naval defence of Australia shall be intrusted to federal forces under one command.

Of course that is a *sine qua non;* and I hope we shall not do this thing by halves. I hope we shall not, as has been done in the United States, provide for a divided authority over any of our forces, whether those forces consist of a standing army, of citizen troops, of militia, or of any other description of force whatever. We know that great difficulties arose in America because of some words which were put into the constitution of that country providing that the militia in the states were to be officered and trained by the states themselves, and that although the President was to be the commander-in-chief when they were called out, yet the United States Government was only to be entitled to call them out on the occurrence of certain specified exigencies. Now, I hope we shall do nothing of that sort. I hope that the federal forces of all sorts and descriptions will be raised, officered, trained, and paid by the federal government. I now come to a point which is one of our difficulties, and which has been very ably spoken to by the hon. member, Mr. Deakin, on the one side, and the hon. member, Mr. Barton, on the other. It is proposed that we should have a parliament to consist of a senate and a house of representatives, and that the senate should consist of an equal number of members from each province. The first part of this clause, separated from the last part, gives an equal power in the senate to each constituent state of the union. But that power is taken away by the latter part of the clause which limits and curtails the power of the senate, and it is this point, to which our attention was first directed by the hon. member, Sir Samuel Griffith, that I desire now to bring under the notice of the Convention. The resolution says:

> Subject to these and other necessary provisions, this Convention approves of the framing of a federal constitution.

Now, what is a federation? Does a federal system consist in delegating to the central authority certain powers and functions, and in delegating to the legislatures of the states certain other powers and functions? I think not. I think a federation consists in a great deal more than that. A federation, as it appears to me, consists in the fact that the compact made between the constituent states who wish to enter into that federation provides that not only shall the legislatures of the different states be supreme concerning the powers which have been delegated or left to them, but that they shall also have a voice as states concerning the powers which are delegated to the federal government. It is, perhaps, a somewhat unfortunate name, as it has turned out, that we have used in adopting the term "senate." If we had called the chamber a "council of the states" there would not, perhaps, have been so much confusion concerning its constitution and its functions. That is what it is called in Switzerland, and that is what I think it would be better to call it in our constitution, because it clearly defines what the chamber really is. It is in no shape analogous to an upper house. An upper house represents and is elected by a portion of the people; but a council of the states is elected by and represents the whole people. It is elected by and represents the whole people quite as much as does the house of representatives. The only difference is that the constituents are grouped in different ways. The house of representatives is elected by people grouped in electoral constituencies containing probably an equal number of voters, and the council of the states is elected by the people grouped in states. I do not care whether the election to the council of the states is a direct election by the people, acting as one constituency, and voting by universal suffrage, or whether it is an indirect election, the election being by the legislatures who are elected for that purpose. In either case, the council of states represents the states, and I think the hon. member, Mr. Deakin, was somewhat illogical in complaining that these resolutions do not define in any way how the senate or council of the states is to be elected. I think it would have been wrong if it had been defined.

Mr. DEAKIN: I did not complain of that!

Mr. BAKER: Then I misunderstood the hon. member; but I will say that if it had been defined it would have been wrong, because the mode in which the council of the states are elected is not a matter which primarily affects the federal government. It is a matter which affects the states, and there is no reason whatever why one state should not send its representatives to the council of the states in one manner while one state should send its representatives in another manner. That is done in Switzerland, and up to the year 1886 it was done to a certain extent in America, because, although the American Constitution provided that the legislatures of the states should elect the members of the senate, it did not provide in what manner. Therefore, they were elected in a somewhat different manner in different states up to 1886. In the Swiss Constitution some of the states representatives are elected directly by the people voting as one constituency, while in other states they are elected by the legislature of the state; but in all cases they are elected either directly or indirectly by the state as a whole. Therefore, it does not appear to be essential for us to define the manner in which the council of the states shall be elected. This federation has been defined as a compound. The members of the council of the states, acting on behalf of those states, have as much right to consider themselves representatives of the people, and have as much right to claim the name of the popular chamber as has the other branch of the legislature. As a matter of fact, if you go to America, if you judge either by American writers, or by the opinions of the American people, you will find that the senate is the popular estate—I do not say in the mode of its election, but popular in the ordinary sense of the word; that is to say, the people of the United States look up to, revere, and respect the senate more than they do the house of representatives, and, therefore, the assumption

of the hon. member, Mr. Deakin, that the house of representatives would be the people's house, the popular house—that all power should be vested in it—is unwarranted by facts, and contradicted by the experience of America. The hon. member, Mr. Deakin, has challenged anybody to show in what way the senate or council of the states, with limited powers such as he proposes to confer on them, would derogate from the states rights. Having first enumerated the subject matters which were exclusively delegated to the dominion parliament, he said:

> The contention of those who support the argument is by implication that the whole of these subjects, if legislated upon, will involve state rights. I meet the argument at once with a direct negative, by challenging hon. members to point to an instance in which any questions such as those to which I have referred can be legislated upon in such a way as to affect state rights. . . . . What I want to know is, how any province, how any colony, can consider that its rights are impaired when it is proposed to deal with its residents in exactly the same way as the citizens of Australia in every other colony of the group are dealt with.

What do we mean by states rights? It appears to me that there are three aspects in which they may be looked upon. First of all, the aspect of the rights of the states as such states, as entities having powers free and untrammelled, not only in all matters which have not been exclusively delegated to the provincial governments, but also having the right as states by their representatives in the states council—a body possessing co-equal power with the other branch of the legislature—to express a free and untrammelled opinion in gross and in detail on all matters of policy and legislation. That is one aspect of states rights in which the contention of the hon. member is clearly wrong; because if the senate is a separate body, as he suggests, a body with crippled and impaired powers, sapped and undermined in the way in which he suggests, how can it exercise those state rights in the free and untrammelled manner in which they ought to exercise them? How can they exercise a free opinion—an opinion which they ought to be entitled to give as the representatives of their states on all matters that come before them? What I understand by federation is that all the people of these colonies, although they wish to form one nation for certain purposes, although they wish to be one nation so far as the house of representatives is concerned, they wish so far as the states council is concerned to preserve their individuality, to exercise their powers freely, and in an untrammelled manner in the other portion of the legislature. There is another aspect of the question which has been alluded to by the hon. member, Mr. Barton. No matter how we frame this constitution, concurrent jurisdiction will undoubtedly arise in some form or other, and the states by their representatives in the states council ought to have the free and untrammelled power of saying whether or not in this concurrent legislation the matters should be legislated upon by the federal or states legislatures. Take the case which has arisen with reference to the bankruptcy laws in America. Without expressing any opinion as to whether or not it is wise for the federal government to establish a uniform bankruptcy law all over America, we know that they have never done so.

Mr. CLARK: Yes, they did so in 1867!

Mr. BAKER: Well, they did not do so for a very long time. I am not expressing an opinion whether they have or have not done so, or should have done so; but this is a question on which the representatives of the states in the states council should have a right to express an opinion as to whether it is a matter that should be legislated upon by the states or by the federal parliament. Then there is another aspect of the case. The words states rights, I presume, are large enough to include the interests of the states, and it is quite clear that many occasions may arise in which if the federal council of the states were not allowed to alter money bills the larger states which were represented by a numerical majority in the house of representatives might seriously imperil the interests of the other states. Take the question of postal arrangements. Supposing one or two large states, with a large majority in the house of representatives, were trading and manufacturing states, with, comparatively speaking, a small amount of land, and supposing they wished to concentrate all the trade and commerce in those two states, how easy it would be for them to do so! It would only be necessary for them to put a line in the estimates to enable them in making postal contracts to ensure that their states should be the only termini of the ocean steamers, and they would have thus placed in their hands the sole control of trade and commerce. The power to do that would not appear in any bill at all; it would simply be an item in the estimates, and the federal senate would either be obliged to dislocate the whole financial system by throwing out the appropriation bill, or they would have to submit to the injustice. Again, suppose the question of payment of members were brought up in the house of representatives, which might insist upon paying members, or upon increasing the payment. The smaller states might object to such a proposal; but they could not give effect to that opinion unless the senate had the power of rejecting the item, unless they took the responsibility of dislocating the whole financial system of the country, by throwing out the appropriation bill. There is another way in which the matter may be put. Supposing that some of the states—the smaller states probably—were in the position of having their chief wealth in land, while in the larger states, which would have the numerical majority in the house of representatives, the wealth would chiefly consist in trade, commerce, and manufactures. Notwithstanding the fact that no doubt it will be laid down that all taxation is to be uniform throughout the colonies or states, still, how unfairly a heavy land-tax would operate upon the smaller and poorer states, which would have to bear the burden, while the richer and larger states would, in comparison, be lightly taxed. Is not that a case in which the council of the states ought to be free and untrammelled to express an opinion? No doubt the hon. member, Mr. Deakin, will answer, "But they can reject that bill. They can throw it out altogether. I am not arguing that they should not have the power of vetoing a bill as a whole." That is perfectly correct; but if the council of the states is constituted in the manner that the hon. member, Mr. Deakin, suggests, if its powers are to be so curtailed, and impaired, and undermined, as he suggests, we know very well that, as the hon. member himself has said, they would not be able to offer a strong opposition. If they are limited in their powers, not only by the curtailment of those powers, but also by the fact that the best men would not seek seats in the senate if it were merely a recording and revising house, how could we suppose that such a body could hold its own against the branch of the legislature which has all the power, and which, if we have a responsible ministry, would also contain the ministers? I maintain that if the senate is to be constituted in the way which the hon. member, Mr. Deakin, suggests, it will be a very unsafe guardian of the interests of the smaller states; but I assert that if it has equal and co-ordinate power with the house of representatives, it will not only be a safeguard, but the only safeguard which the smaller states can obtain; and unless they do obtain that safeguard, I am afraid that the chances of their entering upon this federal union are remote. We are told by several hon. members that we ought to adopt the British Constitution, that we ought to work on safe lines—lines under which we have been brought up, and under which most of us have worked. We are told that we ought not to try experiments. I agree with these remarks to a

very considerable extent; but I am afraid we must try experiments. If imperial federation, which has been so much talked about, were accomplished to-morrow, the British Constitution would have to be altered. It would be utterly impossible to work the British Constitution as a federal constitution. Would the hon. member, Mr. Deakin, on behalf of Victoria, consent to delegate to the imperial legislature all the powers now possessed by Victoria? Would he consent to delegate those powers to a federated imperial parliament, where all the power would be concentrated in the lower branch of the legislature—the House of Commons—and where each colony would only be numerically represented? Would he do that? Certainly not. That is something analogous to what he is asking us to do now. I will go further than that. Would he hand over the power of regulating the fiscal policy of Victoria to the Imperial Parliament, even if the House of Lords were done away with, and if a senate were provided in lieu thereof, to which the members were elected in equal numbers by the constituent parts of the federation, with powers limited and reduced, as he seeks to reduce and limit the powers of the senate here? I do not think he would do that. I think they would very soon have free-trade in Victoria if such a course were pursued.

Mr. DEAKIN: Put the question the other way—would I confer the power upon a senate on your model?

Mr. BAKER: That is another thing. There is another aspect in which this question can be considered. We have not only to frame a Constitution which will work at the present time, but we have to frame a Constitution which will secure the love and respect of the people of Australia, to which they will adhere in the years to come—not because, as has been well said, they are coerced, but because they feel that it is their interest to do so; because they feel that there is some body in the federal government which represents that feeling which prevails in all bodies, that is, the local feeling. As the Swiss states patriot said, "My shirt is dearer to me than my coat," and in all federations we find that the states look upon the states council as representing their feelings and rights; and that is one of the bonds of their union. While no doubt they look upon the house of representatives with affection and respect, still their chief affection and respect is given to the body which represents their particular state. I do not propose to continue that branch of the subject any further; but I should like to say a few words concerning the remarks of the hon. member, Sir Samuel Griffith. In the able and thoughtful speech which he delivered he pointed out many difficulties which beset us; and I confess that, with others, I have been exceedingly perturbed by his remarks. There is no doubt whatever that this council of the states being so entirely different, as it must be in its constitution, powers, and functions, from an upper house, if we try to establish responsible government with two co-equal and co-ordinate houses, we are trying an experiment, and an experiment which may or may not succeed. Sir Samuel Griffith gave us the theory on which responsible government is founded. I prefer to take the practice—the absolute facts. Theory is all very well, but what are the facts? The facts are that responsible government has risen solely in consequence of one branch of the legislature usurping all power. The members of a responsible government may be regarded as a committee chosen by one branch of the legislature, not, perhaps, directly, but by a premier who is so chosen, and who follows what he conceives to be the wishes of such branch of the legislature in choosing his colleagues. And the question is whether we can reconcile that fact, and can work that system in with two co-ordinate and co-equal branches of the legislature. I admit it is a most difficult problem, and it is one to which I am not prepared at present to give a solution. But I would remind the members of this Convention that in two colonies, at all events, we are not without some experience. Of course I do admit to its fullest possible extent, the fundamental difference between a federal council of the states and an upper house, and therefore the experience is not at all conclusive. But the legislation which has taken place during the last thirty years in Tasmania and South Australia throws some light, at all events, on the subject—light which is, perhaps, not so familiar to the hon. member, Sir Samuel Griffith, as it is to the delegates from those two colonies. We have two branches of legislature, co-ordinate and co-equal in powers in those two colonies, except so far as the initiation of money bills is concerned, and we have got under them some how or other. We certainly have not done so without friction; we certainly have not gone on without quarrels, but what form of government is carried on without quarrels, unless it be absolute tyranny?

Mr. MUNRO: There is friction there!

Mr. BAKER: And I venture to say that the friction and the quarrels in the colonies in which the two houses of parliament have not co-ordinate jurisdiction have been quite as frequent and quite as violent as in the two colonies I have mentioned.

Mr. MUNRO: It is because they claimed it!

Mr. CUTHBERT: But they possess it!

Mr. BAKER: I understand it is expressly laid down in the Victorian Constitution that the Legislative Council shall not alter money bills.

Mr. CUTHBERT: And they never tried to do so!

Mr. BAKER: Those are the words, I understand, either by direct provision or by necessary implication which the hon. member, Mr. Deakin, wishes to place in this federal constitution as limiting the powers of the senate.

Mr. MUNRO: Something better than that!

Mr. BAKER: And if the house of representatives could claim the power, notwithstanding the words, what is the good of putting words in at all concerning the matter? But I do not understand, and I have never understood, that any such claim was ever put forward. I am much obliged to hon. members for having listened to me so attentively, and, in conclusion, I hope that we shall all approach this subject in a spirit of amity and compromise, that we shall all be prepared to give way on those matters which we do not consider of absolutely vital importance. I approach this subject in that spirit myself, and I hope that, notwithstanding the difficulties, the many difficulties, which have arisen, and the many difficulties which probably will arise before we conclude our deliberations, we shall be able to frame some constitution which will inaugurate the dominion of Australia under the brightest possible auspices.

Mr. BIRD: I regret very much that my duties in connection with the Postal Conference this morning rendered it impossible for me to attend the Convention, and, consequently, I did not hear what I have heard characterised as the very able address of the hon. and learned member, Mr. Barton. I shall, therefore, in any remarks I have to make, be unable to speak with a knowledge of what he advanced. All the rest of the delegates I have listened to with close attention and with very much pleasure, and I am sure that those who have listened to the debate as far as it has proceeded must be satisfied that the members of the Convention have brought to it so much thought and so much earnestness, that it augurs well for success. I take it, sir, met here as we are, sent here by parliaments which have admitted the desirableness of forming a federation, there is no need whatever to advance any argument in favour of a federal union of these colonies, our business being rather, under our instructions, to consider how we can unite and for what objects we ought to unite. That being so, sir, it appears to me that the resolutions which you have

submitted to us are wisely limited to the laying down of the foundation propositions on which we think a union should be based. At any rate they are limited to opening up those questions which must be considered, and which must find some agreement among the members of the Convention before we can elaborate a scheme of federation in all its details. There is one point which I think we all should keep in mind, and which, judging from some of the speeches, if not from all of them, we are keeping in mind, and that is that we are to formulate a scheme of federation which will be just to all the colonies. I may here express my fear that if the resolutions are agreed to in their present form the scheme formulated upon such a basis will not be thoroughly just to all the colonies. I think, as I believe I heard it put this morning by the hon. member, Sir John Downer, that there is an inconsistency between the first resolution of the first series and the first resolution of the second series, and in regard to that inconsistency I shall say something hereafter. Broadly, taking the first series of resolutions in their general terms, and as the embodiment of certain principles, though perhaps not expressed in the exact form and language which we may approve, it appears to me that those resolutions may be, and will be, generally agreed to. But, as I have said, if the system of government which is foreshadowed in the second series of resolutions is to be adopted, I can hardly think it will be in accordance with the principles laid down in the first of these resolutions, that the state shall not surrender any of the rights and privileges and powers which they now possess. Now, taking the first series in their order, I am sure that we must all agree that there can be no union of these colonies unless upon such terms as are there set forth—that there shall be no surrender of any right, or power, or privilege, except such as is admitted to be absolutely necessary for the good government of the union as a whole. And if we should formulate any scheme which would invade the rights and privileges of the several states, I am sure it will be in vain that we shall go back to our respective colonies and ask them to accept the scheme and join the union. Of course, sir, while we baldly say we shall give up, and ask the colonies to give up, nothing but what is absolutely necessary, we can all agree to that form of words. It is when we get into Committee and hear what is necessary that we may find difficulties; and indeed, the discussion, as far as it has gone, has tended to show that there are wide divergencies already. It appears to me that our friends from Victoria will be prepared to surrender to the federal parliament a great deal more than the representatives of the smaller colonies will. Whether it is because the gentlemen from Victoria know that they will probably be, in connection at any rate with the other large colony on the continent, namely, New South Wales, in a majority amongst the representatives of the states and may be able to get their own way, and that that is the reason and ground of their ready acceptance of this proposal—well, one can hardly at present say. But it does seem to me that they are more ready to surrender certain state rights, and privileges, and powers than are the delegates of the smaller colonies who have spoken, and certainly they are more willing to surrender them than I, as a representative among others of the small colony of Tasmania, am prepared to do.

Mr. MUNRO: We are not willing to surrender one state right that the hon. member is not willing to surrender!

Mr. BIRD: When I come to speak of the constitution of the house of representatives and of the senate, I may have something to say on that particular point. But it seems to me that for the conservation of rights in regard to taxation and expenditure generally, the state of Tasmania will require some more consideration than appears to be required now by Victoria, if I may judge by the speeches of the hon. members, Mr. Munro and Mr. Deakin, to whom I listened with very great pleasure. Now, sir, after laying down the proposition—

> that the powers and privileges and territorial rights of the several existing colonies shall remain intact, except in respect to such surrenders as may be agreed upon as necessary and incidental to the power and authority of the national federal government—

you then proceed to indicate some of the most important surrenders which the local legislature will, in your opinion, be called upon to make. The first of these is the surrender of all power in regard to the question of customs, and it is here affirmed most positively that the trade and intercourse between the federated colonies shall be absolutely free. Sir, if I may judge by what has fallen from the hon. member, Mr. Deakin, there would seem to be a disposition to regard that surrender, if it is to take place immediately upon the federation of the colonies, as partaking to some extent of injustice. For I cannot understand his expressed wish—and a wish that I think was somewhat similarly expressed by the hon. member, Sir John Downer—for a gradual drop from a system of protection in the various colonies which have established that policy to one of free-trade as between the colonies, but as indicative of a sense that there will be injustice if, all at once, on the establishment of this federation, there is to be free-trade between all the colonies. So that here, at the outset, we find ourselves on the point of a difficulty, and one that I hardly expected to be raised so strongly as it has been raised by Victoria. I could not help feeling, while the hon. member, Mr. Deakin, spoke so eloquently in regard to the necessity of considering those interests which have been built up during the last few years in Victoria at the expenditure of millions of money ——

Colonel SMITH: During the last twenty years.

Mr. BIRD: I could not help feeling what a weakness is shown by the protectionist advocates almost continually—and more particularly in a case like that of Victoria, where, after so many years' operation of the principles of protection, having, as one would have supposed, got themselves so thoroughly established that they could beat creation, as the Yankees would say, in manufacturing industries and in the trade of the surrounding colonies—that they are yet afraid to give that up unless it be by the gradual process of dropping down after two, three, four, or five years. I should not have been very much astonished, sir, if we had an argument like that from South Australia, where a protective policy has been so recently brought into operation, and more particularly was I expecting that kind of a request from its delegates, after the statements which were made by various of its representatives at the Federal Conference in Melbourne last year. I will admit—though I am not a strong protectionist and certainly by no means an ardent free-trader, but something that goes between—I will admit that there would have been a great deal more reason in such a contention from South Australia than there is in it, coming as it does from Victoria. I am glad to learn from the hon. members from South Australia what I believe to be the fact, that they are not so anxious to perpetuate that policy under the federal government in regard to intercourse between the several colonies as they were a year ago, and that we shall by no means have the same amount of difficulty in inducing them to join the union, if free-trade is to be established at once, as we should have had if we had started to form the basis of union, and formulate a scheme twelve months ago. There is no doubt that where large sums of money have been invested, as they have been both in South Australia and Victoria in the establishment of industries, it would be a desirable thing from a manufacturer's and investor's point of view to gradually drop from the system

which protects them from outside competition to one under which all trade will be free. And although strongly inclined and disposed to advocate the adoption of freetade as between the colonies in the federation at the very earliest possible date, believing, as I do, strongly that the sooner we adopt frectrade between all these colonies the better for them all, yet, notwithstanding that, I would not like to say that in the interest of securing a union of all these colonies, I would not be prepared to agree to a proposal which might perpetuate the existing policies in some of those colonies for a shorter or longer period, if a time be fixed for establishing an absolutely uniform tariff throughout the whole of the colonies.

Colonel SMITH: A uniform protectionist tariff!

Mr. BIRD: No, I am not a protectionist; and these remarks do not indicate it. They only indicate that I am a unionist; and I am quite prepared to make concessions as an individual member of this Convention to secure a union; and I know that if that same spirit prevails on all hands, we shall have a most successful issue of our labours in this particular work. I do not know that any very great harm would come if we had to perpetuate existing tariffs even to a longer and remoter date than that which will be the very earliest time that the federal parliament can prepare a new tariff. But certainly my impression is, sir, that the time which must lapse before a federal parliament can meet and have a session or two in which to formulate and carry through a tariff for the various colonies will be ample to prepare the various manufacturers and industries generally, whether in South Australia or Victoria, for the new policy, and that in that way we may perhaps not have to defer the introduction of the uniform tariff beyond the earliest date at which it is possible to be introduced under the federal government. I do not know that I need say more in regard to the absolute necessity, as I take it, of there being a uniform tariff throughout these colonies; but that there should be freetrade as between themselves I think is beyond doubt, and I am very glad indeed to find that even the most ardent protectionists who have spoken here, as well as those who are not members of this Convention, who have spoken and written upon this question, appear to be quite of opinion, that whatever the future policy with regard to trade with the outside world may be, it should be absolutely free as between the colonies themselves. I will now pass on to the next resolution, that is the fourth of the first series, which sets forth that, "the military and naval defences of Australia shall be entrusted to federal forces under one command." Now this, with one qualification which I may have to make presently, entirely accords with my own views, and I have no doubt that we shall find little, if any dissension on this score amongst the members of this Convention. The one qualification which I might wish to make, or I would rather put it as a suggestion which I feel ought to be thrown in here, is as to the scope of the words which are used in this resolution. I quite understand that you, sir, in moving the resolution, expressed the opinion that the federal government, by its duly appointed commander-in-chief, is to have the entire control of the military and naval defences of these colonies; but you did not explain whether you made reference only to those forces which had been raised solely by the colonies themselves, or whether you embraced in your resolution the idea that we were to have control also, in the federal government, of those vessels which are here as part of the imperial squadron, and to the maintenance of which all the colonies with the exception of Queensland, which has specially refused, have undertaken to contribute. Now this appears to me to be a very important question which has hitherto been overlooked in the discussion of this resolution. Do you mean, sir, that all these vessels that are sent out by the Imperial Government, officered by Imperial men, and commanded by the admiral of the station, are to be, as part of the defences of Australia to which we as several colonies are now contributing, subject to the control of the federal government?

Mr. MUNRO: You are not paying for them!

Mr. BIRD: We are paying for part of them; we are sharing the cost with the Imperial Government, and it is a question which I do not profess to be able to answer now as to how far the federal government, with such powers as we hope it will have, is to be in a state of partnership with the Imperial Government in the matter of vessels like these, and as to how far it is to leave the control of these vessels in time of war in the hands of their own admiral, or whether their control is to be in the hands of our Government. I merely throw this out as a consideration before we deal with the matter in the scheme which we are about to formulate. Now, I come to the very important question of the constitution of the legislature of the federal government, and, as I have before remarked, I cannot help fearing, and am bound, therefore, to express my fear, respecting the proposal as to the constitution of the senate—call it by what name you will—the chamber that is to represent the states, and I may add perhaps, also, as to the constitution and responsibility of the executive, and its relations to the two houses. I expressed my fear that the proposals embodied in this second series of resolutions are somewhat inconsistent with the principle laid down in the first of the resolutions which you have submitted. In the proposal as we have it before us the states as such are to be allowed no power to deal with money bills, with taxation, or with expenditure, except so far as consists in swallowing whole or rejecting entirely the proposals of this kind that come from the house of representatives. Now, I ask with all seriousness, would a parliament formed on those lines be just to all the colonies? If the house of representatives alone is to have the power to tax and the power to appropriate, what protection have the smaller states of the group in such a legislature as this? I take it that justice to the smaller states—and that is the thing that we have to keep in mind in framing our constitution—as well as to the larger ones will necessitate that the power of veto in detail, as Sir Samuel Griffith put it, the power of veto in regard to all bills that deal with the raising or appropriation of money, shall be vested in the second chamber. I do not believe that the colonies would consent—certainly I do not think that the smaller colonies would consent—to surrender that power which they now have of controlling the amount of money which will be raised by taxation or spent for any purpose whatsoever under such a constitution as this. Is it conceivable that these states, colonies, or call them by what name you will, will be content to group themselves together in a federal union and as states have no more power—I may, advisedly, I think say it—than they have under the present Federal Council Act? For if you are going to withhold all the power of dealing with money, either as to the raising or expenditure of it, from the states council or senate, what more will you leave for that body than is already possessed in the way of powers of legislation by the existing Federal Council? What will be the special advantage of having a second house, if that second house, representing the states, is not to have more power than would be given to it under the proposals in these resolutions, or more power than is now possessed by the Federal Council of Australasia? Those who argue, as the hon. member for Victoria, Mr. Deakin, did, that all these money powers should be vested absolutely in the one house, at any rate, so thoroughly that another chamber would have no power of alteration in the way of amendment, are really arguing for government by one chamber, and that indeed by the chamber which does not in the least degree conserve the power of the states, as I take it they ought to be conserved in such

a union as they would desire to see brought about. Why, the most important questions which the states will have to consider are those that connect themselves with money bills, taxation, and the whole of the expenditure in connection with defence and the general government of the country. These matters are those in which the states are closely and deeply interested; and if you are to say that only in the house of representatives, where the individuals of the several states have their will recorded by the votes of the majority of the whole, is there to be power to deal with these very important questions, it seems to me that you deprive the various states of those powers which they ought to have reserved to them in the senate of the new government. With these views, which I have briefly and freely expressed, I leave this part of my subject by saying that I feel perfectly sure that we shall not be able to establish a union into which the whole of the colonies will come, and which will be just to them all, unless we establish it on something like those broad lines which I, in common with two or three of the speakers who preceded me, have had the pleasure of indicating. I do not know why we should fear to give to the senate—to the state council—the power to deal with money bills. We are prepared to intrust them with every other legislation, much of which is very important, and in regard to all of which the majority of the states, as opposed to the majority of individuals, will have sway, and I ask why should we hesitate to place that same power in the hands of the majority of the states in regard to money bills in general as we are prepared to place in their hands in regard to all other matters of very important legislation? I cannot help feeling that the hesitation on the part of some hon. members who have spoken, and possibly on the part of others who may speak, to agree to placing such power in the hands of the senate arises from their overlooking, to a larger extent than they are aware, the essential difference which there will be, or at any rate which there ought to be, between the senate of the federal government and the House of Lords or any upper house with which we are familiar in these colonies. We shall make a very great mistake if we do not bring the senate under our new constitution into close touch with the people of the several states. I was very glad to hear the very telling remarks which fell from the hon. member, Mr. Deakin, yesterday, in regard to the question of having the senate purely representative of the people. They were in connection with the argument by which he was showing the necessity of having the money power solely in the house of representatives; but it struck me that the position he took up, and the indications he gave of what the senate might be, went far to tell against his own argument, and, at any rate, showed me the necessity more, perhaps than I had seen it before, of having the senate directly in touch with the people. Now, the proposal has been made, I do not mean to say here, but in the discussions of these questions which have taken place elsewhere, and in the press, that the senate should be elected by the legislatures. Well, it may be a very fair expedient by which to elect members for the second chamber; but on giving it the fuller consideration that I am now giving it from day to day, I do not think that that would be the best method of electing the members of the senate. We do not want in our senate either nominees or representatives of nominees. We know that some of our councils in these colonies are composed partly, if not wholly, of nominee members, and we do not consider that they are the proper persons to elect representatives of the various colonies to sit as members of the federal council—that they are fitting people to elect persons to represent those colonies in this great state that is to be. Nor do I consider that the members who occupy seats in those chambers which are elected by the propertied classes should elect members for the federal senate. It seems to me, therefore, that no matter what the constitutions of the councils in the several colonies are, none of them is exactly fit to elect the members of the federal council—to send to the senate the men we want to represent us there. Only by the direct vote of the majority of the people in the several states, each state sending the same number to the federal body as the others send, can we get the kind of senate which we ought to have. If we get a senate of that kind, it will be so entirely different from the legislative councils for the various colonies and the House of Lords in England, that we may safely intrust to it powers with regard to money bills that we would never think of intrusting to some of the councils now in existence; and it is because of this essential difference between the existing colonial upper houses and the federal council that is to be, that we may strike out new lines, and very safely permit to the senate certain powers which we have not been in the habit of permitting so fully to the councils of the various states. On the same grounds it appears to me, as my friend, the hon. delegate for South Australia, Mr. Baker, just now put it, we may have to try experiments in regard to the executive. If we are going to have a council which is empowered to deal with money bills, we possibly may find that we will need an executive that will be responsible to both houses, and that the resolution, as you, sir, have moved it, would in that particular require amplifying, so that ministers should not hold office solely at the will of the majority of one house. Of course I am not at the present moment laying down any definite lines on which such an executive ought to be established, and ought to work; but I am throwing out suggestions indicating simply that under this new federal system we may have to diverge to some extent from the lines which we have hitherto followed, even in regard to executive government. Before leaving this question of the executive and the legislature entirely, I would make a passing reference to the possible necessity that may arise for the dissolution of the senate, as well as for the dissolution of the house of representatives, in the event of anything like a deadlock between the two houses. If our senate is to be so representative of the people as I have indicated, or as I believe that it should be, there would be a propriety in requiring that senate to be dissolved after one or two attempts to pass through it a measure that had passed the house of representatives. I have often felt, when the councils of our colonies have refused to pass measures which have been carried by large majorities of the house of assembly, that it would be a very good thing if the gentlemen who occupied seats in those upper chambers were required to go to their constituents to be told what the constituents thought of their action. It is very pleasant for them in their lordly dignity to say, "You can go to your constituents, and have all the trouble of an election, while we enjoy the fun"; but I think it would be a good thing under the new constitution that if the senate, supposing it elected in the way I think it ought to be, had refused once or twice to pass measures to which the house of representatives had agreed by a large majority, they should be sent to their constituents, so that we should have a new and the best expression of opinion from all the states as a whole. It will be clear that I am not in favour of that resolution which provides for a perpetuity of the senate in the way the resolutions before us set out. I do think it would be better to fix a term, as is fixed for the representatives of the lower house, during which they should hold office, and that they should be under similar conditions to those which I have indicated—liable to dissolution, so that the people's will may be ascertained, and they informed as to the course they ought to pursue. Not having a legal mind, and not being versed in legal matters, I shall act wisley if I leave such questions as the establishment of a judiciary

to the professional men who are in our midst. I do not think I need add more to the remarks I have made. I must express my gratification at the manner in which the remarks I have made have been received, and I will conclude by expressing a hope that our deliberations, however long continued, or however briefly they may last, will result in the preparation of such a scheme of federation as shall be acceptable to our several colonies, when we go back to them, and so bring about, before a very long time shall have elapsed, a united Australia, which shall be, as was stated by one of the speakers the other evening, one of the brightest jewels in her Majesty's crown.

Colonel SMITH: I have no desire to interrupt the proceedings. I should have been glad, however, to have spoken now had it not been that some documents which I require will not arrive until to-morrow. I find that thirteen hon. members have already spoken. On Monday the delegates from Western Australia will be with us, and the Convention will then be complete. As far as I can gather, we shall, in all probability, finish this part of our proceedings by Wednesday. If there is no other hon. member ready to speak, I will move the adjournment of the debate until Monday.

The PRESIDENT: I gathered from the feeling displayed yesterday, that a majority of the Convention are unwilling to adjourn at so early an hour.

Colonel SMITH: I have no objection to give way to any one else who wishes to speak.

The PRESIDENT: If no hon. gentleman is prepared to proceed, perhaps the hon. member, Colonel Smith, will move the adjournment of the debate.

Motion (by Colonel Smith) proposed:

That the debate be adjourned until Monday.

Question resolved in the negative.

Sir PATRICK JENNINGS: I have not come here to day prepared to make any elaborate speech; but I am prepared to deliver the opinions which I hold on the great question presented to this Convention—opinions deliberately formed, and which will guide me in my action on this most important occasion in endeavouring to come to a right, fair, and just conclusion. Before proceeding to speak with regard to the resolutions, I may say that I have stood up now because I think it is important that we should proceed as expeditiously as possible with the great work we have in hand. I quite appreciate the great inconvenience to which the delegates from Victoria, Queensland, South Australia, and Tasmania are put by being delayed here unnecessarily; and I hope, in order to carry on the deliberations of this Convention as quickly as possible, that, having stood here nearly all this week shivering on the brink, every member present will take his plunge with all reasonable despatch. Quoting a word or two from the speech of the hon. member, Sir Samuel Griffith, at the last Melbourne Conference, I may say that I have not come here to take part in any mere contest of declamation; but I have come to assist with all the poor help I can give in arriving at the goal and achieving the great object we all have in view. We have all come here with prepared opinions, I believe, after mature thought, and I am quite sure with a sincere desire to accomplish this great work; and I hold that it would be calamitous to the whole of Australia if, by any undue delay, we so dallied over this work as to prevent us from bringing it to a consummation as quickly as we conveniently can. I heard, sir, in your opening speech, the admirable sentiment that we ought all to be animated with a desire to give and take—to make mutual compromises and, indeed, to be possessed with an animated principle of unity in this great cause. I do not for one moment mean to say that there are those who have come here rather to take than to give; but I do hope there will be a reasonable compromise on both sides; and I should prefer, instead of the expression give and take, or take and give, to use the motto of the great German Chancellor, *do ut des*, "We give that you may give us back again"; and that is the true spirit of conciliation and compromise. I believe, unless we feel deeply the obligation cast upon us of throwing aside all prejudices, of throwing aside, as far as possible, all causes of difference, that we shall not accomplish the object we have in view. The eyes of the whole of this great continent of Australia are upon us. Many things are expected from us; much is expected from us. The hopes and the prayers of the large majority of people are for the success of this Convention; and I know and feel that if we are truly and deeply animated with the proper sentiments, our deliberations will result in that successful issue which we all desire to attain—the formation of one great Australian nation. I will not advert to the resolutions in detail, because I am now speaking hurriedly, without preparation. I find from the resolutions which have been placed before the Convention by you, Mr. President, that

> the powers and privileges and territorial rights of the several existing colonies shall remain intact.

With regard to the powers we possess, and which have been given us under a very free constitution; with regard to the privileges which we possess under that constitution; and, above all, with regard to the territorial rights which we possess under that constitution, I should like to say a few words. In entering into the discussion of the union of these colonies or states, I hold it would be a most necessary and a most important thing that no attempt should be made to destroy old landmarks, or to alter existing boundaries, without the expressed desire and consent of the inhabitants of the different colonies. I, for one, most plainly say that it will be a most undesirable and a most unwise thing to attempt to do that. There are a thousand reasons which might be adduced why it should not be done. In any remarks that I have had to make to our own colonists on this subject, I have pointed out that we, in the colony of New South Wales, have within our territorial limits a well-defined boundary, a boundary which, within the last forty or fifty years, has been curtailed on the one side—the Port Phillip side—by a large portion of territory being taken away, and on the other side by the great territory now known as Queensland being taken away. I am not quite sure, sir, what the expression "such surrenders" may imply. If it means anything for the good of the whole federation—if it implies something necessary for federation, and not any readjustment of boundaries—then I say we are perfectly willing; and I am quite sure the whole of the colonies will not ask for anything more than that this particular article of the resolution which you have put before us should be agreed to. I may add that the circumstances of this colony are quite different from those of the great unoccupied territories of Western Australia, which really include, geographically speaking, one third portion of the whole of the continent. They are also different from the circumstances of South Australia—a colony which, including the great territory of Northern Australia, has under its jurisdiction nearly another third of the continent. We are also different from our friends in Queensland, in which colony even now an agitation is going on for division. I have no doubt that if these questions are, by the consent and desire of the inhabitants of the different colonies, left to the federal government, which we wish to see established, they will, when the proper time comes, be dealt with in a satisfactory manner—perhaps a more satisfactory manner than if they were remitted to the power which has for many years dealt with

questions of that sort. I do not wish to say more than a few words on this occasion—and I am speaking more for the purpose of filling up the time than of airing my own opinions—and I would state, with regard to the first portion of the resolution, that I have no objection to offer to it. With regard to the second portion of the 1st resolution, I have always maintained, and feel now particular pleasure in being privileged to express my opinion, that one of the greatest drawbacks to the prosperity of these colonies, one of those festering sores that rankle in the minds of colonists, is the arbitrary customs duties which intercept the free passage of goods and produce from one colony to the other. You, Mr. President, having for many years presided over the destinies of this colony, must have felt what a sore feeling has been produced by our having to pay the border duties which we have to pay. I believe that one of the greatest blessings which could possibly accrue to the whole group of colonies, and one of the things without which I hold federation to be a mere farce, and absolutely impossible, is free intercolonial trade. Unless we get free intercolonial trade, federation is not worth talking about. A true union between us can only be brought about in that way, and I hold that to be of greater importance than the ultimate question—the question which is to be decided in the future, and upon which I will not now pronounce an opinion—the question as to the principles of political economy, whether of free-trade or protection, so-called, against the exterior commerce of the country, upon which federation will be brought about. If I were to state my opinion, I should express the belief that the levying of duties upon the goods from foreign countries should be made as nearly as possible for revenue purposes. I am quite aware that it has been said, and with a great deal of force, that it is inevitable that these duties should be levied on protective lines. I do not pretend to say that it should not be so. Very frequently large differences of opinion exist in the public mind as to which is the better system, protection or free-trade. So far I have always upheld the theory of free-trade as a most beneficent theory; but, sir, according to your own words, whatever is decided upon by the majority of the federal legislature, must be submitted to for the good of the country. I say plainly that my political creed is this: that federation is a greater good than any form of fiscal legislation, whatever it may be. The union of the people—the union of the colonies—is to me an immeasurably greater and higher aim than the establishment of any fiscal policy whatever. There is no doubt whatever that the military and naval defence of Australia should be intrusted to federal forces under one command. The reason why I pass lightly over these matters is because any expression of opinion given now is merely a prelude to what will have to be said in a much more detailed manner with regard to each of the questions dealt with by the resolutions. What I may call the crux of the whole matter is what was said by the hon. member, Sir Samuel Griffith, with regard to the powers to be intrusted to some sort of upper house—call it a senate, council, or what you will. I suppose we are all agreed that there must be two chambers, based very much on the principles laid down in the resolutions. I should strongly oppose any copying of the Canadian Constitution as regards the system applied there of senators being nominated by the Crown. I have no doubt that there were very good reasons for it at the time when the Canadians adopted that principle, but we are not bound to simply follow any analogy of the United States or of Canada or any other country. We are bound to know all about their systems by way of illustration and enlightenment, but not to slavishly follow them. We are here under particular circumstances, by no means analogous to those of the American states when the convention met in Philadelphia in 1787, nor have we had the idea of unity preached to us as the Canadians have had it preached to them, and inculcated in them since the time of Lord Durham, but which took a long time to bear fruit because of the different races in, and the different provincial relations of, Canada. We are in the midst of a much better state of things. We are undertaking federation deliberately without external pressure, without even its being forced on us in any way by the consideration of events, except that we acknowledge that, in the pure evolution of events, if we do not come together we must gradually fall asunder. It is because I feel very deeply that we ought to make use of this sentiment of union, and to combine for common purposes as quickly as we can, that I think it is expedient, and I am glad to perceive that this distinguished assembly of gentlemen from all parts of Australia, with mature experience, appear by different mental processes to have arrived at the conclusion that the one thing we ought to do while we are in a pleasant frame of mind is to draw ourselves together, make a close union, and not to allow causes of difference to arise, and be perpetuated between us, which might in the future drive us further asunder and lead to a state of things in which it would be extremely difficult for us to come together again. I have refrained from going into matters of detail as regards the constitution of the federal parliament; but I may say that I believe that we shall be far better off if we have a strong upper house that will command respect, and as nearly as possible under the circumstances be modelled on the upper house of the United States rather than on the nominated council of Canada. I firmly believe that the arguments used by the hon. the Premier of Queensland, and so ably supported this morning by the hon. and learned member, Mr. Barton, are irrefutable, for they take into account the two great factors of the situation. We want a democratic groundwork to start upon; but we must acknowledge the fact, if it is a fact, that we are a union of separate states, each having its own independence. I prefer that the upper house should have as much power with regard to taxation as has been suggested by the hon. member, Sir Samuel Griffith. With regard to the constitution of the judiciary, I believe that if we had a supreme court as a high court of appeal here, to deal with all legal questions, ninety-nine cases out of every hundred would be more speedily and more accurately dealt with than if they were sent to the Privy Council at home. You, sir, said, and I believe correctly, that the Sovereign would still be the head of the supreme court of appeal in England; and, if we still have the golden link of the Crown, then the Sovereign will be the head of our judiciary, as she is the head of the court of appeal in England. I regard these resolutions as being suggestive; and if, in the course of their elaboration, I, in my poor, humble way, can do anything to promote their discussion in such a manner as to tend to a speedy and adequate settlement of the question we have in hand, I shall be most happy to do so. We are all labouring for one purpose; we are all intensely animated by the idea that we ought, at least, to attempt to bring about a union as well and as early as possible. I hope that this will be the animating principle which will guide us throughout our discussions, and that, whatever differences of opinion may arise, we shall bear in mind the fact that we have one common object to attain, and that now is the time to attain it.

Motion (by Colonel SMITH) agreed to:

That the debate be now adjourned.

Convention adjourned at 4·20 p.m.

MONDAY, 9 MARCH, 1891.

The Roll—Western Australia—The Hon. William Shiels—Federal Constitution (fourth day's debate).

The PRESIDENT took the chair at 11 a.m.

THE ROLL.

The Honorable Henry John Wrixon, Q.C., M.P., a delegate of Victoria, and the Honorable John Forrest, C.M.G., M.P., the Honorable William Edward Marmion, M.P., the Honorable Sir James George Lee-Steere, Kt., M.P., the Honorable John Arthur Wright, M.L.C., the Honorable John Winthrop Hackett, M.L.C., Alexander Forrest, Esq., M.P., and William Thorley Loton, Esq., M.P., delegates of Western Australia, subscribed the roll.

WESTERN AUSTRALIA.

The PRESIDENT: I believe that I shall only express the feeling of every delegate of the older colonies in taking this opportunity to welcome the delegates from Western Australia. Western Australia, with her great future all unveiled before her, is the latest to come into the family of free states in Australia, and her service to us is eminently great, because she completes now the circle within which, so far as the soil of Australia extends, there is only one form of government. We have all intensely sympathised with her in her efforts to obtain a free constitution, and we rejoice in the achievement of what we believe will be a great boon to her. In coming to this Convention she comes not simply as a delegation, but she comes to lend her assistance as one of the first acts in her new, free existence. I am quite sure I can say on behalf of every one of the older colonies, that we welcome her without any stint, and with the utmost cordiality.

Mr. J. FORREST: Mr. President and gentlemen,—On behalf of the colony of Western Australia, I most sincerely thank you for your kindly welcome to us on this great occasion. I hope that the admission of Western Australia into the group of self-governing colonies of this continent may tend to the general advantage of this portion of Her Majesty's dominions, and that it will prove the commencement of a greater measure of prosperity for us. As the President has remarked, Western Australia is yet in its infancy as regards the development of its resources, and the extent of its political institutions. I can only express the hope that as time goes on we shall grow in material wealth, and that we shall enjoy a proportionate political development; also that the colony will so conduct her affairs as a member of the self-governing colonies of Australia as will in no way detract from that high position Australia has attained as a loyal and progressive portion of her Majesty's dominions.

THE HON. WILLIAM SHIELS.

The PRESIDENT: I desire to bring under the notice of the Convention a matter which, I think, should be dealt with at once before we proceed with our ordinary business. It will be recollected that the Attorney-General of Victoria, the Hon. William Shiels, subscribed the roll and took his seat on this Convention, under a commission issued by the Governor-in-Council in the absence of the Hon. Henry John Wrixon, who had been formally elected to a seat on the Convention. It has been represented to me, not by the Hon. James Munro, the leader of the present Government in Victoria, but by members of the late Government in Victoria, that it would be very grateful to them if the Hon. William Shiels, notwithstanding that the number of delegates allotted to each colony would be exceeded, could still be allowed to sit in the Convention with the understanding that he would not vote in any division. The reason for conceding this much to Victoria is to me very obvious. By some oversight when the delegates were elected by Parliament, there was, I believe, no member of the Government elected beside the Prime Minister, Mr. Munro, and unless Mr. Shiels be allowed the privilege of remaining upon the understanding that he will not take part in the voting, the Prime Minister of Victoria will be left without a colleague in his government, and it seems on that account reasonable if the Convention can concede so much that Mr. Shiels should be allowed to remain upon the condition I suggest, notwithstanding that the roll has now been signed by the late attorney-general, who was formally appointed as one of the delegates. With regard to voting, perhaps I may be permitted to say, as the question arises now, that it is my fervent trust that there will be no voting throughout the sittings of this Convention. Unless we can by some manner or other come to an agreement without dividing, the ayes to the right and the noes to the left of the chair, there will be less prospect of ultimate concord in our views. I trust that after a fair comparison of our views, and that fair conflict of reason which is one of the chief objects of the present debate, we shall contrive to come to our conclusions without being divided by direct voting for the ayes and for the noes. But my object now is to ask the assent of the Convention to Mr. Shiels remaining, on the condition that he will not take part in any voting that may arise.

Mr. ABBOTT: At an earlier stage of our proceedings, I intended to direct the attention of the Convention to the fact of Mr. Shiels being here at all. It was only out of courtesy, I take it, to the present Government of Victoria that he was allowed to take a seat in the Convention when he did, and I think the suggestion now made, that he should be allowed to take a seat here, without any powers and privileges whatever, is not reasonable or warranted by the circumstances. We have not to consider political changes which may have taken place in other colonies, and which have led to the head of the present Administration in Victoria being without one of his law advisers. When the election of delegates to this Convention was made by the Victorian legislature, that legislature should have taken all these matters into consideration, and the inconvenience of there not being a law adviser of the incoming government here, rests, not with the Convention or with the late administration in Victoria, but entirely with the legislature. I admit that it would have been well had the Premier of Victoria had with him some law officer; but as the legislature itself, which created the delegates, did not say that he should be placed in that position, I think it would be very improper indeed for this Convention to allow any gentleman to sit among us who would be legally a stranger to us. If this position be conceded to Mr. Shiels, why should not the gentlemen who represent the Opposition party in our own legislature claim the right to have a legal adviser sitting with them? On the first day on which the Convention sat, when I saw Mr. Shiels enter the chamber and take his seat, it was my intention to direct the attention of the Convention to the fact that, in my opinion, he had no legal right to be here; but some of the delegates pointed out to me that it would appear discourteous to the Victorian Government to take the objection, and for that reason I abstained. New South Wales and Victoria—I do not know whether the step was taken in the other colonies—on the eve of the prorogation of their parliaments, passed a resolution which was moved by leave without notice. On the 18th December, for instance, in the Victorian Legislative Assembly, on the motion of Mr. Shiels himself, the following resolution was passed:—

> That during the absence of any representative of this colony on the National Convention to be held in Sydney in March, 1891, or in the event of any vacancy by death, resignation, or otherwise on such representation, the Governor, with the advice of the Executive Council, is hereby empowered to appoint a member of the Legislative Council or the Legislative Assembly, as the case may be, to act as representative of this colony on such Convention, or to fill such vacancy.

A similar resolution was moved and passed here with the exception that no provision was made for the absence of any representative. It appears to me that the resolution I have read is so broad that if Mr. Shiels could come in under a general commission and take the seat of Mr. Wrixon, who was absent for a few days when the Convention met, it would be quite proper for him to come in and take the seat of any gentleman representing Victoria who might be absent for one day or one hour. The commission itself appears to me a most informal document, inasmuch as it contemplates a vacancy which had not arisen. It is dated, I find, on the 24th February, whereas the Convention did not sit until the 2nd of March. At the time of its issue, therefore, there could have been no vacancy upon the Convention. Notwithstanding that a general commission was issued to Mr. Shiels to take a seat as a delegate by reason of the absence of any representative, I take it that the Assembly of Victoria and the Assembly of this colony never contemplated that any person should hold a general commission to take a seat here whenever a vacancy occurred. That, however, may be beside the question; but I strongly object to any gentleman being allowed to sit in this Convention, he himself not being a delegate. If Mr. Munro wishes to consult this gentleman, and I admit that it is highly inconvenient for the Premier of the neighbouring colony not to have, as one of his colleagues, one of the law officers of the Government, there are means by which he can consult with him. Mr. Shiels will be admitted to any one of the rooms in the precincts of the chamber, and can in that way obtain access to Mr. Munro; but I protest against his sitting in the Convention when he is not a member of it.

Mr. MUNRO: The President correctly stated the case when he mentioned that it was not I who brought this matter under his notice. I have not interfered in the matter, either directly or indirectly.

The PRESIDENT: If the hon. member will pardon me for a moment, I think it is right to say that the matter was brought under my notice by the Hon. Henry John Wrixon, the late Attorney-General of Victoria.

Mr. MUNRO: What I wish to say is this: that I know Mr. Shiels would not take a seat upon the Convention unless he were invited to do so by the unanimous vote of its members. An objection being now raised, it is quite understood that Mr. Shiels would not, under the circumstances, take a seat upon the Convention.

FEDERAL CONSTITUTION.

FOURTH DAY'S DEBATE.

Debate resumed on resolutions proposed by Sir Henry Parkes (*vide* page 11).

Colonel SMITH: I hope, sir, it will not be considered out of place if I, as one of the oldest members of the Parliament of Victoria, offer to you my congratulations upon the position you now occupy. I think I am uttering, not only my own sentiments, but also those of every member of the Convention, when I express the hope that you will live sufficiently long to see the consummation of the work which has been so well begun, and that you will be in a position to advise those who are intrusted with the working of the new constitution when it comes into operation. I intend in my observations to follow the example so well set by the premiers of several of the colonies, notably the Premier of Victoria and the Premier of South Australia, in making my remarks as brief as possible. Now, I have been considering since the debate began, that one fact, that is, that every speaker who has addressed the Convention has taken it as a matter settled, as a question that has been disposed of, that is, that we have met, not for the purpose of considering whether we shall have federation or not, but to settle the terms on which federation shall be carried out. That is a very pleasing fact, because, as far as I have been able to ascertain, there has been no particular enthusiasm amongst the people of the various colonies on the question. When the resolutions passed by the conference in Melbourne had permeated the whole of the colonies, no public meetings were held in opposition to those resolutions, and, therefore, I take it, as far as I am concerned, we are not here to deal with the preliminary question as to the expediency of federation. I feel, as other gentlemen have felt in addressing this Convention, that the proposal has been accepted by Australia, provided that the terms which we are met to settle will be just and equitable to each colony. Therefore, I now intend merely to address myself to three questions: First, defence; second, the fiscal question; and third, the powers of the new senate which it is proposed shall be created. With regard to the question of defence, whether we do or not come to real, sterling, and settled terms, I hope we shall take into consideration the subject of defence. I venture to say that we would not occupy the position we do to-day if it had not been for that question, because I believe it was the report of Major-General Edwards to you, sir, that induced you to take the prominent and active part that you have taken in bringing this Convention into existence, and in urging the various colonies to join, not only for the purpose of defence, but for fiscal union, and all the other general purposes for which dominions are established. I have been a volunteer officer myself for about a quarter of a century, although I have not had the advantage enjoyed by the hon. member, Captain Russell, of seeing much active service. Still, I have ascertained sufficient to enable me to judge properly as to the system that ought to be adopted with regard to the defences of Australia. I thought it my duty before coming to this Convention to ask for the opinions of officers of the forces in the colony I represent. I have in my possession a document which I intend to get printed, in order to present it to each member of the Convention. It is not exactly a report, but more of a memorandum, by a very old naval officer in Victoria, Captain Fullerton, who has command of the Naval Brigade there. I believe that some of the suggestions therein contained will commend themselves to the judgment of members of the Convention, because, whatever else we do, if the colonies, leaving New Zealand out of the question at present, do not join freely and promptly, they will be comparatively helpless without any general scheme of defence. I believe that in this memorandum will be found a scheme which will carry out the idea expressed by the hon. member, Mr. Deakin, that is, that we should have a standing army consisting of the smallest possible number, but which could be enlarged at any time when required. Such a scheme would commend itself to the judgment of all the people of Australasia. If federation is carried out we shall have a population of more than 3,600,000 people. It is not suggested that we should have more than one soldier out of every one hundred of population, which would give us a standing army of 36,000 men who would be under control at the one time. Considering that we have in the colonies 600,000 men of what is called the soldier's age, that is, between the ages of 20 and 45, who, in an emergency, could be called upon to undergo a reasonable amount of drill and be called upon to serve if required, the mere knowledge of such a fact will constitute in itself a very important defence. I do not wish to dwell largely on this point, except that I hope the Convention will think it of sufficient importance to appoint a committee not so much for the purpose of bringing up an exhaustive report as to collect the evidence which the various members of the Convention may have in their possession on the subject. The committee I suggest could bring up a report with regard to the insertion

of a special clause in the constitution act, which we are here for the purpose of preparing. I have heard many members of the Convention say that they are free-traders. Now, I feel bound to say, as representing one of the largest constituencies in Victoria, not only a large mining constituency, but a manufacturing constituency ——

Mr. CUTHBERT: Where?

Colonel SMITH: A place called Ballarat. I thought the hon. member, Mr. Cuthbert, knew that place, as he has lived there for thirty years, but perhaps he only knows part of the constituency and not the whole. I am a protectionist from conviction, the same as you, sir, are a free-trader from conviction, and I have a duty to perform, that is, to see that if this question of federation is settled it shall be done in a way which will be just and equitable to the colony I represent, as well as to the other colonies which may join. Under these circumstances, I read with very great interest the report of the speeches that were delivered in the conference at Melbourne last year. I was very much surprised to find that whenever any member of that conference approached the fiscal question he appeared to fight shy of it. It reminded me very much of the sword dance which I have seen on one or two occasions on St. Andrew's Day, when the performers seemed to be very much afraid of touching the real question, without the settlement of which the labours on any conference are hopeless. That is to say, unless there is some reasonable settlement in connection with those interests which have sprung up in Victoria and in other colonies—which are springing up in South Australia as well as in this colony of New South Wales—and unless some reasonable guarantee is given to the people in those colonies that their interests are not to be sacrificed —unless some reasonable compromise is arranged on that question—I doubt very much whether I shall be able to persuade my constituents to join a federation of the kind proposed. I want hon. members who intend to address the Convention to say if they are able to meet that difficulty. I want them to explain how it will be just and equitable to Victoria if the millions of money (I am speaking within the mark) which have been invested in manufactures there are to be sacrificed, it may be at one fell swoop, without any notice whatever. That would not be just and equitable to the small colony of Victoria. As I have said, at the previous conference all the members fought shy of that question except one hon. member, to whom I give credit for plunging into the arena and striking right and left, without any mercy. I refer to the Premier of South Australia, Mr. Playford. Most of all he struck the small colony of Victoria for erecting what he termed barriers. Let me tell him that in my judgment South Australia has everything to gain from Victoria, while Victoria has very little to gain from South Australia. If there is any danger, although I do not think there is much danger, to be feared by South Australia, it will not come from Victoria, but from a much more powerful neighbour—from a colony teeming with natural resources, with a large population; a colony which possesses not only great natural resources, but also the one commodity which gives command to a large extent of all manufacturing industries. I allude to the black diamonds of Newcastle. Everyone knows that coal is as the breath of life to manufacturing enterprise all the world over. As far as Victoria is concerned, we are prepared to risk whatever danger there may be. We are prepared to enter into fair, reasonable, and friendly competition with any of the colonies. Speaking for my district, we entertain the most friendly and kindly feeling towards our mother colony. I know Ballarat boys all over Sydney, and most of them are doing very well. There is no doubt that the inhabitants of these colonies are being bound together by that crimson thread of which you, sir, spoke when addressing yourself to this subject in Melbourne—with the strongest and best of all ties—the ties of respect, love, and affection. Victoria will be quite willing to risk all the consequences of this union, and of removing all the barriers between the various colonies, provided first that it is dealt with in a just and equitable manner. That is the point to which I wish hon. members to come. We are prepared for compromise; but the compromise must not be all on the one side. You must not expect us to give everything, and get nothing in return. We are prepared to give and take to a fair and reasonable extent; but the federation must be on such terms that our people will not be sacrificed. Our people, who have been building up industries, in many instances in the face of enormous difficulties, cannot be lightly sacrificed in any arrangement which may ultimately be arrived at. I have strong hopes that the members of this Convention, as a whole, will adopt the policy which has already been adopted in every country which has federated. In America we know the extremes to which protection has gone. What has been the result? I find from statistics that the United States is already producing more iron in a raw state than is Great Britain. She is already producing nearly half as much again of Bessemer steel as Great Britain produces; she is already producing nearly twice as many steel rails as are produced in Great Britain; and, besides, under her protective system, the United States not only feeds her own people, but she also sends enormous quantities of surplus produce to all parts of the world. Twenty-six per cent. of her population are engaged in agricultural pursuits, and they grow one-fourth of the whole produce of the world. Twenty-three per cent. of the population are engaged in manufactures; so that, taking the population of the United States at 60,000,000, we find that there are 15,000,000 engaged in agricultural pursuits, and about 14,000,000 in manufacturing pursuits. The result is that the United States at this moment is in advance of the whole civilised world with regard to agricultural produce and manufactures. I will take as another example the Germanic empire. Before the Germans federated they had a very loose fiscal system; but in the year 1879, eleven years ago, they established a strong protective tariff. In the years 1878-79 their revenue from customs was less than £6,000,000. In the year 1889, ten years afterwards, their revenue from customs had risen from £6,000,000 to £26,000,000, while the revenue from railways, post and telegraphs, and other sources, had increased nearly twofold. In every part of the empire new life, and spirit, and enterprise were infused. And now I come to the most recent example: that is Canada. After federation, the very first thing which the Dominion did was to establish protection against the rest of the world, while trade between the various colonies was made perfectly free, as we propose to make it to-day. In 1879, the very same year that the Germanic empire established its protectionist policy, Canada imposed a strong protective tariff, imposing duties from 12 per cent. to 20 per cent. on imports, and on some manufactured goods it was as high as 35 per cent. The result was that the internal resources of Canada have been developed to a high degree, and production in almost every branch has been increased to an enormous extent. I quote these facts to show that every portion of the world that has entered into federation has almost invariably adopted the same fiscal policy. We must remember that Victoria and South Australia have established protective policies. I was very glad to hear the following statement made by Sir Thomas McIlwraith in his speech last week:—

> We must proceed on the supposition that there will be free-trade amongst the various colonies and protection against the world. I believe the opinion of the colonies in general is that this would be a good national Australian policy, and it is one in which I thoroughly believe.

I was very pleased, indeed, to hear such a statement made by a representative from the great colony of Queensland, and from a gentleman occupying the position that the hon. member, Sir Thomas McIlwraith, occupies there. That is a policy in which I thoroughly believe also; and before this debate closes I should like to hear some leading gentlemen, who may hold partially or wholly the views which I hold on this question, explain to us in what way Victoria is to be treated if she is to be treated justly and equitably in dealing with this question. I shall now pass from this branch of the subject, because I think I have stated fairly, though briefly, the salient points as they affect the colony of Victoria. Considering the statement made by Sir Thomas McIlwraith on behalf of Queensland, and the fact that South Australia has adopted a similar policy, I think we shall find that if we are to come to a fair and equitable settlement of this question, the case, as I have put it, will have to be considered. But my hope is this: In consultation with some of my friends I thought that if we sent to the senate a bill, part of which was for the purpose of establishing free-trade and doing away with the existing barriers between the different colonies, and another part was for the adoption of a fiscal system, that that measure being, as it were, a money bill, there would be no interference with it on the part of the senate. But on the last day we met, almost every delegate who rose in his place advocated co-ordinate powers for the senate, and the member who led off in this direction with great ability was Sir Samuel Griffith. What did that hon. member say? He said that we could not free the existing barriers between the colonies and do without the revenue thus provided until we had first established a fiscal system; and I venture to say that must be the case. We cannot abolish the revenues we are now receiving until we have provided something in their place. Therefore, I take it that before the dominion parliament could deal with the question of freeing the barriers the fiscal policy would first have to be dealt with, because revenue would have to be provided. Therefore, I hope that the question may be dealt with in that way. As far as Victoria is concerned, I venture to express the opinion that we are quite prepared that the borders shall be free if a reasonable amount of protection against the rest of the world is first placed upon the statute-book. That is the policy of Canada; it is the policy of America, and also of the Germanic empire, and it ought to be our policy. I do not ask for any particular condition beyond this; I have no right to stand here in this Convention and say that we will join and go hand in hand with you, except on terms that are just and equitable to the colony I represent. I put that in a fair and common-sense way to every delegate present. I only hope that hon. members will deal with this question fairly. I know there are difficulties about the senate, and without desiring to force upon the Convention any views of mine, I should like to add my quota to the solution of the difficulty. The senate will probably consist of about nine representatives from each colony. Western Australia can take its nine, and Tasmania can take its nine, because the senate should not be a body which would simply say we will accept this, or we will not accept it. It should be a sort of judicial convention, something more in the character of a body of advice, and I would suggest that instead of being elected from the general body of the electors in the different colonies, which would be a very costly proceeding, they should be elected by the two houses of each parliament. Take the colonies of Victoria, New South Wales, or Western Australia, and divide them each into nine electorates, how could any man possibly contest a seat in such an extensive electorate except at an enormous cost? I do not think that the body which is to be over all the other parliaments should be constituted in that way. I think that each colony should bring its two houses of parliament together, and that they should elect the members of the senate. This would not be a costly proceeding, and though the number of electors, so to speak, would be small, still the senate would virtually be the elected of the people, as we are in this Convention. We are the elect of the elect, and they would also be the elect of the elect of the various colonies. I think that is one solution of the difficulty. If this question is to be satisfactorily settled, we must endeavour to find remedies for the difficulties that are involved. The hon. member, Sir Samuel Griffith, raised a number of difficulties, but he did not suggest a way out of them—not very clearly—and I have gone over his speech very carefully. But he did say this: that before we can abolish our present revenue we must raise some other revenue. That was practically what the hon. gentleman said, if not in those words. The Premier of South Australia, Mr. Playford, raised another difficulty. He pointed out that perhaps two colonies—this was another shot at Victoria, which I hope we shall get over—he pointed out that New South Wales and Victoria might join together and form a government, ignoring all the other colonies. That appeared to me to be a very fair and reasonable objection to take, and having thought the matter out I think I can with due respect offer a solution here also. If the dominion parliament is to have a career of great usefulness, and give satisfaction to all the colonies, it ought to be a thoroughly representative body, and I see no objection to imposing the condition that each colony should have at least one representative in the government. Tasmania should have one, and Western Australia one; and, perhaps, we might concede two to South Australia, Victoria, and New South Wales. A government so formed would not be a very large one, and would consist only of about nine members. We were told by the hon. member, Mr. Deakin, that the dominion must be established on the old and broad lines of the English Constitution, that we must have party in the dominion just the same as we have party in the different colonies. Now, I think it worth while considering whether we should not adopt some modification of the party system of government and say, that as the representative house in the dominion is to be elected by the people in the various colonies—I suppose the representation would be somewhat in proportion to population—the senate and the house of representatives should join together and elect a government for three years. Surely that is an experiment that might be tried without much danger. Why should we have a party government in the dominion parliament? Why should not a government be elected to last for three years, a fresh election to take place at the end of that period? I do not see the slightest necessity for creating two hostile parties in the dominion parliament. We look to that body to exercise cool, calm, and deliberate judgment on every public question coming before it, and we should not so constitute it that its time would be occupied in fighting about who should be in office and who should not. As far as the dominion parliament is concerned, I think the system of party fighting might be obviated. I trust that those hon. members of the Convention who may follow me will think this matter over. As far as I am personally concerned, I shall be very pleased indeed to find any better solution of the difficulties mentioned than those I have pointed out. Before sitting down I trust I shall not be considered intrusive if I mentioned that some years ago I had the pleasure, during one of my visits to New Zealand—where I have been some half dozen times for the improvement of my health—of hearing the veteran statesman who is now present amongst us, Sir George Grey, deliver an address on a public platform in Auckland. Sir George on that occassion made some suggestions with reference to the former policy of the old country with regard to the islands adjacent to Australia, and I hope that

before this debate closes the hon. member will, to some extent, repeat the views I then heard him express. I can only, in conclusion thank the members of the Convention for the courteous attention they have given to my remarks.

Sir GEORGE GREY: It is with feelings almost of awe that I rise to speak before an assembly gathered from all parts of Australia upon so vast and important a subject as that which occupies our attention this day. I think that our proper duty in forming a representative constitution is to begin at the lowest body from which that constitution is to be built up—that is, the people at large. I think our duty is first rather to consider the constitutions of the several colonies of Australia, and to devise from those a perfect form of constitution for such states as may join the general government. It is only by winning over persons to a consciousness that great advantages will accrue to them from entering into a confederation of this kind, that we can possibly hope to attract colonies of diverse views to join in a great confederation, which will render the whole one of the most important bodies in the world. I was very much struck lately when Sir Henry Loch, the new governor, visited all the states in South Africa, and amongst others, he visited British Kaffraria, and there he found a strong desire for a federation throughout not only Kaffir land, but all the European states; but great difficulties presented themselves in bringing this about. What struck me as really admirable was that the Kaffirs gave an account of how they were drawn on gradually to like the British Government and the British Crown. For years they had been the greatest enemies of Great Britain; for years they had waged wars with us, subjecting the empire to a vast expense. But they met Sir Henry Loch, and they told him:

> We cherish great expectations from meeting with your Excellency in this way; for on the last occasion we stood before a governor in this manner, that meeting was followed by pleasant repose, by blessings, and other privileges which went far to open the eyes of many, who behold things, as it were, with a clearer vision. Thus were the native people drawn more towards her Majesty's beneficent sway. We receive you therefore, with hopes and with joy.

And they went on to say that the blessings they had received from the Queen, had made the South African natives generally, not only in Kaffraria, but in every part of the colony, feel for her Majesty devotion and affection, which devotion and affection they would transfer for the time being to her governor. That address was delivered by 8,000 Kaffirs, 3,000 of whom were mounted men. They pledged their faith to the British Government, and why?—because they had derived great benefits from it. And I believe that it is only by holding out such inducements to the various states of Australia that we can possibly lead them all to join in one great and strong confederation. Well, then we have to consider what are the blessings we should obtain for them, and the first thing I say is this: that I believe it is the duty of this Convention to see that the states get a constitution which will enable them whenever they please to reform their own constitution and to create it for themselves. That is really the main point, and that is very simply done. If we give them first an elective lieutenant-governor, and then see that their two houses of legislature are each made elective and responsible to the people, they then can frame precisely what constitution they please from time to time, and in that respect exercise the privileges enjoyed by the United States of North America. These may seem very wide privileges to give, but I have only to say this, that those who will study the original constitution of New Zealand will find that in point of fact each one of the provinces had in law, granted by the British Parliament, the right to make its own Constitution of exactly the nature it pleased, and to vary it from time to time. It will be very easy, therefore, for us to see that like privileges are conferred upon the Australian states, and I have no hesitation in saying that if we do not do that, even if they join you, some of them will have years of conflict before they will obtain a Constitution suited to their wishes. They have had nothing hitherto to do with framing their own Constitutions. These rest on acts of a distant parliament; their voice was but little heard. For example, in New Zealand we had promised to us by one ministry a Constitution of the utmost liberality. The states elected their own superintendents who were virtually lieutenant-governors. But the simple name of superintendent being given disarmed parliament at home and they did not hesitate to give to the superintendents chosen by the people powers which they would not give to Canada, or did not give to Canada, when the superintendents were called lieutenant-governors, without having the great powers which the superintendents in New Zealand had. But the lieutenant-governors were not allowed to be elected by the people of Canada. Now, I say that on the present great and momentous occasion which has brought us here we have the power of giving to the states a constitution of the kind which I speak of. I think we ought to give them that, and then let them frame their own constitution as they please from time to time, so that they will possess all the powers of local self-government which men could possibly desire to have. Then you have this to guide you: the British Parliament has already consented, and in one instance for nearly twenty years, I think, those powers were exercised and were never abused. You thus see that not only can you get the right from the same parliament which gave it before, but there is every possibility and every probability that powers so given will not be abused in Australia any more than they remained safe and intact from all abuse when intrusted to the people of New Zealand. Now, proceeding from that point to the question of the Constitution we are required to frame and to submit for the consideration of the people of Australia, we are met at first, perhaps, apparently by greater difficulties—that is, we have to define what are to be the powers of the states and what are to be the powers of the federal government. We have two bodies to deal with. But I think we can very easily overcome those difficulties. First, I think that this must inevitably be done—we must not imitate the United States in saying that the states are to be paramount—that they are to be the sole possessors of power, and that then they, from these paramount powers which they possess, are to delegate such powers as they please to the general assembly, or congress, or senate, or whatever you may please to term it, because the inevitable result of that will probably be, that a time will arrive in which there will be some question, such as slavery was in the United States, which will disturb the minds of the people at large. Perhaps the great majority of the states may desire to have a general law, either to regulate or to abolish an institution of the kind, or some similar institution, and the minority of the states may refuse to agree to that, and thereupon a deadlock would take place, and nothing could be done. At last the majority would determine that the majority should prevail; but then the difficulty would be that the majority could only prevail by breaking the law. In the minds of all English-speaking people, there is a respect for the law which makes them hate to see it violently broken or set aside. In that manner to the minority of states would become attracted a part of those who might think with the majority upon the general subject but who would not join in what they conceived to be an unlawful attack upon the Constitution of the country. The result would be that parties would become more equal, and, probably, nothing less than a civil war would end a question which might easily, perhaps, have been settled by different legal arrangements. I think, therefore, it will

be our bounden duty to see that the general assembly is not only endowed with certain powers which the states cannot exercise, but also that an addition be made, as was done in the New Zealand Constitution, to this effect: that whenever the general assembly of the country, or the congress of the country, chooses to legislate upon any subject, that subject is added to those subjects which have been withdrawn from the power of the different states.

Mr. FITZGERALD: No!

Sir GEORGE GREY: If that is not done, of course we act against experience. I hear hon. gentlemen say "No"; but they must recollect that it was foreseen that dire results would follow from the adoption of another system, and that those dire results did follow, and with that example before us, it appears very doubtful if we ought not, pursuing the course of wisdom, to take steps which will prevent a repetition of the disasters which took place in the United States. Some other plan of doing it may be devised; but the object should be attained in some way or other without subjecting ourselves to the chances of future great disaster. I need not go at length into the different subjects which I think should be submitted to the power of the general assembly or the congress. Those can be all easily adjusted, I think, probably without any great dissension amongst ourselves. I believe that no trouble at all will arise upon that head; but it will be essentially necessary that the point should be considered with very great care. Now, it may be said, perhaps, that in England they are little prepared to consider this subject for us, if it is to be carried out by act of parliament; but I should tell hon. gentlemen that they little know the care which British statesmen have in some instances bestowed upon the consideration of the affairs of these colonies. For instance, we had the Premier of Great Britain, the Marquis of Salisbury, when a younger son of the late Marquis, out in New Zealand, studying our constitution there with the greatest care—not the one that was then perfected, but the one which it was thought would be bestowed upon New Zealand. He lived with me for several months, and the business that had been transacted in the day was gone through by him and myself in the evenings that we spent together. Every matter was discussed, the reasons for each step taken were examined, arguments were held upon both sides, and he devoted his mind as carefully to a study of these questions as if he had been a New Zealander, and the member of the Government who had to consider what was best to be done for the country. And his was not a solitary instance in that respect. Other British statesmen have been out here directing their attention to these very questions. Only recently you have had here a young man, now a member of the House of Peers, who spent at least one year and a half studying every question connected with New Zealand, who then came on to Australia, and visited every one of these colonies, and devoted considerable care and attention to their exact position, the state of their legislation, and all that they had acquired; and who, then, went on to the United States and Canada, and repeated the same thing there, and, when perfectly educated upon all these points, returned home to take his seat in the House of Peers, and to stand the friend of these communities whenever difficult questions arose. Now, with men of that kind to take our part, I think there is great safety for us in reference to the steps which the British Parliament will take in regard to our requests. And that brings me to another point which, I fear, will give rise to some difference of opinion in this great assembly, and in which I may not carry people with me; but I believe in my own mind that it is essential to you that every one of your officers should be elected by the people of this country. Even in the case of your governor-general I believe the people ought to have the right of choosing who that man shall be. Let them choose him from England if they please; let them choose him from any part of the world, I would almost say, if they pleased. They will choose well, they will choose wisely, and no nation can be perfect—unless an imperial nation—a young offset, as we should be, of an imperial nation, we should not be perfect, unless the people had every office open to their ambition, and unless it were known that the really great and good men of the country could rise to the highest position, and exercise the highest duties in it. Why, if as is the doctrine at the present time, and I admit that it has been successfully exercised—very successfully exercised in regard to these colonies—if the doctrine is that as far as possible the sons of peers should be sent out here to be educated as to the affairs of the colonies in order that they may act wisely in the legislative body at home—I say that if such an education is necessary and of great advantage then to shut out our own people from an education of the kind, and to say that no man in Australia shall have an advantage of the sort is an act of absolute cruelty to the people of Australia—it is to cramp their energies, to deprive them of the highest education of all, and it is an act of which we ought not to be guilty towards our fellow-countrymen. Then I would say to this assembly, do not be led away by the idea that the nomination of governor is the only tie that binds us to Great Britain. If we send home a great portion of our laws for the Queen's assent is not that to bind us to Great Britain in the most solemn way? Is not that to say that the sovereign of Great Britain is as absolutely a member of our legislature here as she is of the legislature at home? Her representative, who would be chosen by the people, would in her name open and close the parliaments and perform all those functions, but he would be a man chosen by ourselves, and our own people would be educated in the highest possible manner to discharge their duty to their country. For it is not only the man who is fortunate enough to attain the highest position who will educate himself to the greatest point that he can, but every one who aimed at the office would be endeavouring to prepare himself for it—numbers of men would be educated to a point to which they never would otherwise be educated unless you opened such objects to their ambition. If it were thought necessary to bind us still further to Great Britain I do not see why we, instead of having agents-general, should not have members of the Privy Council at home. I do not at all know why we should not send home an officer who would conduct our business with the Queen directly, exactly as the Secretary of State for Ireland conducts the business of Ireland with the Queen, or as that officer in the House of Commons who really manages Scotch affairs, and who manages them as if he were a secretary of state, conducts the business of Scotland. I believe it would be of the greatest possible advantage to the colonies that such an officer should reside in England instead of having agents-general there, because he would become personally known to his sovereign, and to the leading men in England, and friendships would be formed and an education given from time to time as these men were changed. I apprehend that they would probably only fill the office for two or three years. There would be a constant change, and I believe that in that way a large proportion of your population would be again educated in the best possible manner. These must seem almost too daring speculations; but, in point of fact, we are marching on to an altogether new epoch, to new times, and the very essence of the constitution must be this: I heard one hon. gentleman here state that we must remember that we are legislating for the future; and I agree with him if he meant that we are legislating in such a manner as to enable the future to legislate for itself—that it is our object that freedom in every respect shall be given, so that as each generation comes on they shall say, "Blessed be those ancestors of ours who have left

us this freedom, so that nothing can take place—no changes in the state of the world—but we possess all powers to define the measures most necessary to bring peace and tranquility at every epoch it comes on." That is the real duty which we should aim to fulfil; and it is only by allowing the people to speak, and at all times to declare their views and their wishes, and to have them carefully considered, that we can insure peace, tranquility, and prosperity to each country in each successive epoch of time as it arrives. Now, having given these general views upon your general assembly I need go no further. It does not much matter in what kind of way on the first occasion you allow elections to take place, if the people have the power of altering that whenever they like. All these things become quite minor questions if you just hold in view these several matters, that the states—each state—shall have the power of modifying its form of government whenever it likes; that, for instance, neither the states nor the general body is to be told that "you must conduct your form of government according to the principles of what they call a responsible ministry." Why should that be told to them? Why not let them conduct their form of government precisely as each age chooses? Who can tell what political inventions are yet to be made? Why, the principle of representation, as we enjoy it, is, comparatively speaking, a modern discovery, and the principle of federation has not developed yet. We are the people for the first time to give it a new form, if we please. We can develop it to a higher point than it has ever been raised to yet. It is an invention; but, as is the case with electricity, day by day better modes will be found for administering it—better means for making it useful to men. We now, as I say, take one step, and in taking that step let us open the road to all future steps. Let that be our care—to lead on; let us march into the wide track of improving all these institutions; let us lead on, and you will find that grateful nations will follow, and we shall discover that we had known nothing, although we now think we know so much—so great will be the changes which will occur, so great will be the inventions which will be made. Then there is one other thing that lies very near my mind. Let us remember this. In my youth it was said that men of different religious faiths could not sit in the same legislature together, and they were excluded—Jews, Catholics, Nonconformists—nobody it was thought but members of the Church of England could form a legislative body that was of any use at all. To leaven them with other material was to spoil the whole thing. But it was found that that was a great mistake; that men of different religious faiths could sit side by side in the same legislature; that talent and ability can be drawn forth from any religious opinions whatever. The nation has progressed more than ever it has done before in so short a period of time; and its happiness and tranquility are greater. Now, I think we should establish this principle in reference to federation. Let us say that if the English-speaking people choose to federate in one great body we shall not ask what that form of government is. In the same body could sit men who hail from a republic, and men who hail from a monarchy. Take the case of South Africa, where there are two republics. We might have federation in a wonderful degree if that rule were laid down, and surely if seven or eight states there met together to consult for the common good of South Africa, and to make a law which would be beneficial to the whole of them, it could matter very little whether the representatives of two states came from republics instead of from a monarchy as in the case of the other states. Equally well can they advise upon that which is good for the whole—equally well can they care for their fellow-countrymen, speaking the same language, with laws identical in all respects—equally well can they care for them, whether the head of the government is called a president, or whether, as in our case, we rejoice to live under so great and good a Queen. What difference can it make? We should be the first to lead on in that great improvement, and to say this: "Now, the federation of all English-speaking people may take place; the United States can come in with us; all men speaking the common tongue can meet to debate upon what is necessary for the common benefit." I think hon. gentlemen will feel, however crude these doctrines may be, that there is much in them. Remember this: that America must have a great deal to say in regard to the Pacific Ocean. The last speaker alluded very kindly to the idea that was entertained years ago of federating with all the islands of the South Pacific, and arrangements were made by which that might be carried out. But what was the feeling in England? Directly it was known that we thought of common customs duties for all the islands—all the islands, as well as these larger places—the moment that was thought of, and it was seen that it afforded the means of paying one or two European officers for the purpose of guiding and directing the natives in the line of duty which they should follow, the British Government became alarmed, and there was a peremptory order sent out which prevented that plan being continued. It was finished at once. Well, not only was that the case, but so strong was the desire then to break up the empire—and this is a good illustration of the kind of changes that you may have to meet, changes of human thought—that it was determined, if possible, to get rid of the outlying dependencies, and to reduce the dominions of Great Britain. The Orange River sovereignty was first thrown off. Then it was contemplated to throw other places off, and force them to become republics. It was said that England was too large; that what you wanted was a nation—not thinking of all these distant places—with their minds fixed upon manufactures and commerce, manufacturing for the world; it was sufficient to breed up in your great cities a population in the last depths of misery, but always ready to rush into manufactures at the lowest rate of wages whenever an improvement of trade took place. It was said that Britain should confine herself to her manufactures, and to her own immediate territories, and leave the rest of the world to itself. But, what thought other people, and what thought England? Let me just give one illustration of this. I was arranging for the federation of all South Africa—triumphantly arranging it—certainly all the states, I believe, but one would have joined, and that one would almost immediately afterwards have probably come in—but when it was heard of, the government then in power, and the opposition at home, were alike filled with dread at such a federation as was contemplated. It was said that the man who contemplated that was a dangerous man, and he must be got rid of, and without a moment's warning I was dismissed from office as Governor and High Commissioner of the Cape. Well, there was one person in the realm who thought differently. Afterwards, within a few days, the ministry were put out in consequence of a quarrel with Lord Palmerston—I think it was within twelve days—and the first thing that was said to the new ministry was, "That man is right; you will yet long to do what he could have done, and you will be sorry that it was not done; reinstate him in his position." It was the Queen who spoke, and what was her feeling towards her people at large? As the Prince Consort explained the matter to myself, they felt the necessity of openings for the poor, for the adventurous. They thought no wrongful efforts should ever be made to extend an empire, that so long as the people of Great Britain, urged by their indomitable energy, kept pushing on themselves, winning new races, winning new countries to join the great confederation of English

people, so long would it be wrong for the sovereign to injure her people by saying they should not go to these new homes, they should not open these new places for commerce, that they must remain shut up in a small and continually decreasing empire at home, as it would have been, if the policy had been acted upon of striking off place after place. Well, I maintain that the hearts which conceived that conception—that love for the English race—represented the true feeling of the nation; and experience has shown that such was the case. Here we are in New Zealand in spite the government of the day. They tried to stop the foundation of the colony. There they are at the Cape of Good Hope, spreading over the whole of the country, although the earlier settlers were punished if they attempted to pass the Orange River. No further spread of territory there was to be allowed. And now you have Great Britain grasping immense territories in Africa, probably going even beyond her strength—such has been the change of public opinion upon this subject. I ask you, therefore, whether we, in providing for the spread of the empire in the Pacific, whether we, in providing for all English-speaking races coming into the one great confederation, shall not equally now be doing our duty to the future, as I believe that our noble Queen, and those who thought with her—there were really but few—thought rightly, thought well, when they determined that the energies of the British race should spread exactly as their instincts moved them, and, provided they committed no wrong upon others, should be allowed to go in and replenish and fill up all the waste places of the earth. These are the points which appear to me so essentially necessary for our guidance—this policy of letting all English-speaking people into the confederation, of not attempting to fetter our posterity by any peculiar laws, of simply giving them power to enable them to determine what laws they would live under themselves. Holding those two main points in view, we should, I think, accomplish all we could possibly desire. With reference to the subject of defence I do not like to say much. I am very adverse to seeing a large force raised in this country; I am very adverse to seeing a military spirit created, which should long for war. I would rather see a small—a very small—force, sufficient for all purposes which can possibly occur, because I do not believe if we enter into this confederation that we shall ever be molested. Let me state one point. There is intense jealousy amongst the European nations themselves. At one time it was thought that it was better to set up the old world in this new world. The whole efforts of the people went to form offshoots of British societies, as they said. Why here, even in this colony of New South Wales, when you were offered free and liberal institutions, some of your first men wanted to set up peerages. The papers and documents will show that. I know that in New Zealand, in the minds of many men, similar thoughts were entertained. A nobility was to be set up there, in the south of New Zealand, just as much as it was at home in England; but in spite of all that could be done, this one feeling always pervaded these new countries, that they would have nothing whatever to do with those institutions of the old world; and I say that if once you get up great military bodies here, the whole world will, by degrees, become a series of standing camps, as it is in Europe at the present day. Now, look how we stand. From the Atlantic, on the one side, back again to the same ocean really, I may say, upon the other side, there lies a great space in the world in which there is no standing army at the present day, no preparation made for military attacks, for military defence—the United States—with, I believe, 12,000 men to keep the Indian population down, and the whole is at peace and repose; her young men are not drawn into conscriptions, not prepared to be fit victims for slaughter, not certain to be slaughtered in some few years' time in some obscure corner or other, but all devoting their energies to the development of the country, marrying, becoming farmers, or filling different trades and professions, not shut up in barracks, excluded from knowing what the affection of a wife and the love of children really is. Here, all are totally different, and for heaven's sake let us keep in our present position, and not go off into the mania which has made Europe the nations of standing camps which it is. I hope that that is one thing we shall hold in view—in fact, one of the main things almost before every other. I will not detain hon. gentlemen longer. I have given what I believe to be an outline of a proper plan of proceeding. I will do my best to bring the points forward in Committee, as these questions arise. I entertain, in my own mind, a confident belief of this: that what I have asked for, whether it is done now or not, will be done in Australasia—I will not say in my lifetime, although I have seen great changes—but I believe it will be done in Australasia in a very short period of time. If it is done I have a confident belief, founded upon a long experience, that then a nation, educated in public schools first, then educated in public life afterwards in the world, so that the thought and care of their fellow-men is continually before their minds—I believe that such a nation will attain to higher prosperity than any other people have yet attained, because in the United States still are many of those things wanting in that degree of perfection in which we may have them here; and from the full exercise of the faculties of self-government, and of the management of the nation, will certainly spring prosperity and happiness of a kind hitherto unknown.

Mr. RUTLEDGE: Like the honored statesman who has just resumed his seat, it is with feelings of diffidence amounting almost to awe that I rise in this Convention—destined as it is to become historical in Australasia—to say a few words upon the very important proposals which you, sir, have submitted as a basis for a federal constitution which our several parliaments have sent us here to devise. After the many able and eloquent speeches that have been addressed to us, it seems to me that it is almost impossible that anything new in the way of argument can be employed in the further discussion of your proposals. All that one can hope to do is to refrain from following too closely in the steps of the speakers who have preceded, and to endeavour to avoid as much as possible all unnecessary repetition. You have struck, as it seems to me, the true keynote in the first paragraph of the first series of your propositions. You say, sir:

> That the powers and privileges and territorial rights of the several existing colonies shall remain intact, except in respect to such surrenders as may be agreed upon as necessary and incidental to the power and authority of the National Federal Government.

Now, sir, this is a paragraph with which I am perfectly certain every member of this Convention will most cordially agree. No one can be foolish enough to imagine that in the case of a number of colonies, with public policies and local interests in many instances so entirely dissimilar, it is possible for real and enduring federation to take place unless there is an adoption of that give-and-take system to which you so happily adverted in the course of the admirable speech in which you moved these resolutions, which seem to me to consist in the surrender by some of the colonies of some of the high political privileges and some of the almost boundless political freedom they enjoy, in order that the well-being of the whole of the colonies may be thereby most effectually promoted. I do not think it is necessary for me or for any other speaker to say very much with regard to the remaining paragraphs in this first series of proposals. There seems so far to have been remarkable unanimity in the treatment which the several resolutions

have received; but it is when we come to the first of the second series of resolutions that we happen upon difference of opinion. There have been some arguments employed by some hon. gentlemen who have addressed the Convention on this subject in opposition to the speech which was made by my hon. friend, Sir Samuel Griffith, in which he ventured to differ from the proposal so broadly stated as it is in the first resolution of the second series. Whilst there have been several speakers who have followed in the line which you have laid down, there have been other speakers who have adopted a different line. But among all those who have followed you, sir, in the adoption of the view you have here submitted, I do not think there are any whose speech deserves the same amount of attention, or that ought to call forth the same amount of criticism, as the speech delivered by my hon. friend, Mr. Deakin. The speech which that hon. gentleman delivered was, I think every member of the Convention will agree, as to its manner, magnificent; but, with regard to its matter, I shall only say this: that it seemed to me to scarcely bear out the very high reputation that hon. gentleman has attained as the prince of Australian-born orators, and as one of the foremost statesmen of these great colonies. Now, sir, the hon. gentleman was extremely dissatisfied with any attempt on the part of this Convention to depart from the strict lines of the form of constitution with which we are familiar in these colonies. Lest I should do the hon. gentleman an injustice, I shall take the liberty of reading a few lines from his speech, delivered last Tuesday. The hon. gentleman, in the course of his address to the Convention, said this:

> The Constitution which we now enjoy, it appears, is to be set aside with less ceremony than one would have expected from gentlemen who have lived under it, and have exercised its highest powers for many years. We appear to be ready to depart from institutions which have the sanction of long experience, almost entirely on theoretical grounds. It is true that hon. members have looked to the experience of other countries; but in doing this they have ignored some of the most pertinent lessons of our own, which is that if we establish two chambers of equal authority, we prepare the way for dissension, and encourage deadlocks. The constitutional history of Victoria gives ample evidence of this.

We have this remarkable anomaly: We have the hon. gentleman contending for the perpetuation in this new federal form of constitution of that form of government in regard to a second chamber with which we have become familiarised in these colonies; and yet, in the very same breath, we have the hon. gentleman deprecating in the strongest possible language the dissensions and the deadlocks with which the history of the working of this very form of constitution has made us familiar. I want to know, if a system like this has been tried and found wanting in the case of any of the colonies, why should we perpetuate, or endeavour to perpetuate, this system when we are here founding a constitution which we hope, as the hon. member, Sir George Grey, so eloquently put it, will be not a constitution for the present, but a constitution for all future time, and which will enable the federal parliament which shall come into existence to legislate, when we are all dead and gone, in the most perfectly free manner, for itself and for the requirements of its own time. The hon. member, Mr. Deakin, seems to me to have fallen into the error of imagining—or at least, if one follows his language and examines it critically, he seems to have fallen into the error of supposing that what we are aiming at, or ought to aim at, in the labours which have brought us together here, is to endeavour to construct a great state that shall be a sort of enlarged edition of one of the existing colonies—say, for example, the colony of Victoria. The hon. gentleman looses sight of this fact: that we are not here for the purpose of endeavouring to effect an amalgamation of all the colonies—that the several states, with their diverse interests and their diverse claims upon the great federal government, that we hope to see come into existence are not to be merged—that we are not here to endeavour to construct a great unity, but that we are here to endeavour, if possible, to effect a great and lasting union of all these colonies in which, while the voice of the whole people, without any distinction whatever, shall be heard in the great chamber of the people's representatives—in the house of representatives—the voice of the states, as distinct states, with separate claims and separate interests, shall be heard with equal emphasis and with equal effect in a second chamber, which may be called the senate or the council of states, or by whatever other name it may be designated. I do not think that we ought for a single moment to attempt in what we do here to obliterate in any degree the individuality of the states which, taken as a whole, are to form the great federation of Australasia. To endeavour to do that—to destroy the individuality of the states—seems to me to strike at the very root of the leading principle of federation, and if we are to have a federation that shall be something of which we could be proud—if we are to have a federation that shall satisfy the aspirations of the people of the several colonies whom we are here to represent—we must have a federation that will recognise that principle in the fullest and most marked degree. Depend upon it that the people of these colonies are not going to surrender to a mere sentiment of federation all the rights and privileges which they have acquired, in many instances after very protracted struggles, by means of separation. If I were to read the speech of my hon. friend, Mr. Deakin, literally, I should come to the conclusion that what he desires to do is this: to rub out all the lines of demarcation that separate the colonies as they exist in Australia to-day. He said in his speech the other day:

> What is there in this artificial boundary of the Murray River or the other artificial boundaries that divide the colonies of Australia from each other? What is there in these artificial boundaries that we should allow the people to remain separate from each other, and allow them to have a voice in the senate of the nation which possesses—

as I hope it will possess—

> co-ordinate authority in all respects, except perhaps in the origination of money bills, with the chamber of representatives?

He says, "Why should we recognise the existence of these imaginary boundaries?" But while I say that it is possible to magnify this question of imaginary boundaries to a disproportionate extent, yet these imaginary boundaries mean a great deal to the people who are included within these boundaries. If we were to rub out these boundaries to-morrow, what should we be? We should revert to the condition of things which existed before any separation at all of the several colonies from New South Wales; and it is because the people who inhabit these several separate states know full well that there are benefits to be enjoyed as the result of the separation which they have acquired, that they will never consent to surrender the rights and privileges, or, at all events, the more substantial of their rights and privileges, by obliterating all these lines of division, by becoming amalgamated into one great whole. If you are to have a senate which is to be on the model which my hon. friend admires—the model of the British Constitution—in which the upper chamber is to be merely a body for registering the decisions of the house of representatives, I want to know, if that is to be the outcome of our labours, how we are to have a senate which will have any such powers as will safeguard the interests of the state? We know that the general tendency of the existence of a body of that kind, which does not possess co-ordinate powers with the other branch of the legislature, is to degenerate into feebleness. The House of Lords, I say, with all due respect to that august body, has degenerated into a thing that almost merits the contempt of a great many of the

free people of the British dominions, because, while they have all the pretensions that belong to an ancient and aristocratic house, and all the semblance of authority which ought to belong to men of distinguished position and rank, they are reduced to the position of being a mere appendage to the House of Commons; and while they can for some years perhaps block the onward progress of legislation, they have no power whatever to shape legislation or to effect any beneficent object without the authority conferred upon it by the House of Commons, without the sanction of that body, and without its concurrence. I think that that is a state of things which we ought not to desire to see instituted in connection with this proposed federation. I could understand the arguments of my hon. friend if there were anything in the creation of a second chamber possessing co-ordinate authority with the lower chamber in regard to the amendment even of money bills—I could understand something, I say, of his argument if there were anything inconsistent with true democracy in his proposition. But there is nothing inconsistent with true democracy in it. My hon. friend talked of authority, and the power of his argument derived a great deal of its force from the manner in which he laid stress on the rights of the people. He combated the idea of a second chamber having the right to veto any proposed legislation of the lower chamber on the ground that that chamber uttered the voice of the people, which had a right to be heard. Will not the voice of the people be heard in a senate which is composed of men who are as much elected by the people, though it may be in a different mode, as in the house of representatives itself? The history of the various legislative councils of these colonies is fraught with caution against the attempt to establish anything in the shape of a second chamber that will not rest upon the suffrages of the people. The reason why there have been dissensions and deadlocks in connection with the upper chambers in the various colonies is this, that these upper chambers have not in any respect derived their authority from the people in the same way as the lower chamber has. They have either not been elected by the people at all, or else have been elected by the people upon the basis of some special property qualification; and noboby can contend that a body of that sort is a body that can be said to represent the people, or which ought to be intrusted with powers co-ordinate with those that belong to the other branch of the legislature. The hon. gentleman talks about experiments. He seems to deprecate the idea of plunging into an experiment. He seems to think that, in the proposal that has been suggested by my hon. and learned friend, Sir Samuel Griffith, the motion which you, sir, have submitted with regard to the second chamber, is not a motion that should be adopted by this Convention. It seems to be supposed that in this we are indulging in a spirit of experiment—that we are making experiments in legislation. I fail to see where the experimental part comes in. It does not seem to me that there is anything at all experimental about it. If there never had been anything of this kind in existence before, I could understand that there might be some ground for the objection that is raised, that we are about to plunge into an experiment. But America has had the advantage of 100 years of the working of such a system as that which has been advocated by the hon. and learned member, Sir Samuel Griffith, and by several other hon. gentlemen who have followed him, of the system which finds so little favour in the estimation of the hon. member, Mr. Deakin. I dare say hon. members have read many works written by American authors which go to show to what a marked extent the senate has grown in the affections of the American people. The senate is not regarded in America as a body which exists for the purpose of coming into conflict with the House of Representatives, or the result of the peculiar constitution of which is to constantly precipitate conflicts with the House of Representatives. The senate of the United States of America is a body that has grown steadily in the affections of the people of America until the veneration which at present exists for it is almost unbounded. Hon. gentlemen, I dare say, have read the book, by Carnegie, called "Triumphant Democracy." I propose to quote a few words from that author with regard to the senate, the powers which it is proposed to confer upon a senate here being somewhat similar to, though less than, the powers conferred upon and enjoyed by the senate in America. Mr. Carnegie says, at page 260:

> It has been said, by more than one political writer, that the American senate is the ideal second chamber of the world. Some assert that it is the only second chamber which possesses real power, and is permanently fixed in the hearts of the masses. It is certainly regarded in America as a great promotion to be elevated from the house to the senate, and it is none the less certain that the entire nation regards the senate with pride and affection.

He says later on:

> This hopeful student of a republican institution, my Lord Salisbury, has said in a recent speech:
>
> The Americans, as you know, have a senate. I wish we could institute it in this country. Marvellous in efficiency and strength.

Mr. Carnegie quotes, with evident pride, the opinion which that eminent statesman, Lord Salisbury, entertains of the American Senate as an institution which has been in operation for the last 100 years in that country, and the working of which he has had ample opportunity to very closely observe. But while it may be said that a writer like Carnegie is bound to speak well of the institutions of the country which has enabled him to acquire a stupendous fortune and become a millionaire, and that we ought not to take the opinions of a man like that when he speaks in admiration of this institution without a very considerable amount of deduction, it is fortunate for the discussion on the present occasion that there is no need for us to confine our attention to the observations which have been made by writers of the class of Mr. Carnegie. I dare say hon. gentlemen have nearly all of them very carefully read the admirable work of Mr. Bryce. Now, Mr. Bryce cannot be said to be a writer like Carnegie, who is filled with enthusiastic admiration of American institutions as such, but a calm, judicious, and dispassionate writer, who will speak of any institution, particularly an American institution, exactly as he finds it; and in dealing with this question of the senate, Mr. Bryce makes the following remarks:—

> The respective characters of the two bodies are wholly unlike those of the so-called upper and lower chambers of Europe. In Europe there is always a difference of political complexion, generally resting on a difference in personal composition. There the upper chamber represents the aristocracy of the country, or the men of wealth, or the high officials, or the influence of the Crown and Court; while the lower chamber represents the multitude. Between the senate and the House there is no difference. Both equally represent the people, the whole people, and nothing but the people. The individual members come from the same classes of the community; and though there are more rich men (in proportion to numbers) in the senate than in the House, the influence of capital is not markedly greater. Both have been formed by the same social influences, and the social pretensions of a senator expire with his term of office. Both are possessed by the same ideas, governed by the same sentiments, equally conscious of their dependence on public opinion. The one has never been, like the English House of Commons, a popular pet; the other never, like the English House of Lords, a popular bugbear.
>
> What is perhaps stranger, the two branches of Congress have not exhibited that contrast of feeling and policy which might be expected from the different methods by which they are chosen. In the House the large states are predominant, nine out of thirty-eight (less than one fourth) return an absolute majority of 325 representatives. In the senate these same nine states have only eighteen members out of seventy-six, less than a fourth of the whole. In other words, these nine states are more than sixteen times as powerful in the House as they are in the senate. But, as the House has never been the organ of the large states, nor prone to act in their interest,

so neither has the senate been the stronghold of the small states, for American politics have never turned upon an antagonism between these two sets of commonwealths. Questions relating to states' rights, and the greater or less extension of the powers of the national government, have played a leading part in the history of the union. But although small states might be supposed to be specially zealous for states' rights, the tendency to uphold them has been no stronger in the senate than in the House.

Collisions between the two houses are frequent. Each is jealous and combative. Each is prone to alter the bills that come from the other; and the senate in particular knocks about remorselessly those favourite children of the house, the appropriation bills. The fact that one house has passed a bill goes but a little way in inducing the other to pass it; the senate would reject twenty House bills as readily as one. Deadlocks, however, disagreements over serious issues which stop the machinery of administration, are not common. They rarely cause excitement or alarm outside Washington, because the country, remembering previous instances, feels sure they will be adjusted, and knows that either house would yield were it unmistakably condemned by public opinion. The executive government goes on undisturbed, and the worst that can happen is the loss of a bill which may be passed four months later. Even as between the two bodies there is no great bitterness in these conflicts, because the causes of quarrel do not lie deep. Sometimes it is self-esteem that is involved, the sensitive self-esteem of an assembly. Sometimes one or other house is playing for a party advantage. That intensity which, in the similar contests in Europe, arises from class feeling is absent, because there is no class distinction between the two American chambers. Thus the country seems to be watching a fencing match rather than a *combat à outrance*.

I dwell upon this substantial identity of character in the senate and the House, because it explains the fact, surprising to a European, that two perfectly co-ordinate authorities, neither of which has any more right than its rival to claim to speak for the whole nation, manage to get along together. Their quarrels are professional and personal rather than conflicts of adverse principles. The two bodies are not hostile elements in the nation, striving for supremacy, but servants of the same master, whose word of rebuke will quiet them.

I think that these extracts will go far to show that the fears which may be entertained by some hon. gentlemen as to this experiment, as it is called, of giving co-ordinate powers to the second chamber are not well founded. I am well aware that my hon. friend, Mr. Deakin, has rested some of his objections to the form of senate which I advocate, and which other members advocate, on the ground that it is impossible for us, with our ideas of constitutional government, and with the ideas which many members have of a government responsible to the chamber of representatives, to graft on a system of that kind the system which we propose to construct as the result of the labours of this Convention. I know that that objection was prominent in the hon. gentleman's mind, and it is only just to him to say that there is a good deal in the contention which he has set up, that it is difficult to graft the American system, which has an executive not at all responsible to the legislature, upon a system which is to combine a senate with co-ordinate powers with a system of responsibility to a house of representatives. But we have not all the wisdom of the ages concentrated in ourselves; and I have not the slightest doubt that in the course of time such developments will take place as will render it possible to have a form of government which will be consistent, to a certain extent, with our ideas of responsible government, and at the same time with the existence of a second chamber, possessing powers to which none of the second chambers of these colonies are in the least degree entitled. But, sir, I would like hon. gentlemen to bear in mind that I am very far from advocating for the federal parliament—which I hope will grow out of the labours of this Convention—a second chamber which shall be elected, as the members of the second chamber in the United States are elected, by the combined vote of the upper chamber and the lower chamber of the states legislatures. That might be a very good method, but with some of the Constitutions of these colonies as they are at present, it might not perhaps be all that could be desired. Many of the second chambers in the colonies being nominated chambers, and not elected, and in the case of those that are elected not being elected by the suffrages of the people generally, it might very fairly be said that the members of the senate, though elected by the legislatures of the colonies as they exist at the present time, would not be truly representative of the people, and that therefore there is some reason why we should not proceed to construct the senate after the model of the American Senate, possessing co-ordinate powers with the lower house, or the house of representatives. But I am not at all wedded to that principle, and I should be very sorry indeed to advocate from my place in this Convention a system by which the second chamber shall be founded exclusively upon the methods which are suggested by those who contend that the members of that second chamber shall be elected by the legislatures of the several colonies as they exist at present. I do contend, however, that a great mistake will be made if we proceed to the creation of a senate, or second chamber, in the federal constitution, which shall be deprived of those powers which we enjoy, or a great proportion of the powers that are now enjoyed by the senate of the United States. We know, sir, that if the ideas which you have embodied in your resolutions are carried out, this will be the result: that in the case of financial proposals being sent up from the lower chamber to the second chamber, the senate will have no alternative but to accept the proposals *in globo*, or to entirely reject them. But our experience of the working of that system in these colonies is not particularly reassuring. We know that the effect of a second chamber rejecting the financial proposals of the lower chamber in their entirety, is to inflame the public resentment against the upper chamber, as it is called. There might be very many things in the financial proposals which emanated from the government and were carried through the lower chamber, of which the members of the upper chamber cordially approved; but if it were incumbent upon them to reject a measure because there was much in it of which they disapproved, although it contained a great deal that they did approve of, the result would be to cause a very great amount of public excitement, and to cause many persons in the community to raise their voices against the existence of a second chamber at all. I think we should guard against that, and if the senate or second chamber in the federal constitution were based upon the suffrages of the people, although in a different way, yet as truly based upon the suffrages of the people as the house of representatives, then I cannot see on what ground it can be contended that the senate should be deprived of co-ordinate powers with the lower assembly. I think that in a matter of this kind we should proceed as far as possible by familiar analogy, and, though perhaps the suggestion of the analogy may, in the minds of some hon. members, be thought entirely inappropriate to an assemblage of this kind—though the suggestion or the expression of the analogy may in some quarters create a smile—yet it appears to me that in order to have a perfect system of federal government, we ought, as far as possible, to preserve an analogy to that form of government which prevails in a model family. Now, in the case of a model family we know that the husband represents the entire household.

An HON. MEMBER: In providing for the expenditure!

An HON. MEMBER: There is no federation there!

Mr. RUTLEDGE: The husband is supposed, in the natural order of things, to be the representative of the entire household; but, though he is a representative of the entire household, we know that the wife also plays a very important part in the government of that household. The wife comes very near to all those smaller constituent elements of the family circle, which may, perhaps, by analogy be likened to the great family of states which will exist in connection with this great federal Constitution.

Colonel SMITH: She is the home ruler!

Mr. RUTLEDGE: It is the wife that knows all about the particular interests which affect all the members of the family group: they come to her with their particular ideas, and they look to her for the expression of their ideas and for the enforcement of their particular claims.

Mr. MUNRO: Not for finding the income!

Mr. RUTLEDGE: With regard to that interjection, I say that he is a wise man who, being the head of a household, puts all his financial projects into the crucible of the sagacious mind of his wife, far more enlightened, far more discriminating than his own.

Colonel SMITH: With the power of veto?

Mr. RUTLEDGE: I say yes, with the power of veto. In this community many a man owes a great deal to the advice of his wife, and the veto which she has put upon his proposals. We know that those strong-headed men who think that all wisdom is embodied in themselves, who do not take their wives into their confidence, who do not consult their wives as to some particular speculation on which they desire to embark, are the men who very frequently come to grief. But the men who do take their wives into their confidence in this way, and who do permit them to have a considerable voice in the management of family affairs, even to putting a veto upon their own impulsive tendencies in regard to financial proposals, are the men who go on very safe lines. No analogy is perfect; every analogy will break down when you come to some particular modes of applying it; but I do regard a great family of states, governed by a house of representatives and a senate, as bearing a very considerable analogy to the constitution of a family; and I say the same rule which prevails in the one ought to prevail in the other.

Sir THOMAS MCILWRAITH: The wife initiates most of the money bills there!

Mr. RUTLEDGE: The wives do initiate a great many of the money bills, and I appeal to the experience of a great many hon. gentlemen to know whether they have not been saved very frequently from financial mistakes by consulting their wives in regard to important steps which they proposed to take in the very serious affairs of life. This question of a second chamber has been referred to by a literary gentleman who is well known, perhaps, to many members of this Convention, and he has spoken of it in conversation with me as being what may be called the expression of the second thought of the people. It is a very good thing, I think, to give the people an opportunity of having a second thought on some proposal upon which they have set their minds. The hon. member, Captain Russell, has referred in the course of his excellent speech to the cyclonic gusts of popular passion which sometimes pass over a community, and that is the same idea which was present to the mind of Alexander Hamilton when he wrote some of those admirable papers for "The Federalist." Why, sir, there have been times in the history of the community when the people have been seized with a sudden impulse in a particular direction, involving great issues of public policy, and involving considerable public expenditure; but if they had had an opportunity of reconsidering their first decision how frequently would they have, if not entirely reversed, at all events to a considerable extent modified that decision. And I take it, sir, that in the existence of a senate composed of men who are, equally with the house of representatives, representing the people of the whole of the states, you have the embodiment of the second thought of the people, and in the case of the members of the senate, if you give them the power to discriminate between the various financial proposals of the government sent up from the lower chamber, you give that chamber the means of putting a check upon the impulsive proclivities of the representatives of the people as such, and of suggesting to the people themselves a more excellent way of doing that in which all alike are interested, and accomplishing the objects which all alike have in view. I cannot disguise from myself this fact: that in creating a second chamber which has only limited authority and limited jurisdiction, even in the matter of financial proposals, you are laying the foundation for discord and for disagreement. We know very well that the animal which is chained up is always most disposed to show his teeth. The animal upon whom you place a great restriction, and forbid to him an amount of freedom which another may have, is always the one that displays a quarrelsome tendency. So I contend that the very fact of endeavouring to put a limit upon the powers of the second chamber is to engender in the minds of that second chamber a quarrelsome disposition which would not exist if it felt that it had equally free and unfettered authority with the members of the representative chamber. I do not propose to say many more words in advocacy of the view which I take with regard to this, which seems to me to be the crucial question which we have here to decide. I believe all the members of the Convention have come here with a sincere desire to solve the problem which is placed before us. I believe every member has come here with a disposition to learn something, if possible, from every other member, and I am quite sure that no one has come here with preconceived ideas of so consolidated a character as cannot be contracted, or expanded, or modified in any way whatever. As was well pointed out by the hon. member, Sir George Grey, we are to bear in mind that we are not here creating a Federal Constitution which is to serve the purposes of the present generation merely, but a Federal Constitution which shall last for all time; and in endeavouring to erect such a political structure as that, we ought to take care to make its provisions so elastic as to be capable of expanding to the necessities of all future occasions, and not to place rigid restrictions around that Constitution, the result of which will be that in the course of the agitations which must arise in future years there will be such contentions and such dissensions as will ensure the demolition of the edifice which it is now our care to rear. We are here, sir, for the purpose of building up, and I hope that we shall bear that fact in mind in all that we do. I should also like hon. gentlemen to endeavour to bear in mind that the feeling which predominates in the minds of the people of the states is one of great timidity. The people of the states, whom we are here to represent, feel that they are venturing upon, to a certain extent, an unknown sea as far as their experience is concerned, and we ought to proceed in such a way as to reassure them at every step we go that in what we are doing, while we are taking care of the interests of the federal Constitution, we are preserving, in all their integrity, as far as it is possible with the existence of a federal Constitution, all those rights and privileges to the enjoyment of which they have been so long accustomed. Passing on to the question of a federal judiciary, I think I need say no more than this, that while it is a matter for congratulation that you have seen your way to make a proposition for

> a judiciary consisting of a federal supreme court, which shall constitute a high court of appeal for Australia, under the direct authority of the Sovereign, whose decisions as such shall be final—

we ought to make provision—and I have no doubt we shall do so in Committee—as has been done under the United States Constitution, that this high court shall be possessed, not only of the functions of an appellate court, but of original jurisdiction in those subjects which this Convention may see fit to prescribe. Before I take my seat, let me say with what great pleasure I find myself in the presence of representatives of all of the colonies of Australia for

the purpose of discussing the great question before us. I have been delighted with the cordial good feeling that has been exhibited by the delegates to this Convention towards each other, both privately and sitting officially in this Convention. I have been delighted with the high tone and character of the speeches that have been addressed to us, and I feel that I should be dishonouring the members of this Convention in my thoughts if I were for a single moment to doubt that the result of their united labours here will be the laying broad, and deep, and strong the foundations of a political edifice that shall be ample and adequate for the shelter and protection of the millions who are yet to inhabit the continent of Australia, and that shall, in the course of a few years, I trust at the furthest, rear its noble proportions in all their symmetry and all their strength to the admiring gaze of the people of the whole civilised world.

Mr. KINGSTON: I confess that in rising to address this assembly I am embarrassed by an appreciation of the responsibilities which must attach to every member taking part in its deliberations. I had thought of reserving such observations as occurred to me until we were met in Committee for the purpose of discussing the details of the Constitution it is our duty to frame; but I have come to the conclusion that it is desirable that at the earliest stage each member of the Convention should state for the consideration of his fellow-delegates his views on such matters of general importance as have been already touched upon, or as are involved in the resolutions which you, sir, have submitted. Following the example which has been set by preceding speakers, I may say that I offer such suggestions as I shall proceed to make in all humility, endeavouring to emphasise the position which has been so well put by yourself and by the hon. delegate who immediately followed you, that our observations at this stage of the proceedings should partake rather of the character of suggestions for the meeting of difficulties than of the sketching of any definite plan for the formation of a federal Constitution, seeing that such plans can result only from the exchange of views among the delegates when we shall have debated the subject much more fully than at present. Coming to the resolutions, I may express my hearty concurrence with the first of them, affirming that the powers and privileges and territorial rights of the several existing colonies should remain intact. I am very glad indeed that an expression of opinion to this effect should have been embodied in our resolutions at so early a stage of these proceedings, because I think we shall do well to emphasise the fact that we are dealing with autonomous states, who have long enjoyed the blessing of self-government, and who should not be asked—and who, if asked, would not be likely to accede to the request—to sacrifice any of their existing powers other than those which it is absolutely necessary should be surrendered in the national interest. I hope we shall set clearly before us the fact that a national government should be strictly limited to dealing with subjects in which the interests of the community as a nation are involved. I hope that in our proceedings we shall feel that it is our duty, in approaching the several colonies, as we shall require to approach them at the conclusion of the deliberations of this Convention, to state in precise language that which we desire they should surrender for the benefit of the nation. I hope, also, that we shall make no request for a surrender which cannot be justified on the score of the requirements of the national interest. I think that such a course as is recognised in the resolution to which I now refer will commend itself to all, and that any departure from the principle which is involved might be fraught with the most disastrous results. I am glad to observe that there appears to be practically a consensus of opinion among the delegates that the American system of preserving for the benefit of the states the powers which are not expressly conferred upon the federal government should be followed, rather than the system which obtains in Canada; and I feel that not only will this course, in the natural order of things, commend itself to the various colonies when we require to approach them, but that it will commend itself to every delegate present, and to every one who appreciates, as we must all appreciate, the benefits of the system of local self-government which these colonies have for so long enjoyed. I am glad also to notice that we make express provision for the recognition of the territorial rights of the provinces. It does appear to me, however, that it will be necessary, in the federal Constitution, to make provision in some form or other for the possible alteration of the boundaries of the various states, which will be occasioned, doubtless, in some instances, by the creation of fresh states. In this connection it is impossible to overlook the fact, which, I think, has been already referred to by one of the delegates—and which we all keenly appreciate at the present moment—that the important colony of Queensland is just now contemplating an early division of her great territory into two or more separate colonies. I think that under these circumstances we should be framing a Constitution which overlooked immediate requirements if we did not make provision for the admission into the federal union of these colonies, which I understand are shortly to be called into existence. I trust, therefore, that we shall find in the federal Constitution some provision for meeting a case of that sort, and it seems to me that if it took the shape of a section enabling provinces, with the consent of the existing local legislatures, and by agreement with the federal parliament, to be carved out of existing colonies, and to be admitted into the union upon such terms as may be agreed upon, we should be making a provision on the subject which will shortly be of practical utility. I cannot help thinking, in connection with the possibility of the changes to which I refer, that a provision of that sort, not laying down any hard and fast lines as to the terms on which the new provinces should be admitted into the union, would be preferable to one which did not permit of the federal government and the local legislatures arranging the matter as they thought best. It does appear to me, in connection with the change to which I refer, that there may attach a considerable amount of importance to the result as affecting the representation of the colony which is likely to be the most concerned—or of any other colony which may be the subject of a change—in the senate, in which I understand the generally accepted wish to be that all the colonies should be equally represented. I should like to say, sir, that although I confine my remarks to the question of the carving of future colonies out of existing provinces, and to the question of their admission to the union, I do trust that our Constitution may be of such a character that while, in the terms of the resolution which was carried at the Melbourne conference only last year, we make provision for the admission of what were then described as the remoter colonies of Australasia—words which I believe were intended to refer particularly to New Zealand—we shall not lose sight of the possibility that at some time or other, perhaps shortly it may be considered desirable to extend the jurisdiction of a united Australia to all British colonies in the Pacific. I feel more particularly impelled to refer to this matter on account of the course which was suggested by Lord Derby in connection with the attempted annexation of New Guinea. It does seem to me that if we had had in existence at that time, as was pointed out by Lord Derby, a government representative of the whole of Australasia which could have spoken with a united voice on the subject of the imperial attitude towards the island in question, we should not at the present moment have occasion

to deplore the appropriation of a portion of that great territory by a foreign country. Under these circumstances, I think we should do well to make provision for the admission into the union which we are proposing to create, not only of what may be generally termed the remoter colonies of Australasia, but of all British colonies which may now exist, or which may hereafter be founded in the Pacific, and which it may appear to a federal government should be subjected to Australian control. With reference to the 2nd resolution—that trade and intercourse between the federated colonies, whether by means of land carriage or coastal navigation, shall be absolutely free—I consider it, following the course adopted by preceding speakers, in connection with the 3rd resolution, giving to the federal government power to impose customs duties; and presuming that the intention is that intercolonial free-trade should be established at the time of, but not before, the adoption of a federal tariff, I am prepared to give the proposition my heartiest support.

Colonel SMITH: Hear, hear!

Mr. KINGSTON: I desire to emphasise a point which, I regret, is not made so clear in the resolution to which I refer as are some other matters, and it is this: In my humble opinion it would be a great mistake—and I can hardly believe that it is seriously contemplated—to enact intercolonial free-trade before the adoption of a federal tariff. I have my own opinion as to the lines upon which a federal tariff will be framed. I cannot help thinking—looking at the course of legislation which has obtained in most of the Australian colonies, and at the different fiscal systems they at present enjoy—that is highly probable that the result of the deliberations of the federal parliament will be the adoption of a protective tariff against the outside world. But what I venture to point out is this, that the resolutions, as they stand, make no reference to the necessary provision that intercolonial free-trade is not to come into force until a federal tariff is adopted. Nor do they say anything whatever about the nature of the federal tariff. As regards its nature, it would probably be useless to define it here; but I do think we ought to lay it down in the clearest possible language that there is no intention on the part of this Convention to do anything to bring about intercolonial free-trade before the federal parliament has disposed of the question of what the nature of the federal tariff shall be.

Colonel SMITH: Hear, hear!

Mr. KINGSTON: What would be the result of intercolonial free-trade before the adoption of a federal tariff? I imagine that it is not intended to limit intercolonial free-trade to the products and manufactures of the different colonies, and so if free-trade between the colonies were established, what would be the position, I ask, of a Sydney importer, importing under a system of free-trade and competing in the markets of the various colonies with his imported goods, which, by force of the provisions of the proposed constitution to which I have ventured to call attention, must be similarly admitted into the neighbouring states? I am ready to believe that no doubt the intention is to act in the way I indicate; but there are no matters which are likely to be more closely scrutinised than the proposals of this Convention with reference to commercial relationships. It has been suggested that in Committee these two resolutions should be transposed, and I think that that is a suggestion well worthy of adoption. I think it is also desirable to amend them so as to make the position perfectly clear in the direction which I have indicated, that is, that intercolonial free-trade is only to be brought about at the time of the adoption of a federal tariff. Something has been said with reference to the attitude of the colony of Victoria in this matter. I confess that I was a little surprised to hear the utterances of one hon. member from that colony, who expressed himself with some hesitation as to the propriety of calling a system of intercolonial free-trade into existence immediately on the establishment of a federal constitution, or even immediately on the adoption of a federal tariff. I had shared the somewhat common idea that Victoria, by force of the protective system which she has so long enjoyed, had built up her manufactures to such a state of perfection that they could defy competition, and that if the barriers which prevent free commercial relationships between the colonies were done away with it would enable her to compete in the markets of all the other colonies with regard to local manufactures. However, I freely admit that we owe a duty to our manufacturers, to those whom, by the adoption of a certain fiscal system, we have encouraged to invest their capital in the establishment of manufactories which are only now, or lately, commencing to return them any profitable results. I can assure the hon. member that the arguments which have evidently operated on his mind apply with tenfold force to our colony of South Australia, for there we have only had the benefit of a protective system during the last few years. It was originally adopted in a modified form in 1885; and afterwards in 1887, we practically copied the system which had been adopted with so much success in Victoria. I am happy to say, however, that although the minds of our manufacturers and colonists generally have been profoundly agitated by this question, on its most careful investigation they have come to the conclusion that the question of intercolonial free-trade ought not to impede the course of federation. Every step was taken to ventilate the subject. A committee of both houses was charged with the duty of inquiring into, and reporting upon, the probable result of intercolonial free-trade in South Australia, and their report, though of course it is only something in the shape of a guide as regards the locality to which it refers, is as follows:—

> We recommend the adoption of intercolonial free-trade on the basis of a uniform tariff, and regard it as a corollary of the federation of the Australian colonies. We recognise the many difficulties which have to be overcome before federation can be accomplished, and are of opinion, in the meantime, that practically the whole of the existing reasons for postponement will then have passed away. The benefits arising from intercolonial free-trade will far outweigh any disadvantages which may result.

If that is the case, as I believe it is the case in South Australia, where we have only had for a short period the benefit of the protective system, how much more is it likely to be the case in Victoria where the circumstances are so different. At the same time I am inclined to think that it would be a good thing if our manufacturers could know with some degree of certainty when the encouragement, support, and safeguard which they are deriving from intercolonial tariffs is likely to be withdrawn from them. I think it is a pity that that time should be allowed to be clouded by any degree of uncertainty, and I should be happy, indeed, to support any resolution for the purpose of naming a fixed and definite time when intercolonial duties will be abolished, so that our manufacturers may know the circumstances with which they may have to deal, and may make their arrangements accordingly. I do not think it ought to be allowed to remain in such an uncertain state as the date of the accomplishment of our wishes with regard to the establishment of Australasian federation. I am anxious and sanguine that that date shall be an early date; but, at the same time, for the reasons to which I have already referred, it should be put within the four corners of a law, so that there may be no doubt or uncertainty on the subject, which is always prejudicial in commercial matters. As I have quoted the report of our commission for the purpose of supplying information to hon. members as to the precise state of affairs in South Australia as far as we have been able to gather them, I should

like to say that there is, on the general question of intercolonial free-trade, a paragraph in that report which appears to me to so fairly set out the advantages which we may expect to derive from the adoption of a system of that character, that I may be permitted to quote it, adopting it as my own:

> Your commissioners are firmly convinced that the welfare of Australia will be promoted by the abandonment of all restrictions upon intercolonial trade by adopting such a policy, the one object of which will be throughout Australia to render industry productive by leaving it to follow natural channels of employment, and by affording every possible facility to commerce to freely realise rapid progress, wealth, and prosperity, by developing in each colony the industry for which nature has best fitted it, without wasteful rivalry.

These arguments appear to me to be well founded, and I shall therefore, subject to the qualifications which I have already indicated, be found supporting the resolutions touching upon that subject. The 4th resolution raises the question of defence, and I am disposed to think that a more prominent position might well have been given to this question than it occupies. I am not going to discuss the details of possible provisions on the subject which may be considered necessary to be embodied in the constitution. An hon. member has already addressed himself to that question; but it seems to me that every citizen, or every person worthy of the name of citizen, recognises it as his duty in time of war to take up arms in defence of his country. It is almost a corollary of that proposition, that it is the duty of every true citizen in time of peace to qualify himself to render efficient service in time of need without unnecessary expense to the community of which he is a member. I trust that our federal legislation will recognise the soundness of the principles which I venture to lay down, and that effect will be given to them at the earliest possible moment. I am hopeful, indeed, that when we have legislation of that character its results will be apparent in the manhood of united Australia, and that it will add alike to the dignity and safety of the nation and be productive of the happiest results. The preliminary resolutions, 1, 2, 3, and 4, seem to me to deal with the chief objects of federation: defence and intercolonial free-trade, accompanied by a federal tariff. I think that, although it might possibly raise subjects which it is unnecessary to discuss at the present time, we might have added to these a resolution which would recognise that in the natural order of things the federal parliament would be properly charged with the duty of establishing uniform laws on matters of common interest. We all know the difficulties which at present surround the adoption of legislation to give effect to provisions which are desired equally by the people of the different colonies, and in which they have practically a common interest. There are one or two questions which might almost be associated with the question of defence. I regard as second only to the necessity of protecting our shores against actual invasion, the necessity of protecting Australia against the influx of aliens, Asiatics, criminals, paupers, and other undesirable classes. In the legislation which we have been already compelled to adopt on these subjects, we know that there has been a striving after uniformity; but that uniformity has seldom been obtained. It is idle for one state, unless it erects a hostile barrier on its intercolonial boundaries, to attempt to pass useful legislation prohibiting or restricting an influx of that character, if there is no community of action on the part of the rest of the colonies; and when the doors of Australia are thrown open by the omission of one state to do its duty, the undesirable class which any colony wishes to guard against may come in, not at the front door, but at the back—not at her own seaports, but through the territory of her neighbours. It would be well, for this reason, to specify as one of the chief objects of the adoption of a federal constitution the uniformity of legislation in the direction to which I have referred. No doubt we shall have an opportunity in Committee to amend the resolutions in this direction, and if that is not thought desirable we may make the required provision in the bill. Having thus stated the general object of the federation, we find in the three succeeding paragraphs the means by which they are proposed to be accomplished. I would say here, that although I believe a contrary opinion is entertained by some, it appears to me we are adopting a proper course when first we fix the objects which we desire to accomplish, and then subsequently proceed to lay down and define the means by which we hope to effect them. No exception can be taken to the proposition that the parliament should consist of two houses. An attempt has been made to deal with some matters of federal interest by means of a single chamber; but we know that the result has not been encouraging. A parliament consisting of two houses may be considered an essential of a federal constitution. Although an hon. member has questioned whether there is anything very much in the name which we attach to either house, I think that a very wise suggestion was made that the second chamber should be dignified by the name of the Council of the states, which at once gives an idea, to all who may be interested in considering its constitution, of the nature of the functions which it has to perform, and enables us at the earliest moment to dissociate it from the ideas which we ordinarily entertain with reference to second chambers, and which it appears to me, for reasons which have been already dwelt upon, cannot properly apply to the proposed council of the states. This proposed term, I believe, is borrowed from the Swiss Constitution, and I think we might go further, and take advantage of the suggestion which we find in that constitution, as regards the name which should be attached to the more popular branch of the legislature. It is proposed here to call it the house of representatives. I do not think we have in Australia—though, no doubt, we have in Australasia—a body which is dignified by a term of the description used. I think it is the invariable practice in Australia to refer to our popular chambers as assemblies, and it seems to me that if we were to keep to this custom, and apply the term "national" to the popular chamber, and call it the "national assembly," we would be adopting a course which has a good deal to recommend it, and would facilitate the appreciation of the functions which it is intended to repose in that branch of the parliament. I do not know whether it is intended in the federal constitution to provide for a uniform system as regards the election of the senate. For my own part, I venture to consider that any such attempt would be a mistake, and that we shall be doing best if we allow the people of the various states to provide such means as are acceptable to them; and it appears to me also that it would be absolutely impossible, if we attempt to lay down a uniform system, to deprive the people of the states of the right of appointment by their direct vote. I think it would be a very great invasion of the popular rights possessed by the inhabitants of any particular colony if the federal constitution were to provide that they should not exercise their right of election in such a way as would make the persons elected their direct nominees by the popular vote. And I would like to say in this connection that we have had some experience of the difficulties attendant on any attempt to secure uniformity in the appointment of federal senators. No doubt if uniformity were attempted, and it were not generally provided in the federal constitution that senators should be elected directly by the people, some such course would be considered desirable as obtains in other countries where they are elected by members of both branches of the legislature. But as has been pointed out by the hon. member, Mr. Rutledge, varying circumstances affect the constitution of the second chamber in different colonies, and

whilst in some colonies it might be considered a desirable thing to confide to the two houses the power in question, particularly where the second house is elective, a similar remark might not apply to other provinces, where the second chamber, as has been mentioned, is differently constituted. This question was discussed not so very long ago, in 1889, in the Federal Council, where there were present representatives of all the colonies of Australia except this great colony, and the result then unanimously arrived at after most careful consideration was as follows:—

> The committee carefully deliberated on the question of a uniform system for the selection of representatives from the different colonies, but are unable to recommend any system. Considerable advantage would probably result from uniformity; but the differences in the constitution of the parliaments of the various colonies render objectionable the uniform system of election by members of Parliament; and in the opinion of the committee it is not yet practicable to require the election of representatives by constituencies of the people. Moreover, as the chief object of any system must be to secure the representation in the council of each colony in the manner most satisfactory to the people, it appears to the committee that that object will be attained by continuing the present unrestrained right of the people in each colony to decide the matter for themselves through the local legislatures.

I trust, therefore, that there will be no attempt to interfere with the independence of the people of the various communities in settling this matter as they think best. So long as they are satisfied, so long as they are free to adopt whatever mode they please to secure their effectual representation, it appears to me that it is a matter for themselves, with which the other colonies have no right to interfere, and with which interference would only be a source of difficulty and trouble with no corresponding beneficial results. The question of the constitution of the senate brings me face to face with one of the most important questions which have been raised during the course of the debate—the question of the powers which the senate ought to enjoy; and I feel—I imagine, in common with other delegates—very much indebted to the hon. member, Sir Samuel Griffith, for the mode in which he called attention to the matter, and emphasised the great distinction which exists between the senate and the upper chambers with which we are accustomed to deal, though Sir Samuel Griffith did not, possibly, commit himself to any very distinct proposition as to the exact course that should be pursued.

Colonel SMITH: He gave us several indications—feelers!

Mr. KINGSTON: It appears to me that we will do well to copy the example which the hon. member has set, and it will be a pity, indeed, if at this early stage of our deliberations we commit ourselves to any definite course for meeting the difficulties which he has pointed out in such a way that it might make it difficult for us to subsequently withdraw and revise our opinions. Therefore, sir, I propose to discuss the question in a similar strain, hardly contemplating the possibility of my being so fortunate as to hit upon the solution; but rather venturing the expression of my ideas in order that they may be criticised and their worth ascertained. Following up the arguments advanced by the preceding speakers, I think there is no great reason for anticipating a collision of any serious nature between the two houses, because they are responsible to the same people. The sole distinction is that while the electors are the same, the electorates are different. We have had, I might almost say, a miserable experience of conflict between different branches of colonial legislatures. But from what cause did that proceed? It arose from the fact that the electors were not the same, nor were the interests the same. Here the electors are the same, and I venture to think also that here the interests are the same.

An HON. MEMBER: Not necessarily!

Mr. KINGSTON: I am inclined to think that, in matters of national importance—and national questions are the only ones with which the federal parliament will have power to deal—it will seldom occur that there will be such a clashing between state interests and national interests that a collision will be likely to be involved between the representatives of the state in the senate and the representatives of the people in the national assembly. The hon. member, Mr. Deakin, challenged the Convention to define what are state rights in national questions.

Mr. DEAKIN: And I have not yet been answered!

Mr. KINGSTON: I think the hon. gentleman has been fairly enough answered by one or two delegates who have spoken, and who have quoted instances. There may be occasions when the two things will be opposed, the one to the other. I do not think that such occasions will be frequent, and I look forward to the time when it may be found advisable to alter the constitution of the federation in such a way as to obviate the necessity of special provision for the protection of state rights. But, at present, that time has not come. State rights must be protected, and I look upon it as an absolute essential for the approval of such a constitution as we may see fit to adopt here, by the parliaments and peoples of the different colonies, that we may be able to point to full and effectual provisions and safeguards in the shape of protection for those rights and interests which are generally classed and included under the definition of state rights. No doubt there is a great deal of federal sentiment in the air, and we are attempting to give it some practical effect; but, at the same time, we must recognise this fact, that there is a feeling, and a natural feeling, though perhaps, it may not be capable of the most logical justification, on the part of the parliaments and peoples of the different states, that they will require safeguards to be provided for the preservation of state interests before they will have anything to do with the adoption of a Constitution providing for a federal government. I know, sir, what the difficulty was only a short time since in connection with our own colony when it was sought to alter the representation enjoyed by the various colonies in the Federal Council. The alteration proposed to recognise only in the most infinitesimal degree the claims of extra population to extra representation. But what was the result? Why, it was affirmed in our Parliament, though by only one branch—and I think a sentiment exists in South Australia to a very considerable extent at the present time, which approves of the resolution then arrived at—that if extra representation was to be conceded to any colony in one chamber on account of extra population it was an essential to the approval of the Constitution that there should be a second chamber, in which all the states would be equally represented. I think the sentiment to which I have referred exists throughout the majority of the states, and it is a natural one, and one which must be dealt with and met by concessions on the part of the larger states.

Mr. MUNRO: And no concessions on the part of the smaller states?

Mr. KINGSTON: Fair concessions should be made on both sides. It is only a question for us to ascertain what is fair under the circumstances. But the position we find is: the smaller states enjoying all the benefits of local independence; other states, larger, enjoying similar privileges. We are of one mind that an effort should be made to induce all to enter a federation; and I appreciate the position which is emphasised by the interjection of the hon. member, Mr. Munro, that just as you make concessions which are pleasing to the people of the smaller states, and may meet their particular views, so you afford grounds for disapproval by the representatives and people of the larger colonies. It cannot be

otherwise: it must be so. All we have got to do is to find out, if we possibly can, what is fair under the circumstances. Surely the hon. member, Mr. Munro, will recognise that the majority which you will be able to command in the popular branch of the assembly ought to be sufficient for all practical purposes?

Mr. MUNRO: Not if it is checkmated in the other chamber!

Mr. KINGSTON: Does the hon. delegate desire that the same sway should be exercised by the larger states in the senate as is enjoyed in the assembly?

Mr. MUNRO: No, I only want fair play!

Mr. KINGSTON: There must be a check, and a substantial check, and if the smaller states are only going to be offered something which is nominally a check, and which will not stand the test of time and use, it appears to me difficult to suppose that there will be any disposition on their part to enter into an alliance, by which they practically subordinate their powers and interests in every federal question to the decision of the majority in the national assembly. It is suggested that the smaller states——

Colonel SMITH: Will govern the lot!

Mr. KINGSTON: Will govern the lot; but when the claims of extra population are recognised in a national assembly, is not that a sufficient safeguard?

Mr. MUNRO: No!

Mr. KINGSTON: Well, it appears to me that we are either going to have a senate worthy of the name or that we are not. If we are to have a senate exercising no practical control over the course of legislation, we had better have only one chamber. If we are going to have two houses, let us have them possessing mutual control, the one over the other; and, as regards the possibility of collision between the two, I have already dwelt on the similarity of constitution which would prevent the probability of such a clashing. I am willing to meet the views of hon. delegates in any way which may be suggested for the purpose of bringing the two houses collectively, or the one house—the senate—into touch with the popular sentiment. The periodical elections, it appears to me, will have such an effect; but I have heard a further suggestion, that it might be provided in the federal constitution that in the case of a penal dissolution of the Assembly a certain proportion of the senators might be sent to the country.

Mr. PLAYFORD: Send them all!

Mr. KINGSTON: Or send them all. They would have nothing to fear if they were faithfully representing the interests of which they had charge, but so long as we recognise, as we must recognise, the existence of state rights, so long as we appreciate the fact that the allaying of the apprehensions of the smaller colonies as to their practical extinction in the federal parliament is an essential to their approval of any scheme of federation, I am sure that we must see that it will be desirable to confer on the senate really, and not simply nominally important powers. In this respect, meeting the objection which has been urged by the hon. delegate from Victoria, Mr. Munro, I say that it does not appear to me necessary to make the two houses of exactly co-ordinate jurisdiction. I do think that they should have a power which was suggested by the hon. delegate from Queensland, Sir Samuel Griffith, namely, the power of veto in detail in respect to money bills. I think that if that power is conceded—the power of which they are sought to be deprived by the resolutions which it is our duty to consider—no very great objection could be urged to the national assembly retaining the power of originating money bills and indeed I do not know that I follow the argument which has been advanced by some, that it is necessary, if we give the power of amending money bills to the senate, to give them also control over the executive.

Mr. PLAYFORD: No doubt about that!

Mr. KINGSTON: There may be more in the argument than at first sight appears; but I confess that when those who opposed the strengthening of the senate, by conferring upon it the power of vetoing money bills in detail, argued that if you conferred that power, you must also give them control over the executive, I failed to follow the argument. And dealing with another argument which has been advanced—that responsible government is incompatible with a parliament consisting of two chambers, one possessing the power of vetoing money bills; if there is anything in that argument—and I confess that I do not see any great force in it—what is the result when it is followed out? Why, we are simply brought face to face with the proposition, is it essential to the establishment of a federal constitution that we should have a system of responsible government—a system, as has been pointed out by the hon. member, Sir Samuel Griffith, which in its present form has been the growth of comparatively recent years? There is no constitution which I know of in existence in Australia, or in any other British community, which provides within its four corners, with the definiteness which is proposed by this resolution, that there shall be responsible government—that there shall be an executive, whose existence must depend on the goodwill and support of the popular house. It appears to me that there is no such constitution in existence; and as has been pointed out by the hon. member, Sir Samuel Griffith, in the absence of such a provision responsible government in its ordinary sense can hardly be deemed an essential of any Australian Constitution. I thoroughly agree with the suggestion, that when we are initiating a system, the effect of which we cannot fully estimate at the present moment, but which time must prove, it is highly desirable to allow the utmost room for alteration in practice—to allow the greatest elasticity, so that from time to time such amendments may be made in the practical working of the constitution as may be found to be necessary. I think under these circumstances that there is much to recommend it in the suggestion that the resolution should be amended by the omission of the express provision on the subject which we at present find contained in it. Further, if it is a question of federation with two chambers of almost co-ordinate jurisdiction and without responsible government, or no federation, I think there is a very great deal to drive us to the conclusion that we should be warranted at least in submitting to the consideration of the people of the different colonies a scheme which provided for federation even without responsible government. Of course, it is not desirable to complicate the initiation of this system by the introduction of novelties. No doubt a continuance of the existing practice of responsible government would be more readily accepted by the people of the various states by whom it is well understood; but, at the same time, we, having experience of the working of responsible government, must confess that the system is not without its disadvantages, though of course it is much easier to criticise than to suggest reforms. If we are satisfied by the various arguments which have been expressed to us that responsible government is incompatible with a parliament composed of two houses, and possessing the jurisdiction to which I have referred, it is our duty to consider whether we should not provide for such a parliament without insisting on its being accompanied by responsible government. And we cannot lose sight of the fact that in connection with the working of responsible government there are various difficulties, to which I need not refer in detail, but which continually occur, and which in many instances have prevented, and no doubt in the future will prevent, the consideration of wise and useful legislation simply on its merits, and without reference to matters which ought not to prevail. It seems as if, from our experience, these dis-

advantages are inseparable from the system. Of course it is better that we should bear the ills with which we are acquainted than introduce a system of which we have no practical knowledge, and which may be attended with even greater disadvantages; but, at the same time, learning wisdom from the experience of other countries, we may turn to cases such as Switzerland, where the rights of the people are conserved and state rights are recognised to their fullest extent, yet no system of responsible government prevails.

Mr. MUNRO: It takes a revolution to get fair play in the states occassionally!

Mr. KINGSTON: I do not propose at this stage to discuss that question in detail, but I am simply inviting hon. delegates to consider the point. First, are they satisfied that responsible government is not compatible with a federal system consisting of two houses of co-ordinate jurisdiction, and, if they are, to consider whether it is essential that responsible government should prevail, or whether we might not adopt a system something of the character to which I have referred. There is only one other matter to which I desire to call attention, and that is the question of the judiciary.

Mr. DIBBS: Do I understand the hon. member to say that he is in favour of giving the senate power to amend an appropriation bill as well as an ordinary money bill?

Mr. KINGSTON: My present inclination—and I think I am justified in expressing my views at this stage of the proceedings in a tentative form—is to give the senate the right of amending all money bills—not of increasing the burden, but simply of exercising the power of veto in detail.

Mr. DIBBS: With regard to appropriation as well as other money bills?

Mr. KINGSTON: My present idea is that no exception should prevail, because, of course, in appropriation bills, by the aids of devices of which history affords various instances, the most important questions can be raised, and any house which does not possess the power of amending or vetoing money bills in detail can be subjected to disadvantages which practically render it powerless. I would say to the hon. delegate that I am only desirous of insisting on the power of detail as regard money bills being vested in the senate so far as is essential to the protection of state rights. If it were possible to define exactly what state rights are I should be glad enough to limit the power of the senate to veto money bills—allowing them to veto all money bills in which those rights were involved, but I recognise very grave and almost insuperable difficulties in the way of such a definition; and until I hear that these rights are capable of definition in such a way that by limiting the power of the senate to veto in cases in which they are involved, we shall not be prejudicially affecting the right of the people to look to the senate as a body charged with the duty, and intrusted with the power of officially protecting those interests at all times—unless a definition can be arrived at of the character to which I refer, I shall prefer to avoid any difficulty or danger in the matter by keeping the provisions as proposed to an absolute right of the senate to veto in detail. There is just one other matter to which I desire to refer—that is, the question of the executive. There is a provision in the Swiss constitution which requires that no two members of the executive shall be selected from the same canton at the same time. I think we might well have a provision of that sort in regard to our executive, because, although in the natural order of things there would be a disposition on the part of any person charged with the formation of a federal cabinet to secure the representation of the different colonies, there might be circumstances under which such a disposition would not be manifested, and it might be met by a provision of the kind I have indicated. As regards the judiciary, one hon. delegate, I think, has referred to the appeal to the Queen-in-Council as a bond of union existing between the colonies and the mother country, which ought not to be disturbed. In my opinion, sir, it is a bond of union which is productive of considerable irritation and annoyance, and I think it would be a pity indeed if we did not, as contemplated here, provide for the constitution of a high court of appeal, its most important functions being the duty of deciding constitutional questions arising between the federal and local parliaments, and the duty of finally settling all disputes arising in Australia, and dispensing with the necessity for an appeal to the Queen-in-Council. There is one other matter in connection with the question of the establishment of a federal judiciary of which we ought not to lose sight. I should be glad indeed to see a federal tribunal establishment for the settlement of industrial disputes. It seems to me that there are no matters of greater importance, in view of our vast commercial and manufacturing interests, than the adjustment of disputes between employers and employés. Various efforts are being made in the different colonies for the establishment of boards of conciliation and arbitration having this end in view; but on account of the extensive ramifications of the various organizations on one side and the other, it appears to me that local legislation is incompetent to deal satisfactorily with the question; and I think that when we are contemplating the question of the establishment of federal courts, there will be no matter of greater importance to persons actively engaged in trade or to the general community than the supply of facilities for the speedy settlement of troubles of the character to which I have referred. At the present moment there are practically none in any colony; certainly there are none which have jurisdiction sufficient to deal with questions involving matters beyond the territory of the particular colony, and I am sure that the establishment of a court of the character to which I refer would be productive of the best results. I am sorry I have occupied the time of the Convention at such great length. I had not intended to trespass so long; but the matter is one which naturally excites our interest, and on which it is difficult to refrain from speaking fully on the various views which affect the consideration of the principles involved in the resolutions. I thank the Convention for the patient hearing they have accorded to me.

Mr. FITZGERALD: Mr. President, the hon. member, Sir George Grey, favoured the Convention with a speech full of interest, full of weighty matter, and full of most interesting reminiscences. The members of the Convention listened to him with that respect to which his long services, his abilities, and the page which those services will occupy in Australian history are entitled; but in all humility I venture at this early stage to raise my voice in opposition to three of the principles which he favoured. I do sincerely trust that in any federation scheme which the Convention may sketch out, no opportunity will be given for effecting an easy reform of its clauses. We must remember that our federal constitution, if it ever should be passed, must be included in an act of the Imperial legislature and a reform of it must be and can only be by obtaining the consent of that sovereign body. I sincerely trust also that this structure will have its foundations laid so solidly and so soundly, that it will rise up in such strength and harmony of proportion as not to require repair for many years to come. Another case I understood the hon. member, Sir George Grey, to put was that he favoured the appointment of the governor-general of the future dominion of Australia being a colonial appointment. But as long as this country is united to the Crown of England—and I hope that it is a very long way off indeed when it shall cease to be so—I maintain that

the governor-general of the future dominion of Australia must be the appointee of her Majesty the Queen, our sovereign, who is the apex of that structure, and whose name we revere and respect in this colony equally as in any other part of her Majesty's dominions. When I consider the men with whom I have the pride and honor to be associated in this Convention—when I look around and see those men who have for so many years been in the foremost ranks of politics, men of high statesmanlike qualities, men who have fine abilities and trained experience; men, many of whom it may be said, as in your case, sir, it may truly be said, are not only statesmen but scholars—I say that it fills me with hope, as it does every other well-wisher of this movement, that in that combination of strength there will be found ability enough to devise a scheme which will confirm the happiness and prosperity of this country. No doubt the difficulties that have to be overcome are numerous and startling; but Australians, in their private life, are accustomed to encounter dangers and to overcome them; and I say it would augur badly for the character of the foremost public men of this country if they should be daunted by those difficulties, and if they should not succeed in devising the scheme that we all desire. Should it be otherwise, should failure unfortunately attend this Convention, can we doubt that the result of this debate and of the further proceedings will awaken such enthusiasm for this great object, that its progress must be onward, that the plough to which we have set our hands will not be abandoned in mid-furrow, and that, whether this year or next, the time at all events is not far distant when this great object will be brought to a happy and successful conclusion? Another subject of congratulation is that should we agree upon a scheme, there is, from the character of those men to whom I have alluded, a fair and reasonable expectation that they will by their influence, by their ability, and their patriotism, be able to convince their fellow-colonists throughout the length and breadth of this land—and not only their fellow-colonists, but the parliaments of the colonies as well—to consent to the scheme, and to surrender those powers which it is proposed to take from them in this scheme of federation. I consider that this discussion is not in its academic stage, that we are now doing work which will save time in Committee, and that we are advancing solidly and securely the great object we have in view. I therefore think it would be important to refer, even before we allude to the terms of some of these resolutions, to some of the principles which have brought us together. If in this discussion we are not creating, we are certainly educating public opinion in favour of this movement, and it is necessary to set before the public mind reasons adequate for the surrender which we ask at their hands. A great deal has been said about—and I think you yourself mentioned, in terms that I wish I could equal, as regards force and eloquence—the great advantages which union would give to the well-being, to the power, and to the happiness and comfort of the people of this country. Every word of that is true; but I go further, and ask to put before the public mind that view which I think is an essential of this movement, quite as great as the other, and that is, the regard for the common safety. I do not mean alone external security; I do not wish to lay too much stress upon that; but I ask that the colonies shall be preserved by union from each other. I hold it to be irrefutable that, as the wealth of these colonies grows, difficulties will increase. I am persuaded that there are causes of difference which, if met early, can be easily set aside, but which, if allowed to grow, will increase until they become subjects of national magnitude. I say also, remembering that the antagonism of relations is always of the most lasting kind, that it is of the utmost importance that we should by this federal government, by the abolition of the causes which might lead to this divergence of feeling, have that union which would be a common parent to us all. This national structure which it is proposed to erect I hope will have one advantage which similar structures of federated states possess, and that is the advantage of well-balanced powers. Without it we could have nothing but ruin and confusion; and it is because those powers have to be set out that these resolutions have been submitted by you, and in a speech the conciliatory tone of which I am sure hon. members who preceded me have attempted to imitate, and which it will be my duty to attempt to imitate also. Now, sir, we have heard a great deal of the word "rights"—territorial rights. There can be very little difficulty in explaining them; but it is necessary to say that a large and deep-seated doubt existed in the public mind of several of the colonies as to whether cupidity rather than patriotism was not the moving principle of this federation scheme. That doubt should be removed; those traducers of our motives should be silenced, so that there may be no possible misapprehension as to why these words were introduced. If it were necessary, in order to complete the discomfiture of those who made this a ground of attack against the Convention, I would desire to see further words added to place it beyond all doubt that there should be no diminution or absorption of any portion of the territory of any of the contracting states or colonies, not even for the purpose of making new colonies, much less for the purpose of aggrandising one at the expense of the other, without the consent absolutely freely expressed of the colony interested. With regard to the surrenders that may be agreed to I am greatly pleased to find that there has been no hon. member yet who did not express his full concurrence in the language of these resolutions. Every one of us knows that in order to form a national government there must be an absorption of some of the functions of those states or colonies which form that government; and it has been announced, and it is a settled conviction in all our minds, that not one iota is to be taken from any one of the contracting states beyond that which is absolutely necessary for the formation of a national government. It is equally necessary for that government to be clothed with sufficient power to attain the national objects for which it comes into existence; and if it is so invested it follows as a necessary sequence that it must be endowed with a revenue sufficient for its objects. We come now to the question, how that revenue is to be obtained. It is said in the resolutions that it is to be obtained from the customs of the various colonies; but before alluding to that I will just deal with No. 2 of the resolutions—and here, sir, if I travel over ground that has been already most fully and ably dealt with, I apprehend that I may reasonably ask the indulgence of the Convention, because it appears to me that it is of the utmost consequence that there should be no possible mistake outside as to what the language of these resolutions is, and what the members of this Convention mean. Previous speakers have explained to us fully and ably the difficulties that will beset us on the road on which we are travelling. But we have a distinct and clear object in view. We see the goal at which we aim, and it is the settled, determined conviction, I honestly believe, of every member of this Convention, that so far as earnestness, perseverance, patience, and devotion to the duties which he is commissioned here to discharge are concerned, none will be wanting to reach that goal fairly and securely. It is true that we are only a consultative body. It is true that the absolute acceptance or rejection of any scheme that we may form rests with those outside—with those whose commission we hold, namely, the people of the

various colonies; but nevertheless it is our duty, as far as our abilities enable us, to present to them a scheme which we can honestly recommend and which it will be our duty afterwards to defend, and if possible see carried into law. The 2nd resolution says:

> That the trade and intercourse between the federated Colonies . . . shall be absolutely free.

I heard hon. members express the hope that the language of this resolution would be made clearer, and that it would be explained to the outside world that no change should be made in the present fiscal systems of this country until the federation of the colonies is complete, and until a new system of taxation has become law. What necessity is there to declare that? Can it be believed that men coming here trained in commerce, law, and finance, could be a party to a scheme, could be at all identified with any movement, the basis of which would be an injustice to that section of the people to advance whose interests our highest efforts should be directed; and is it necessary that we should give any guarantee either to those who, advocating protection, have expended their money for the advancement of some object under the shadow of that law, or to those who, under free-trade, have built warehouses, and have enlarged and done everything to expand commerce—to open the doors to the wide world—is it necessary for us to tell them that if a new system of taxation is agreed on which will savour of injustice, which will bear any stamp of neglect, to them will be extended the same protection as to those on the other side? Let us give any guarantees that will be required, whether for a year or two or five years. What is that in the history of this great country? But if it were longer, because it would be just to make it longer, I say let everything go, but let justice stand, and let not our first efforts in this direction give to anybody the right to say that our federal scheme was stamped with any semblance of injustice. The free interchange of commodities—what does that mean among the family relations, as I call the people of this country, but offering facilities for domestic exchange? Is it not one of the blots on the fair fame of this country that with these artificial lines and barriers we cannot pass from one country to the other without being asked, "What do those portmanteaus of yours contain?" Why, everybody feels that if it was only when we were in a state of pupilage that such monstrosities could continue to exist, and now that we have attained manhood this is our first effort in acknowledgment of that fact. The people of Australia have stretched their limbs. They feel themselves animated by that high spirit which characterised their ancestors. They feel within them that they are doing a duty inspired by the same motives as those of their race before them. They know that men of their race have fashioned and formed a large portion of the globe in a manner that redounds to their honor and credit, and to the freedom of the world. They know that you cannot advance this country without adding to the wealth, and the national importance, and the power of that grand empire to which we belong, and they know that the expansion of the empire means the happiness and the freedom of everybody who lives under the protection of its flag, and here let me say that I listened with the deepest attention to the account given by the hon. member, Sir George Grey, of his conversations with Lord Salisbury, and the interest that was taken by that great statesman in these colonies. That was not only interesting; in my opinion, it is pregnant with the greatest possible importance. To men like Lord Salisbury and others of the foremost statesmen of England who have come to these colonies, and have had the opportunity of exchanging opinions with men like the hon. member, Sir George Grey, and others of his breadth of view and long experience and high ability, I attribute the happy change that has come over public feeling among the foremost politicians of England. The time is not far distant—it is indeed within the recollection of all of us—when there was a large and influential party in England who were prepared to lay down the diadem of empire. There was a large party in England who considered that these colonies were an encumbrance rather than a benefit to the empire. Happily those times are passed, and happily, owing to the interference of those men who understood the resources, who were convinced of the deep-seated loyalty and affection for the old country which exists in this new land, the policy has changed. That effete, effeminate policy is now changed into a love for the most distant part of the empire so long as that empire is true to the traditions of the old land and loyal to its sovereign. Now, I come to the next part of the question—to the customs and the policy which may come from their transfer. You told us, sir, in terms as eloquent as they were generous and patriotic, that, if under this new federation the public voice of this country and the will of the people should be expressed in favour of a protective policy, you, though not convinced and always struggling against it, would nevertheless bow to that decision. That exactly expresses the opinion of a number of men in the neighbouring colony of Victoria who, twenty years ago, fought this battle—fought it valiantly—who, when after the usual checks and delays which were necessary to ascertain the true feeling of the country, it was unequivocally ascertained, as it will be your experience in this colony, and all over the colonial empire, that modern democracy leans in the direction of protection, and was resolved upon having it as the law of the land, bowed and accepted it. I am not convinced. Educated in the school of belief that freedom of trade was the foundation of a people's comfort and happiness, I nevertheless feel, like others, some difficulty in answering as to whether the predictions that I uttered twenty years ago, in my place in Parliament and outside, have been verified—whether that national impoverishment which we all predicted has followed the protective policy. I have no hesitation in saying that it has not. I have no hesitation in saying that, whether the resources of that colony have been too great to be ruined, or whether the colony through the new policy has made its present position, it has during those twenty years make enormous strides. And I hold that its example, whether it be one of good or of evil omen, is bound to inoculate the neighbouring people, and we may as well regard it as a fact, as true as if we saw it written in lead, that that will be the policy of federated Australia. That is not our duty now. We have nothing now to do with it; but this we have to do with, and to regard: that if that policy of protection cause the transfer to other colonies of those manufactures which have arisen in the older colonies which have adopted protection, we must recognise the fact that the customs revenue will be largely affected, and that in all probability the new national federal government will require to look to other forms of taxation for those works which will be necessary for the due discharge of its duties. I intend to give only a passing glance at the subject of defence, but, in doing so, I must acknowledge that as regards defence I recognise that it will be indeed a long time before we have the happiness to welcome that great, that lovely colony of New Zealand as a portion of federated Australia. I feel that this scheme of federal defence, as regards military matters, will never be found by New Zealand to be of any value to that country, and, as regards naval defence, the day is far distant when these colonies will be able to afford to expend such large sums in naval defence as to warrant them in sending their ships across that stretch of ocean which divides us—unhappily divides

us—from that great colony. Our system of naval defence for a long time to come will not consist of any ships larger than are necessary to protect our ports against cruisers; and those coal ports to which the hon. member, Captain Russell, alluded must, as they naturally are a portion of the strength of the empire, remain to be defended by the strong arm of England. With regard to the defence of Australia, in what could federation do more practical good than in defence? In what matter can there be a greater necessity for one headship than in defence? The points which must be defended, which strengthen us in these colonies, are far distant, and how can we efficiently or economically defend them, except by having a united force—a force which will be under one head, and which will be ready at any point should our country ever be invaded. Reference was made to a standing army. A standing army! What a reflection upon the military spirit of young Australia. A standing army we may have merely as an example of what steadiness, discipline, and obedience can do; but our defence must be the stout arms of our sons—our own sons as a militia, charged with the duty of defending that land which they ought to love, and inspired by the devotion of those men who may be paid servants of the Crown, but who never, either in this country or in the old country, turned their back on an enemy, or did anything but what will redound to the glory of English arms. The next point, which I may call the first of the machinery clauses, has been so ably and so fully discussed that I really have to apologise to hon. members for doing more than glance at it. But before I do that I must discharge what I feel is my bounden duty—a duty that is incumbent on me from a feeling of honor, for I confess that, being the oldest member in the Legislative Council in Victoria, I feel that an attack upon the corporate honor of that House is to me worse than an attack on my private honor. My hon. and learned friend, Mr. Deakin, with that dialectic skill of which he is the master, made a veiled attack upon that House.

HON. MEMBERS: No!

Mr. FITZGERALD: I say it was an attack on that house.

Mr. DEAKIN: Which house?

Mr. FITZGERALD: The Legislative Council of Victoria. He clothes his attack on that house with a thin veil, which I tear away, because I want to hold up the perfect truth. The hon. gentleman said:

> We have heard of an upper chamber, which has been compelled to pass measures demanded by the people, revenge itself on the government in power, and on the house that compelled the upper chamber to pass these measures, by emasculating or rejecting other measures, in order to prove that the government could not carry on the business.

That is a very serious imputation. The hon. member said that the particular offender lived in remote times and in distant countries. The times are not too remote for me to acknowledge that I was an actor in every scene in which that house was in conflict with the Legislative Assembly. The country is not too remote for me to know that that hon. gentleman is far too young to do more than speak of it as a matter of history; but it is the fashion with some who read history obliquely—some who are brought up in an atmosphere of what I call democratic dilettanteism—that unless the view presented to them is of their own formation—unless it is such as their eyes are accustomed to look upon—nothing is straight, nothing is honorable, nothing is pure. Now the history of that struggle is one of the dark spots on the history of that colony; but I truly say that the Legislative Council——

An HON. MEMBER: Oh, oh!

Mr. FITZGERALD: "The galled jade may wince, our withers are unwrung." We had to face a struggle then which was truly one of cyclonic force. We had one such as may heaven avert from this new federal government whenever it comes into existence. We had one which sets out an example for every hon. member of this Convention to keep constantly before his mind. We had a case where, if ever, the constitution was rigid and its terms were such as to prevent its being misunderstood; still we had the law invoked in the name of passion and set aside. In that case we had power given for one purpose misused in order to apply it to another. Who succeeded in the struggle? God forbid that I should claim that a victory between two constituent houses of parliament, both working for the common good of their country, should ever be a thing of which to boast. I call it not a victory; but I say that the issue of that struggle, at all events, has warned any succeeding government against renewing the attack. I pass away from it with pleasure; but I hope that hon. members will excuse me if I have imparted into this explanation any word of warmth.

Mr. DEAKIN: The hon. member is not warm!

Mr. FITZGERALD: One is not only warmed, but boiling, to find that the truth can be set aside—of course not wilfully—far be it for me to impute that—but that truth can be set aside, history can be turned upside down in order to make a point, to illustrate, and to demand powers for this new representative house under this new federal government which would place the whole power of this country in one branch of the legislature. I have very few words more to say. I feel that I am more than indebted to hon. members for the patience which they have extended to me; and it would be in the highest degree ungrateful on my part if I were to reward that kindness by improperly or unnecessarily delaying my remarks. The next sub-section reads:

> A parliament, to consist of a senate and a house of representatives, the former consisting of an equal number of members from each province, to be elected by a system which shall provide for the retirement of one-third of the members every years, so securing to the body itself a perpetual existence combined with definite responsibility to the electors, the latter to be elected by districts formed on a population basis, and to possess the sole power of originating and amending all bills appropriating revenue or imposing taxation.

I ask where is the point of the remarks we have heard about the necessity of the members of the senate representing the states in equal proportions being elected by the people, being responsible to the people, being liable to be sent back to the people if ever they dared to exercise the privilege of disagreement with the more popular house? Some of these observations could well have been delayed until the hon. gentlemen who indulged in them go back to their own colony, where they can use them with the weight and influence which, I have no doubt, they will command, after their colony has settled and determined in what form its representatives shall be elected. It is wasting time, I say with all respect, for us to be reasoning when each colony will be master of the form in which that election shall take place. I have my own conviction as to what should be done, but I shall not trouble hon. gentlemen by stating it. I only do what I am sure every member of the convention does, and that is to offer a most fervent prayer that whatever form of election may be decided upon the men appointed will be worthy of the high position to which they will be raised. Let them appoint them how they will, I, sir, from a long experience of a particular house, know that when they enter the chamber they will come under its traditional influence; they will recognise the responsibility of their position, and the greater the responsibility and the higher the standard which you expect these men to reach the more certain will you be to get the best men. While we have admired the eloquence and force and fluency of those men who indulge in speeches about facing the people, cannot any one of us lay his hand on his heart and say, "We acknowledge the majesty of the

people quite as much as those eloquent defenders, and it is because we desire to protect the people against their own burst of passion, against their own frailties, against their own impulses, that we want to put a bit in the mouths of their representatives." It is in the interests of the people for the people, and we hold, as I have often said, that the best friends of the people are not their flatterers. We then want a senate which will not be a vulgar obstacle to the people's will, but a house clothed with all the checks necessary to ascertain the people's will. But never let it be thought that our superstructure will ever be lasting if any clause in our charter allows the people's will in its burst and flush of impetuosity at once to reach the statute-book. That is not what the sober-thinking, solid, and—I will use the word—conservative senate is for. The conservative senate is to be there to put a check upon the people's will—not to oppose it obstinately, not to oppose any law upon which the people are determined from finding its way to the statute-book, but, as I said before, to moderate that force which comes at times over communities, and which would sweep us all away if there were not men of courage and of resolution, to stand behind the impregnable position in which the law places them, and wait for the mollifying influences of time to test their judgment—in sober reason, away from the seductive voices of agitators, and of those who think that the people are served by opposing everybody who stand between them and their own will, to wait and see if time does not, with its mollifying influence, bring the people to consider and to recognise that their supposed quondam enemies were their best and their truest friends. Now, how can it be said, how can it be argued, that if this emasculated charter were given to the senate of federated Australia, that senate would be able to occupy the position that I have endeavoured briefly to shadow forth as that which it ought to occupy? What is the use of offering to that senate co-ordinate power in legislation, and denying it to them as regards money? Why, look at the list of measures which is put forward as the alpha and omega of the powers that the federal parliament is to be intrusted with.

Sir JOHN BRAY: There is no list!

Mr. FITZGERALD: The list was read by my hon. friend, the Premier of Victoria. It is printed in *Hansard* and I should most willingly read it if I thought that hon. members desired it to be read. The list was considered—and I have not heard any one disagree with it—to sketch out what would be deemed a just, reasonable, and proper list of measures for the various parliaments to be denuded of, and for the national parliament to be clothed with. The list, if hon. members will take the trouble to look at it, contains no measure of any consequence of which money is not the keystone. There is not one single measure in that category which could not, by the deft turn of a draftman's pen, be converted into a money bill. Let us understand, then, where we are going to. Let us know the full consequences of what we are doing. We are absolutely, then, denying *in toto* to the senate, or whatever it may be called, any power in legislation whatever except the power of veto. I do not want to hold before hon. members any threat as to what will happen then. The senate of this federal parliament should, if they exercise that power at a time when a gale of cyclonic force is raging, would be then in the position not of being judged by the particular point or clause in the bill which they objected to, but they would be charged with throwing the whole country into confusion by rejecting a bill which was necessary to enable the work of government to go on. What remedy was left to them? Nothing, except to adopt or reject it. Is that the dignified position you would like the senate of the great federal dominion of Australia to occupy? Is that a position which would reassure the smaller states as to their safety? What do we ask the states to do? My hon. friend, Sir Thomas McIlwraith, told us in words of a solid, sensible kind, which we all remember, and which made a deep impression upon me, that the states are asked to go into a happy partnership, to join us in a confederation, we promising them that in every way their rights shall be maintained and protected. My hon. friend, Mr. Deakin, asks what are state rights. If he does not know, or if he asks simply for the purpose of making an effective point in the debate—but I can hardly believe that he does not know what state rights are. What is meant by state rights in this connection is, that every privilege which a state has in its isolated condition—that is, the right of saying whether any measure shall be made law or not—shall still be preserved to that state in the federal senate. State rights with regard to territorial rights we have explained; state rights as to material interests of states we understand; and I say the only link wanting to make the chain complete is to assert that the states shall have and are promised in equal proportions, no matter what their size or population, a voice in legislation equal to that which they would have in their independent parliament, and that if their representatives do not wish a money bill, or a clause in a money bill, to pass, they shall have the right to say "No." Therefore, when you ask them to come in, you ask them on this condition: that they shall come in in a duplex position; that they shall come in as states of Australia; states that are—I use the word in its limited sense—sovereign states, independent in everything except that tie of allegiance to our grand mother country, which I hope will ever be preserved. The states are asked to surrender what? To surrender the powers which they now possess; but when they come in, you disregard their area; you disregard their population, and you promise the smallest colony equal power and equal voice in the senate with the biggest. What is the use, sir, of offering that in one hand, and, with the other, taking it away? If the whole legislation that can affect the states concerns money, and if their representatives in the senate have no power over that money, except to reject it, I ask, how can you hope to get the small states to enter the confederacy? The great colony of Victoria and the great colony of New South Wales, rivalry has kept apart. In this new government that rivalry will disappear; nobler thoughts will arise; they will become members of one family; there will be no more of these petty jealousies which have hitherto marred, not only their progress, but their history; they will be as one family. Let them unite—let them determine upon a course of action. And I am reminded, and it must be within your memory, sir, that, some years ago, in the Federal Council sitting at Hobart, a representative of a large and popular colony proposed—knowing that without revenue the council would be worth little—that its revenue should be derived from the total proceeds of the public lands of the colonies, not only from the sale, but also from the occupation of lands. The colony which he represented had little or no lands left unsold, and little or no lands unoccupied: all its lands were alienated. The revenue of the Federal Council was to be derived by filching funds from the other colonies which came into the council simply to join a happy family. The motion was rejected, and rejected properly—rejected with that honor which I hope will characterise public men in Australia wherever they meet. But is it not a warning to us? Let the small states consider that when they go into the representative house, and they are at the mercy of the more populous states, election being according to population, some taxation proposals may be brought forward. Let me put forward as an illustration an excise duty on fruit or jam in Tasmania. Suppose that the assembly sends this proposal forward to the senate, and the representative of Tasmania states

that it means ruin to his country. I wonder where would be the justice of that proceeding. The duty would be part of a number of items for taxation; it would be part of the whole taxation proposals of the government; and yet you are asked seriously and deliberately, and asked with force and eloquence, from an ultra-democratic view, to sweep away any limitation to the power of that house. You are asked to propose an elective house; you are asked to found an elective despotism—for concentrating the whole power of the government in one house is nothing else but a despotism. I appeal to hon. members, I appeal to the great thinking, reasoning minds, wherever they may be, over the continent of Australia, is it unjust that we should stand out for the preservation of that right to the smaller states, upon the possession of which right alone we can in justice ask them to join the federation? I shall not occupy the time of hon. members much longer. I did intend to speak about the judiciary, and as it will only be a word, perhaps I may say it. I have the very highest respect for the supreme court judges of the various colonies. I have the pleasure of being intimate with many of them. I have had many opportunities of observing their legal acumen, their high abilities, and their high character; but I still say, without in the slightest degree reflecting upon them, that I hope wiser counsels will prevail in this Convention; that we shall never sever that link which binds us to the throne of England by making the sovereign the fountain of justice. I sincerely trust that no change will be made in that system, which I have not yet heard complained of, and which, if altered, might be the means, and the very serious means, of stopping capital from flowing into this country. And now, sir, I will conclude by saying that I trust the labours of this Convention will end successfully. I hope, looking over the vast territory of this great continent, having regard to its prodigious resources, acknowledging the bounty of the Almighty in bestowing upon us such a grand inheritance; considering the rapidity and solidity with which we have advanced, a rapidity which has discovered for us a page very high in the history of human progress, and seeing that we have now an opportunity to gather together the scattered elements of our enormous wealth—enormous whether under or above the surface—that we shall in our efforts to improve the condition of this prosperous, though sometimes restless and energetic, people, so act, that they may under one flag, and one constitution, enjoy all those blessings which it should be our earnest endeavour to preserve and consolidate.

Motion (by Mr. DIBBS) agreed to:

That the debate be now adjourned until to-morrow.

Convention adjourned at 5·14 p.m.

TUESDAY, 10 MARCH, 1891.

Addresses—Federal Constitution (fifth day's debate).

The PRESIDENT took the chair at 11 a.m.

ADDRESSES.

Mr. MCMILLAN presented an address from the Australasian Wesleyan Methodist Conference, which was read by the Secretary as follows:—

To the President and Members of the Federation Convention of Australasia.

We, the ministers of the New South Wales and Queensland Conference of the Australasian Wesleyan Methodist Church, now in session, desire to approach the Federation Convention assembled in the city of Sydney, with assurances of the deep interest taken by our church in the great question intrusted to you, and of our high sense of the vast importance of your deliberations.

And we trust that under Divine guidance you may be led to conclusions which will advance the best interests of Australasia.

The following addresses were also read by the Secretary:—

Women's Christian Temperance Union of Victoria,
Melbourne, 5 March, 1891.

To the President and Delegates of the Federation Convention.

Gentlemen,—It is with deep interest that the Women's Christian Temperance Union regards the movement which has called your body together, namely, the federation of the Australian colonies.

May they not hope that in this enlightened age the last-born nation of the world may have embodied in its Constitution universal suffrage without regard to sex; and the prohibition of the drink traffic by the vote of the people, except for medicinal and scientific purposes.

We ask for this in the name of the God of heaven, and in the interests of the home, the church, and State.

President, M. M. LOVE.
Secretary, M. E. KIRK.

Adelaide, 6 March, 1891.

Hon. T. Playford, Federation Convention.

Please convey President congratulations from South Australia Literary Society's Union, membership 1,500, on opening National Australasian Convention, earnestly hoping the result will be the adoption of a Constitution for United Australia.

ALAN CAMPBELL, President.

Melbourne, 9 March, 1891.

Sir Henry Parkes, G.C.M.G.,
President of the Federation Convention.

The Improvement Societies' Union of Victoria offers its respectful congratulations to the Convention on the commencement of its labours, and expresses its ardent wish that they may inaugurate a new and glorious era for Australia.

ALEX. SUTHERLAND;
President Improvement Societies' Union, Victoria.

Victorian Chamber of Manufactures,
Melbourne, 5 March, 1891.

To the Hon. Sir Henry Parkes, Premier of New South Wales.

Dear Sir,—I am instructed by the chairman of this chamber to forward to you the underwritten copy of a resolution carried at its meeting held on the 2nd instant, and it is hoped that you will take the earliest suitable opportunity for moving in the direction indicated thereby, as it seems to this chamber to be a matter that will in the not far distant future have a very important bearing upon the vital interests of these colonies, especially in view of the action of the United States' Government with reference to the McKinley tariff.

"That in the opinion of this chamber Parliament should have power to impose differential duties in favour of Great Britain and British possessions."

I have, &c.,
W. W. C. DARVALL,
Hon. Secretary.

FEDERAL CONSTITUTION.

FIFTH DAY'S DEBATE.

Debate resumed on resolutions proposed by Sir Henry Parkes (*vide* page 11).

Mr. DIBBS: Sir, I have listened with patience and interest to the speeches which have been delivered by the distinguished men who have preceded me, and I must confess to a feeling of nervousness in attempting to follow the speeches that have been delivered and in attempting to add anything to the arguments that have been used. And yet I venture to think that in the main the important speeches that have been delivered have to a certain extent but touched the fringe of the question of federation. If I were asked my opinion as to who was the speaker who dealt most boldly and vigorously with that which is to be the centre and basis on which a federation of the colonies can take place, I should say that it was my hon. friend, Sir Thomas McIlwraith. We have had from very able speakers, namely, the hon. members, Sir Samuel Griffith, Mr. Deakin, and Mr. Barton, a clever discussion as to one phase of the federation question; that is, with regard to state rights. No doubt that is one of those questions which will have to be dealt with by the Convention in due time; but it appears to me that we are just a little in advance

in dealing with the question of state rights before we agree among ourselves as to what is to be the real basis upon which federation shall take place. As, however, the debate proceeding upon the resolutions which you, sir, have moved, has taken the shape of a discussion of the question of state rights, it would, perhaps, be more convenient to the convention if I now said a few words on that subject. So far as I have heard, and I have paid the utmost attention to the arguments used, the contention is conclusively in favour of making the senate a strong and powerful body in the interests of the whole of Australasia, and in the interest of each particular colony. If we wish the federal government to be respected; if we wish the federal constitution to be based upon equity and justice, those who differ from the proposals of the hon. members, Sir Samuel Griffiths and Mr. Barton, with regard to placing the states in a position of fair representation in the senate, must yield at once, and with the best possible grace. The whole question of federation will come to grief, and be a lamentable failure, if the suggestions of those hon. members are not carried out. The very difficulty which has presented itself to this convention, at the threshold of our meeting, was one of the main difficulties which pressed themselves upon the great men who, a hundred years ago, met to settle a constitution for the United States. I have no doubt that every argument which has been used on both sides of this convention was freely used by the able men who debated the question a hundred years ago, and a settlement was arrived at by giving effect to the view advocated by Sir Samuel Griffith, that the smaller states especially should have a guarantee of security by the method which he proposes; and unless such a compromise had been made in the case of the American Constitution there would have been no constitution for the United States at all. As far as I can read, a difficulty arose upon the very question which we have been debating here. The state of Connecticut took up the running, and in a book which is in the hands of hon. members, "The Civil Government of the United States," by Fisk, I find a short passage, which strongly illustrates what was argued then and what has been argued here; and it shows the wisdom of the conclusion arrived at by the men who established the American Constitution, which has borne the battle and the breeze for 100 years. Personally, I have an objection to the use of quotations from books; but this is one bearing so strongly upon the issues involved here that I am sure hon. members will permit me to read it:—

> This feature of the House of Representatives caused the smaller states in the convention to oppose the whole scheme of constructing a new government. They were determined that great and small states should have equal weight in congress. Their steadfast opposition threatened to ruin everything, when, fortunately, a method of compromise was discovered. It was intended that the national legislature, in imitation of the state legislatures, should have an upper house, or senate, and at first the advocates of a strong national government proposed that the senate also should represent population, thus differing from the lower house only in the way in which we have seen that it generally differed in the several states. But it happened that in the state of Connecticut the custom was peculiar. There it had always been the custom to elect the governor and upper house by a majority vote of the whole people, while for each township there was an equality of representatives in the lower house. The Connecticut delegation in the convention therefore, being familiar with a legislature in which the two houses were composed on different principles, suggested a compromise, "Let the House of Representatives," they said, "represent the people——

We propose to do that here.

> and let the senate represent the states.——

That is the proposal of the hon. member, Sir Samuel Griffith.

> Let all the states, great and small, be represented equally in the federal senate." Such was the famous Connecticut compromise. Without it the convention would probably have broken up without accomplishing anything. When it was adopted half the work of making the new government was done; for the small states having had their fears thus allayed by an assurance that they were to be equally represented in the senate, no longer opposed the work, but co-operated in it most zealously.

It appears to me that the quotation I have just read pretty well solves the difficulty which has arisen in the early debates of this Convention. The question is: Will you give the small states a guarantee of security against the larger states, who may outvote them if you establish the representation in the senate upon the basis of population. Let us take, for example, the small colony of Western Australia. If its representation in the senate is based upon population, and not on equal rights with other colonies, that colony would simply be snuffed out of existence by the larger colonies. Under such a state of things as that, is it to be supposed for one moment that the smaller colonies of Australasia would contemplate joining the federation? Representation on the basis of population seems to be fair and equitable so far as the house of representatives is concerned; but you must give to the smaller colonies, in their representation in the senate, equal rights with those enjoyed by the larger colonies. Unless that is done, the whole scheme will come to grief from a want of that spirit of compromise, equity, and justice which ought to be shown in dealing with the smaller states. From my point of view, I think that that question has been fairly thrashed out, and that this convention will, when a division is taken upon that particular view of the question, be almost unanimous in doing justice and equity to those smaller states, without whose assistance the idea of federation would be but a myth. It ought to be our duty in any proposals which we make for legislation by the various colonies, to endeavour to create a strong, powerful, senate, which will have the confidence of the people out of doors. We can only do that by giving a guarantee and an assurance to the smaller colonies that we shall not leave them in such a position that they will be almost annexed to the larger colonies, or simply wiped out of existence. The arguments put forward by the gentleman I have named, and others who have spoken on this particular phase of the question, have, to my mind, been conclusive, and we must do justice if we are to expect anything like union or federation of the various colonies. In the case of New South Wales and Victoria we have two large and powerful colonies. In the house of representatives they will be enormously represented—that seems to be fair and just. I might even put Queensland in conjunction with New South Wales and Victoria. In the case of South Australia, with its moderate population; in the case of Western Australia, with its very small population; in the case of the hundred and odd thousand who may be represented in Tasmania, we must consult their interests, render to them a full measure of justice and equity, and establish a strong and powerful senate, which will do justice to them, and which, at the same time, will give security to the people at large. That phase of the question has been well thrashed out, and in the minds of this convention I think there will be but one conclusion. But it appears to me that after all, however interesting the debate has been, and however instructive—and I admit it has been to myself very instructive, on account of the views so ably put forward by the speakers who have preceded me—I think we are rather in advance of the real subject when we deal with that phase before taking in hand the other important issues as a basis upon which federation shall take place. Sir Thomas McIlwraith, to use a figurative, though not very elegant expression, took the bull by the horns very boldly, and he told the convention—and I am certain his remarks met with the approval of most members of the convention—that there was a question which should be considered in

advance of that of state rights. Are we to understand that is to be the bedrock upon which federation is to take place? The bedrock upon which federation is to take place appears to my mind to be that the convention must agree among themselves, clearly and definitely, to lay down the lines of the future fiscal policy of Australia, and that must not be done by inference, but be clearly laid down as one of the principles of federation, before we can proceed one step further in our discussion. Of course there are other questions which will arise as we proceed in this debate. While we are here sitting in the convention in the interests, and probably for the good of the whole of Australasia, I cannot shut my eyes to the fact that I stand here to-day as a representative of New South Wales. I am here in my place to protect the interests of New South Wales as against those of all the other colonies, but to render at the same time fairness and justice to all. I am a member for New South Wales, and for New South Wales I stand. Before I sit down I may say one or two words which may, perhaps, act as a bomb-shell among the members of this convention who may hold strong views in an opposite direction to those which I have uttered; but I will let off that bomb-shell at a later period of the day. I may then have something to say on a question which in itself appears to me, so far as New South Wales is concerned, as a condition precedent to any federation at all. The question upon which it appears to me we ought to be unanimous is not, as indicated by the resolutions put before us, the dealing with certain things and leaving certain other things of grave importance to this colony, and to the whole of the Australasian colonies, to be assumed by inference. I want the convention at the very first stage of its business to build a solid foundation by a concurrence of opinion, upon which a constitution may be formed at a later date. If we fail at this stage to come to an agreement upon this important question, then we shall fail in the end in attaining anything like a union of the colonies. The fiscal question is in my opinion the bedrock of the whole structure. I was glad to hear the hon. members, Sir Thomas McIlwraith and Mr. FitzGerald, and other hon. members, touch slightly upon this question, which is the question of all questions. Within the walls of this building at the present moment, and among the members of the present convention, are gentlemen who sat in the convention to discuss the federation question in 1884. The result of the labours of that convention was the establishment of a federal council, from which, owing to a variety of reasons which need not be detailed here—but I believe solely on account of party reasons—New South Wales stood out in the cold. I remember when that convention was sitting we had that great protectionist, Mr. (now Sir Graham) Berry, and that equally strong free-trader, Mr. James Service, representing Victoria. At that convention a general debate took place, unfortunately with closed doors, and I believe the closing of the doors of that convention had a great deal to do with New South Wales remaining out of the Federal Council. When the debate took place on the general question, before we entered into any particulars with regard to the preparation of a draft bill, I remember well asking Mr. Graham Berry a question. I may inform the convention, what probably most of them already know, that at that time my eyes were not open to the necessity of a different fiscal policy for New South Wales from that under which she has lived for so many years. I pointed out to the convention that they were introducing a variety of extraneous subjects, including, for instance, a proposal to take possession of the whole of the islands of the Pacific Ocean, and I asked the convention, specially addressing my remarks to Mr. Graham Berry, whether that gentleman was disposed to make the union of the colonies depend upon a customs union? I asked whether the fiscal question, upon which the two great colonies of Victoria and New South Wales had been for so many years divided—I asked Mr. Berry whether he was prepared to sink his views in favour of the wishes of the majority, or whether he expected that the interests of Victoria should prevail as against those of all the other colonies? I was met with a direct refusal on the part of the Victorian representatives to entertain the question of the settlement of the fiscal question in the first instance as the basis upon which federation should take place, with a result of which we are all well aware. Hon. gentlemen have had the advantage of a variety of information supplied to them from different sources. We have even had draft bills proposed by certain hon. gentlemen from some of the smaller colonies. We have had everything prepared, cut and dried, in order that federation may be almost complete when this convention rises. Amongst the numerous pamphlets which have been circulated is a very useful compilation called "Leading Facts Connected with Federation," from the pen of Thomas C. Just, a resident of that important spot in the Pacific Ocean, the island of Tasmania. This gentleman gives us the views that were expressed on the subject when federation was rampant, when federation was in the air, in the year 1877, as it became in the year 1884, and as, to a certain extent, it is in the air at the present moment. It is gradually coming down like one of those little balloons which we occasionally see explode about the suburbs of Sydney. The balloon rises, and the man comes down with a parachute. Federation is gradually assuming a somewhat solid form, and it is coming down to the range of practical politics. Mr. Just offers us what I must admit were my views at that time, and my views with regard to the question remain unchanged to-day. The quotation he gives us is from the leading paper of the Australian colonies, and that paper is the *Sydney Morning Herald*. On the 24th April, 1877, or about that time, some correspondence appeared in the press from a well known colonial statesman—a gentleman who was at one time agent-general and at another time premier of this colony, and who took a very far-seeing view of all great political questions. I allude to Mr William Forster—a gentleman who had the respect of the constituencies of New South Wales, and who never raised his voice within the walls of this chamber without being listened to with the most profound attention as a deep thinker. Mr. Forster took upon himself to write certain letters to the press of this colony on the question of federation. The *Sydney Morning Herald*—I repeat again, a paper that has the respect of the people of this colony, and I believe is also well respected in the other colonies as a journal of extremely moderate tone, and as one which, as we all know, has upheld every government within the territory of New South Wales that has at all favoured the policy of free-trade—the *Sydney Morning Herald*, replying to Mr. Forster's arguments, used these words:

> As to his observations upon a uniform customs tariff, it is only necessary to point out that agreement upon the general principles of such taxation must precede, and not follow federation. All the colonies interested must first agree either upon a protective system, as in America, of internal free-trade with taxation upon imports from without, or upon a free-trade system, as in the United Kingdom, under which specific import duties would be levied upon articles of general consumption, with corresponding excises upon the same articles when locally produced—the one system taxing trade, the other consumption.

I should like to ask the Victorians if they have been converted? I should like to ask the hon. member, Mr. Deakin, if he has been converted to the principles of free-trade, or does he adhere honestly to the principles of protection? I should like to ask the same of Mr. Munro. I would even ask my free-trade friend opposite, Mr. Gillies, whether he comes

here representing a people who have been converted to free-trade? The paper goes on to say:

Until, therefore, Victoria is converted to a free-trade policy, or can convert her neighbours——

Colonel SMITH: Who says this?

Mr. DIBBS: The *Sydney Morning Herald* of 1877; and I may tell my hon. friend, Colonel Smith, that the *Sydney Morning Herald* voices the opinions of the moderate and temperate people of New South Wales.

Until, therefore, Victoria is converted to a free-trade policy, or can convert her neighbours to one of protection, there can be no federal union between them.

And I believe that is the voice of the whole of New South Wales. I leave the members from the other great colonies, and even from the smaller colonies, to speak for themselves on that point. The article goes on to say:

This is a vital question which must be agreed upon in advance, and could not, as Mr. Forster appears to imagine, be left to be fought out afterwards.

Now, sir, we are engaged upon the consideration of this great work, and it appears to me that Victoria has triumphed with regard to the principles of protection throughout the whole of Australasia, until, at the present moment, she has attacked the citadel of free-trade, New South Wales. Step by step, and one by one, the principles of protection started twenty-five years ago by Victoria have maintained their own, and Victoria has gradually drawn South Australia, Tasmania, New Zealand—I do not know much about Western Australia, because she is young in the business—but she has drawn Queensland also into the same line of policy, the wisdom of which has been acknowledged by the statesmen of the other colonies, and she has at last approached to make one last convert in order to complete the chain. And now, Mr. President, I must congratulate you upon being the last convert to protection. You, sir, plainly indicate by the resolutions you have moved that you are the last convert to protection, and that the free-trade party can receive at your hands its death-warrant—its *nunc dimittis*, I may call it. Free-trade in this colony has received from this convention, or from its President, the Premier of the supposed free-trade colony of New South Wales, its death-warrant. It appears to me that Victoria has triumphed; that what the *Herald* in 1877 foreshadowed as the lines upon which federation might possibly take place, namely, the conversion of the other colonies to protection, has been accomplished; and we find the Premier of the only free-trade colony prepared to sink the fiscal question in advance, and leave it to be settled by the federal parliament when federation is established. I believe that the people of New South Wales can look upon you as the latest convert to the wisdom of the policy of protection, which in twenty-five years has pushed Victoria into the proud position in which she stands to-day. This fiscal question has taken, I gather from some of the speeches which have been delivered here, an extraordinary turn. To my surprise, I have gathered that Victoria, in discussing the fiscal question in this Convention, is asking for guarantees to secure the protection of her vested interests. Now, in a foot-race where one of the rivals has an advantage of 25 yards start in 100, one would not ask for an assurance that the man who had the 25 yards start should win; or, when on the turf, horses are handicapped by weights, one would not ask for a guarantee that the horse with the heaviest weight should "play the Carbine" in the business. But it appears to me that Victoria has had the effrontery to come here, and by the mouths of some of her delegates to tell us at once that she, in any settlement of this question, requires to have guarantees for the protection of her vested interests, though one would think that, having the advantage of twenty-five years' start on the whole of Australasia, she would not require anything more. We are prepared to give her the advantage which the energy and pluck of her people and their determination to lead the whole of Australia, have gained for her in the twenty-five years' start which she has had; but we are not prepared to give her more than that. If we are going to deal with this matter in the liberal spirit suggested by the press, if we are going to have, as the second resolution puts it, intercolonial free-trade, and, if federation is to come within a reasonable time, intercolonial free-trade must come at once, and the colonies of South Australia, Queensland, Tasmania, and New South Wales will be the biggest victims, and will make the largest sacrifice. So far, the Parliament of New South Wales has only given a sort of half-hearted approval of even the meeting of this Convention, and the people have not yet been consulted upon it at all, though in due time they will be consulted, and will have the advantage of the public education which they are now receiving upon the big questions which concern them in giving their decision. But coming back to this question of meeting each other in a friendly spirit, what in the name of reason and right does Victoria require more than the fact that she has had the markets of pretty well the whole of Australasia open to her for the last twenty-five years?

Mr. GORDON: As much as she can get!

Mr. DIBBS: That is the weakness of human nature. The cry almost always is for more than the gods give us—far more than we deserve, and more than is our share; but if Victoria is to approach the other colonies in a generous and federal spirit, she must be prepared to join in the sacrifice which she may have to make through her manufacturers, and must part with all the advantages which she now possesses, and live in a wholesome competition with those more favourably situated; and I am prepared to say on behalf of New South Wales that in the day of rivalry and competition she will find that with our magnificent resources, with our coal, and iron, and metals unbounded, with every advantage in the way of natural resources which a country can possess, we shall be her hottest competitor. But we must start perfectly fair and square in the race of competition, and the claims of the various colonies must be duly considered. I believe that South Australia, which has always shown a generous disposition, will be prepared to make what will be a fair offer, considering the size of the colony, and the almost juvenile manufactures which it possesses, and New South Wales is prepared to give to Victoria all the advantages of her twenty-five years' start, and to stand shoulder to shoulder with her and do the best we can in honest competition. But I should like the hon. member, Mr. Gillies, who I believe will speak to-day, and whose speech will have an attentive hearing from the members of the Convention and from the people of the various colonies, to be perfectly clear and straight, and if the speeches which have been delivered do not voice the sentiments of the people of Victoria, let him, as an enlightened statesman, give us the assurance that Victoria wants nothing more than she now possesses, and that upon the question of federation she will ask for no other advantages than that which she has gained by the twenty-five years' advance in statesmanship which has been made by the people who have ruled her destiny. I shall listen to my hon. friend's speech with great interest. From conversation which I have had with her delegates, I gather that South Australia is prepared to take a liberal view on this question, and we ask Victoria to come in now and to throw in her lot with us. If we can get Victoria to say that she is prepared to lay the foundation-stone of a possible federation by agreeing at once to a customs union, in advance, if need be, of the settlement of the federation question—if she will

at once agree to throw in her lot with us, one of the greatest difficulties in the way of federation will be removed. But there are other big questions besides this question of protection. The big and difficult question of the rights to the Murray River will have to be settled in a spirit of liberal compromise. It is one of those questions which no doubt federation would be the means of settling for ever, and a question which Victorian statesmen no doubt will keep in their mind's-eye, and which the people of New South Wales will always have before them in coming to any adjustment of those bones of contention which have by our territorial boundaries been allowed to come between us. The magnitude of the question was not seen at the time; but it has developed until it has become a cause of discord almost between the colonies. The fiscal question, however, appears to me to be the kernel of the whole business. It was in 1884; it is so to-day; and it will remain the principle barrier, or, to use the expression of the Hon. James Service, the lion in the path, to anything like federation, unless Victoria gives a bold and generous assurance to this Convention that she is prepared to deal in the same liberal spirit as the two great colonies of South Australia and Queensland with the people of New South Wales. This being accomplished, other matters will fall in like a piece of mosaic. Having laid the foundation-stone, your superstructure will rise with some prospect of being a permanent building; but you will never advance one foot towards the accomplishment of federation so long as the fiscal question remains unsettled, and the whole of the colonies of Australasia have the assurance by the resolutions proposed by the President that free-trade New South Wales is prepared to make the fiscal question second to that of federation. The other day a letter was published giving the opinion of Sir Hercules Robinson upon this question; and when I read that letter I regretted that the hon. gentleman who had addressed Sir Hercules in the first instance had not published the letter which he wrote. It is a very important link in enabling one to comprehend what Sir Hercules Robinson meant. But what did Sir Hercules tell the Premier of this colony? He said, "Give up free-trade; make a sacrifice of free-trade to secure federation for the people of Australia." And it appears to me that that is the course which you, sir, have taken. You have accepted the advice; and it must be the result of your own large experience that what has hitherto divided the great colonies of Victoria and New South Wales, and has kept the other colonies away from New South Wales, has been the division in feeling with regard to the fiscal question. Now, what position has New South Wales occupied with regard to the other colonies? She has been practically the mother of all the other colonies. From her loins have mainly sprung the bone and sinew of the colonies which now surround her, and she can fairly look upon the surrounding colonies practically as her own children.

Mr. GORDON: Some of them!

Mr. DIBBS: South Australia underwent a different, I may say a Cæsarian, operation in its birth. The inheritance which its people now possess was cut out from the vitals of the parent state. But, taking the colonies of Australasia as a whole, we may say that New South Wales is in the position of a parent towards them. Her children have grown up vigorous and strong around her, and they have found that she has not been a hard step-mother to them, but rather a loving mother. She has been the recipient of the manufactures and the produce of her children, until, with the haughtiness and robustness of Australian youth, they have almost crushed the old parent out of existence. New South Wales has been an affectionate mother to the people of the other colonies, inasmuch as she has received into her markets, under the spurious system of free-trade, a large bulk of their produce. And that brings me to the very agreeable speech which fell from the hon. member, Captain Russell. Now, the position of New Zealand in regard to this fiscal question is very unique. The hon. member, Captain Russell, told us that New Zealand was prepared to receive the embraces of the people of New South Wales, and indeed of the whole of Australia; but when federation approaches anything like realisation she will probably find herself in the position of those states of the American union which at first refused to be a part of the union, and which compelled the states already in the union to give them—not the tender embraces of brotherhood, but the hug of the bear, before they saw their way to join the union. New South Wales has been the principal receiver of the produce of the vast granaries of New Zealand; and I have no doubt New Zealand will find it to her advantage to remain outside of the federation, if she can still have the ports of New South Wales, under our spurious free-trade system, and to the detriment of our own farmers, open to her. She would no doubt like to evade the responsibility of federation, and at the same time have our markets open to her. But, if ever the Australian colonies, as separate from the rest of Australasia, unite in a bond of intercolonial free-trade, it will be most unjust to the whole of Australia if New Zealand is allowed to keep the advantage which she now has, of free-trade with New South Wales, thus having all the colonies open to her produce. New Zealand is a convert to protection; she has taken the bit into her own mouth, and has left the free-trade course in which New South Wales started her. She has struck out on the lines of Victoria, and, as one of the converted colonies, she must join with us, or be left out in the cold, if federation takes place. We cannot afford to give her the advantages of our markets, unless she joins with us in the federation. I say that with every respect for our New Zealand friends, whose presence here has lent a charm, to a large extent, to the proceedings of this Convention. Before going further, I should like to say a word or two on the resolutions themselves. I have no doubt that they, in due time, will be carried *pro formâ*; and I have no doubt that the real squabble will take place when we go into Committee, and when it is proposed to amend the resolutions so as to put them into practical shape. On behalf of New South Wales, I would point out that the 1st resolution which you, Mr. President, have proposed:

> That the powers and privileges and territorial rights of the several existing colonies shall remain intact ——

has been put forward mainly as a sop to the people of New South Wales. There has been a desire on the part of the framer of these resolutions to tell the people of New South Wales that in joining the federation the object will be to preserve to them their territorial rights and all the advantages of their present position. We must not, however, be unmindful of the fact that there can be no federal government without, to a large extent, the sacrifice of some portion of state rights; and when the word "provinces" is used in this debate, I ignore its existence altogether. We have been, as it were, chaffed out of our very existence. Those of us who have spoken within the walls of this building, or who have spoken out of doors to our constituents, and have endeavoured, in discussing the federal question, to take a strong view of the position in regard to the defence of the rights of New South Wales, have been pulled to pieces, and called provincialists. I object, in connection with the independent state of New South Wales—a state as independent as any in the world, even England itself, so far as the freedom of our position is concerned—to the word "province." There may be something more dignified in the use of the word "state." We are not going to become provinces. I do not think we are going to give up

the individual rights and liberties which we possess, and which those who have gone before us have fought for, to become mere provinces under a federal form of government. We may take the more dignified form of "states." Whilst we have endeavoured to put before the people of New South Wales, in these resolutions, a sort of opiate, something assuring to their minds that in joining a federal union we give up nothing of our territorial rights, words have been inserted in them which I shall do my utmost in committee to strike out—

> except in respect to such surrenders as may be agreed upon as necessary and incidental to the power and authority of the national federal government.

I do not know the meaning of these words, and no hon. gentleman who has yet spoken has given any clear interpretation of them. It is sufficient for us, in enunciating a principle upon which the basis of a constitution shall be prepared, to see that the territorial rights and priviliges of each colony shall be preserved to each state; but when you come to consider the condition of a surrender, and the question of the power of enforcing such surrender is placed in the hands of the federal government, then your provinces or your states will be no party to the proceeding.

Mr. GILLIES: The resolution does not say that.

Mr. DIBBS: Well, I shall be very glad to have any other meaning placed upon it. It will be for the federal Government to claim, and I take it, for the federal government to enforce.

Mr. MCMILLAN: The word "surrenders" carries its own meaning.

Mr. DIBBS: I think, in a resolution in which we are asked to affirm the principles upon which the constitution shall be constructed, that the word "powers" in connection with the expression "powers and privileges and territorial rights," might be omitted altogether. I dread dealing with the expression "territorial rights," as it may imply the taking from the people of New South Wales that territory which lies in such close contiguity to other and powerful states, and which we may say in all charity, and in the mildest possible form, they possibly covet. I have no doubt South Australia would like an adjustment of territorial boundary in order to take in Broken Hill. We have heard, and the idea comes from the preaching of the Victorian press and Victorian statesmen—that an equal adjustment of territorial rights might be taken to mean the annexation of Riverina to Victoria, and equally the modest colony of Queensland, on our north, might find that their capital, Brisbane, might be strengthened to a large extent by a certain portion of the territory of New South Wales down to the Clarence River being merged into Southern Queensland. These are the questions which come before the minds of the people of New South Wales, and upon which this Convention will have to be perfectly clear. There must be no surrender of territorial rights in any shape or form, save in connection with the reconstruction of states in the future, or in connection with the construction of new states. Such division or surrender for the creation of new states should only be by the will and consent of a two-thirds majority of the people. Resolutions 2 and 3 deal with the question of trade intercourse, and follow, as a matter of course, upon the creation of a federation. There can be no federation of these colonies, no federal form of government, unless there is unrestricted free-trade throughout the whole of the colonies. That goes without saying; and the power vested in the federal government of imposing outside customs duties is also natural and right enough. The two resolutions, taken together, mean, by inference, that there shall be unrestricted free-trade between the various parties to the federal government compact, but there must be protection against the outside world. We now come to a most dangerous point in connection with the proceedings of this Convention. I hope that the 4th resolution, dealing with the question of military and naval defence, will receive the most anxious consideration of the delegates. I hope that the words which fell last evening from the lips of the hon. member, Sir George Grey—words which bear the weight of great experience—will be taken to heart by those who may form the federal government. The question of creating a standing army is one which, to my mind, is almost more repulsive than the question of readjustment of territorial boundaries. It means the existence in our midst of a certain number of idle men—men sharpening their knives and their swords for the first fitting opportunity of fleshing them on the people of their own country, because we have no other enemies. We, in Australia—federated Australia, I may take it, because the matter is one which applies to the whole—have no enemies within our borders; we have no Indians to dispute with us the possession of the soil; we have no powerful Maori race, to fight, as was once the case in New Zealand, for the territory the right to which belonged to the Maoris themselves. We have no enemies within, and the only thing we have to fear is the possibility of any assault on the mother country by her enemies from without, unless indeed the creation of a standing army proves a menace to the people of Australia by the existence of an armed force for unlawful purposes. This question of the creation of a military force is one of the blots upon these resolutions. We want no military force within New South Wales. All we want to do is to make every man who is either a native of the soil, or one of ourselves by reason of his taking up his residence amongst us, prepare to resist possible invasion from without. Who are our enemies? Who are our enemies but the enemies of England, and they, so long as we remain under the Crown, will be dealt with by an outer barrier, an outer bulwark in the defence of Australia, in the shape of the navy of Old England. But we have no enemies within, and there is no necessity to fasten the curse of a standing army upon us. As was pointed out by the hon. member, Sir George Grey, yesterday, in his interesting speech, we have no necessity to keep a large standing army at a large cost to the people of the country, when we have no enemies with whom they will have to fight. Our own police are quite sufficient for the preservation of order within. In the event of invasion from without, so long as we remain under the Crown, our enemies, being the enemies of England, will be dealt with before ever an attempt is made to invade these shores; and when the day of invasion comes the people of this country will rise as one man to defend their hearths and homes from any possible aggressor. I look upon the question of the creation of a military power within a territory under the Crown as a menace to the people who are to continue as British subjects. We have been sent here by our various parliaments to frame a constitution under the Crown—under the Crown, bear in mind. That is the idea which has been put forward in every speech that has been made. I presume, then, that the members of the Convention are prepared at once to give the go-by altogether to the idea of Imperial federation. So long as we remain in our present position as individual colonies, we are imperially federated, and we can be imperially federated in no stronger manner than in connection with our relation to the mother country. We are as much imperially federated as the people living in the cities of London, Liverpool, Manchester, or other large centres of population. We are a portion of the British Crown, joined together by the most solemn ties and obligations; and we have to bear the brunt of any misfortune which may fall upon us in connection with any attack upon our shores by reason of our enemies being the common enemies of England. We have already made certain provision, partially of a federal character, to assist the Imperial Government in the protection of our shores from without; but let us set our faces as

a young nation—if I may use the word "nation" in advance—against standing armies; let us set our face once and for ever against the creation of anything like a military despotism. We are met here under the Crown, and I must say that, as one possessing a slight tinge of republican notions, as one who sees that the future of Australia is to be what was prophesied of it fifty years ago, by poets who have written of what the future of Australia is to be—having a certain tinge of republicanism in my nature, the result naturally of my being a descendant of an Englishman, I was surprised to find a gentleman occupying a position under the Crown proposing what 100 years ago would have been simply regarded as high treason. Why, the other day the hon. member, Mr. Munro, made a proposal with regard to one phase of the question which made me ejaculate, "One strand of the painter has gone."

Mr. MUNRO: What was that?

Mr. DIBBS: The hon. member proposed to take from us, as British subjects, the chartered right which we possess of appeal to the Crown.

Mr. MUNRO: I did not. I spoke in the other direction!

Mr. DIBBS: The hon. member spoke of establishing our appeal court, and of doing away with the necessity of appealing to the Privy Council. The hon. member suggested that we should have our appeal court, and that there would be no necessity for sending cases to the Privy Council of England.

Mr. MUNRO: I said the reverse!

Mr. FITZGERALD: The hon. member said the opposite!

HON. MEMBERS: Hear, hear!

Mr. DIBBS: I am very glad to take the hon. gentlemen's statement, that he said the reverse. I find, then, that I have done the hon. member an injustice. The reason the matter made an impression upon my mind at the moment was the speech of the hon. member, Sir Samuel Griffith, who told us, with his astute knowledge as a lawyer, that his mind was still open on the subject, that he was prepared to hear arguments on both sides of the question before making up his mind whether to agree to the establishment of an appeal court. However, if I have done the hon. member, Mr. Munro, an injustice, I certainly apologise. But the hon. member, Mr. Playford, took a more extreme view still. He proposes to take part in the formation of a Constitution which will take the right of veto, or of approval or dissent on the part of the Crown to our bills, away from the Crown altogether. That was clear enough, and that brought forth from me the involuntary ejaculation, "There's another strand of the painter gone!" And what did I hear from our revered friend from New Zealand, Sir George Grey? I heard a proposal of a still more audacious character. He threw out a suggestion for our adoption that we should stipulate for the election of a governor-general to preside over the federated colonies, to be elected by the people of those colonies. In God's name, what then is to become of the Crown? The matter reminds me very much of the story of "Ginx's Baby." After they had been squabbling about the "territorial rights" of that unfortunate baby until it had been kicked overboard, the writer concluded with these extraordinary words, "Good God, what has become of the baby?" When one hon. member proposes to cut the Crown into mince-meat—when the hon. member, Mr. Playford, would deprive the Crown of its right of vetoing a bill, and when the hon. member, Sir George Grey, would take from the Crown the right of nominating, and give us the power of electing, our governor-general, what is to become of the Crown? What is the Crown to be? Are we to send to Fiji Islands for a block of wood which they use as one of their gods, and set that up in the capital of Australia, and say, "This is the representative of the Crown, without power or right of veto, and of our own election"?

Mr. PLAYFORD: What power has the Crown now?

Mr. DIBBS: If the Crown has no power now, what does the hon. member propose to take away? The Crown has the power of vetoing our bills, and showed its power last year when it vetoed our Divorce Bill. We are gradually cutting that "crimson thread of kinship"—the words have become historical—we are gradually whittling away the powers of the Crown and creating for the future of Australia what the hon. member, Mr. Playford, is, perhaps, anxious to create, namely, the republic of the united states of Australia. That is, I have no doubt, what we are coming to. Without poaching from the unprotected preserves of my hon. friend, Captain Russell, who rather usurped the position which hitherto I have held in this chamber, of being the only legitimate quoter of the sacred book, I think really that, after all, "Out of the fullness of the heart the mouth speaketh." Out of the fullness of the heart of republicanism came the proposal to subvert the authority and dignity of the Crown, to cut the last link of connection with the Crown, and to establish the republic of Australia. That is what we are coming to, and it is the inevitable destiny of the people of this great country. When England sent her pioneers to subdue the wilds of Australia, to civilise them and to make "the desert rejoice and blossom as the rose"—when she planted her colonies in this country she planted them with that germ and spirit of independence which must, as time rolls on, develop into the establishment of a great republic. The cubs of the lion will, in due time, play the lion's part; and I was intensely amused to find that that young cub, South Australia, represented by my hon. friend, Mr. Playford, has solved the whole question of converting the authority of the Crown into a myth. What we are doing to-day is preparing step by step for that grand future which is to come; and when that day arrives, it will be not to the discredit nor to the injury of England, but for England's greater strength and security, when she, in the southern seas—separated as we are by such a vast expanse,—shall have created, as foreshadowed by the hon. member, Mr. Playford, not a dependency, but a nation of her own people, free and independent of the Crown. That is the boldest way in which to put the question. It was barely touched on before, but it was the honest conviction of the hon. member, Mr. Playford, and the hon. member, Sir George Grey, who pointed out that the people of this country would no longer, especially as time rolls on and develops still further the pluck and independence of the people, remain as they are; but that in the future this country must become a nation of itself, in alliance with the old country. Will any of us here say that it was to the loss of England that America separated from the control of the parent state, or that that event was not in the interest of humanity, was not for the benefit of the human race? And will anybody tell me that it will be against the interest of humanity, of the British race, or of England herself, that in due time these colonies shall become one great, united Australia, as friends and allies of the motherland? That is our future, and what we are doing here step by step to-day is laying the foundation of the inevitable which is to come. We talk about making a Constitution which is to last fifty or a hundred years. Where shall we be in fifty or a hundred years? I do not suppose that I shall see my hon. friend, Sir John Bray, fifty years hence, sitting in that corner; he might be elevated to the president's chair; or be president of the republic itself. But we are laying the foundation, and step by step are following in the lines of a great nation, and in due time we shall become what America has become, a separate, free, and independent state. That is what we are gradually

doing. We may be to a certain extent working in fog and darkness; but that will be the outcome of the whole question—of all our arguments, of all our debates, of all the thinking of the people of this country. I am as much in touch with the native-born population of Australia as is any man in the country; and I feel that I express their sentiments when I say that from the germ of liberty implanted within us by our forefathers spring the aspirations which will forbid us to remain bound in alliance except as one friendly nation with another, always with that special respect that should be paid to the people of the fatherland. I am afraid that I have wearied hon. members as far as I have gone; but it appears to me that before going again over a little bit of the ground, I have said sufficient to show that I shall oppose the military spirit, both inside this Convention and outside the walls of this chamber. Whenever I have the opportunity I will do my utmost to cut down the military spirit and to instil into the people of this land a love of their homes, and also the necessity of defending them in the only legitimate manner. As the hon. member, Sir George Grey, said, either yesterday or in his speech the other day at the Town Hall, we should educate our people up to all of this, and especially in New South Wales, where we are giving the people of the country practically a free education—and it should be common to all Australia—we should instil into the minds of our children the necessity for training, and, as a *quid pro quo* for that free education, we should demand from them a certain amount of proficiency in the use of arms, which of itself would lay the basis of a military organisation for the purposes of defence only. When we have done that we should still come nearer to that great future foreshadowed by Wentworth when he spoke, not of these colonies being dependencies of any fatherland or motherland—dependencies of any state whatever—but when he used words almost equal in eloquence to the peroration of my hon. friend, Mr. FitzGerald, last night. When he spoke of "Australasia, with flag unfurled—a new Britannia in another world," the idea was uppermost in his mind, as a native-born Australian—as it is in the mind of nearly every native-born Australian now, and also in that of those who have cast in their lot among us—that the future of Australia must be "a new Britannia" with her own flag. We have had to repletion the building of castles in the air—treated to the prospect of royal courts, presided over, probably, by royal princes, where our wealthy citizens shall flock around, and enjoy all the pleasures which surround a royal court; but, after all, when we come to the bed rock, we find that the national spirit of the rising generation of Australia is instinct with freedom which will impel our people at the earliest possible moment to form a nation of their own. That is the aspiration, instinct, and spirit, I hope, of young Australia, and we are here helping that spirit, according to the speeches of my hon. friend, Mr. Playford, and others, by building a constitution like that of the United States, which is to last 100 years. It appears to me that, to use a nautical expression, these resolutions are wrong side up. We ought to have begun building our ship by laying the keel. I think we have been putting aloft the top-gallant and royal yards without having regard to the structure upon which everything is to depend. We ought to have started by affirming, first of all, what we propose in the shape of a federal parliament—by pointing out that we would have two houses of legislature. In due time we should have settled among ourselves what powers the senate should have—it is pretty well agreed what the house of representatives should be. We should then have defined clearly and distinctly what the federal rights should be—but we are not doing that—we should state clearly and aboveboard what the state rights should be, and, having done that, we should define—and the people of this country will not be satisfied until we do define—the basis of our fiscal policy, as being one of the conditions which should follow at the earliest possible moment in the programme. And then, as far as New South Wales is concerned, we must pay some little consideration as to which city is to be the capital of the future empire. Where is that capital to be? Is it to be in Hobart? Tasmania is out of the field. Is it to be in Western Australia?

An Hon. Member: Yes!

Mr. DIBBS: We have lent a hand in endeavouring to obtain for Western Australia free and independent government; but no city in that colony is hardly fit to be the capital of Australia. Will the capital be in South Australia? Of course, if I put the question to Victorians they will say that the capital should be in Victoria.

An Hon. Member: No!

Mr. DIBBS: Then they are casting it at once upon New South Wales. I am sure Queensland has no ambition for it. But just one word, in all seriousness, with regard to the question of the capital. This question will have to be dealt with by this Convention.

Hon. Members: No!

Mr. DIBBS: Gentlemen, when they say "no," are speaking with a tender sympathy for their own colony.

Colonel Smith: Was the hon. gentleman ever in Ballarat? That is the place for the capital!

Mr. DIBBS: Yes, I have been in Ballarat, and I do not know a better place to be the capital of Victoria; but we cannot make it the capital of Australia. It is a fit place to be the capital of Victoria, but not for the whole of the colonies. I am speaking in all seriousness. I am speaking now for New South Wales. I have veered round from the position from which I started. I stand here as a representative of New South Wales, and the people of New South Wales will not lend themselves to any scheme of federation, when the question is submitted to them, unless first of all the fiscal question be settled—not the details of the tariff, but the principle—for it must be clearly defined what the fiscal policy of the great country shall be. But there is the other question upon which the people of New South Wales will require to know the opinion of hon. members, namely, as to where the capital of this new federation is to be; and it may be worth while to point out that there is one spot alone—favoured by nature, favoured by the great Creator himself—where that capital should be, where, if we are to be a naval power, the centre of the naval operations should be, where nature has planted boundless fields of coal for naval purposes as well as for Australian manufactures, where we, the parent state, have boundless resources, and where all the advantages of beauty point to one place on the face of Australia, and in favour of which hon. members of this Convention will have to make up their minds before our proceedings close.

Hon. Members: No!

Mr. DIBBS: Oh, yes. There was a certain man went on a journey between Jericho and Jerusalem. Well, the people of New South Wales do not propose to take that journey, but to have the road marked out with suitable lights.

Mr. Playford: There is a very good road between Jerusalem and Jericho!

Mr. DIBBS: Yes; but the hon. member knows what became of the unfortunate man who took it. That is one of the questions which it is no use our shirking. Now, I speak on behalf of New South Wales, because I am sworn to no master but New South Wales; I know no other master but the people of New South Wales. When the day comes it will not be an open question more than the fiscal question; but will have to be settled, not so much in the interests of New South Wales as in the interests of the whole of Australia. If we are to go into a

federation, we must know on what lines we are to go. We must know where the capital city is to be situated.

Sir JOHN DOWNER: No!

Mr. PLAYFORD: Let the people who are elected decide that.

Mr. DIBBS: There is a difference of opinion. Remember that, after all, we are only here acting without the authority of our masters. Our masters are behind the scenes in all this business. However much we may thrash out this big question, our masters, and our masters alone, will be the people who will settle that question.

Mr. PLAYFORD: They will settle it when the first federal council is elected!

Mr. DIBBS: Oh, yes! This is the bomb-shell which I kept in reserve. Are hon. members prepared to take that question, and add it to the resolutions upon which we are to build up our constitution?

Mr. MUNRO: We are not authorised!

Mr. DIBBS: I know that. But New South Wales wants to know something about that question. We want unity. We want the river Murray question settled. I would ask my hon. friend, Mr. Gillies, whether he is authorised to settle the river Murray question?

Mr. ADYE DOUGLAS: No.

Mr. DIBBS: But the hon. member would be very glad, no doubt, to take it as an act of compromise. However, whether we are or are not authorised to settle that question, we have to face our masters upon the whole questions involved in these resolutions and other resolutions that must be submitted, and, take my word for it, speaking on behalf of the people of New South Wales, the question of the capital is one which will weigh enormously with them in giving their adhesion to any system of federation.

Mr. PLAYFORD: And with the other colonies as well!

Mr. DIBBS: And with the other colonies, I have no doubt. But we are differently situated. History gives us no guide in the selection of a federal capital. In the case of the United States of America it was the result of a compromise. In no other part of the world can I read in history of any place where the question of the federal capital was settled on the lines which the United States adopted. I am very much mistaken if the people of New South Wales, which, by reason of its wealth, its position, its resources, its population, will not claim to have as powerful a voice in that matter as many of the other parts of Australia put together. However, these are questions to be settled, and I have no doubt that the generous spirit of compromise which has so far distinguished the debates will be extended even to a fair consideration of that question. In due time, if no other hon. member takes the lead, I shall test the question by proposing it as one of the cardinal points of the new constitution. These resolutions, Mr. President, will be submitted to a committee, and in Committee of the Whole I reserve to myself the right of amending them to the fullest possible extent in the direction of the lines which I have indicated, and shall endeavour to the fullest extent to meet the neighbouring colonies in that liberal spirit, that federal spirit of compromise, which you shadowed forth in your opening address. But I fear that if New South Wales is to be a factor in the new constitution, or in the federation, there will have to be a generous concession made to her people, and she must have at least an equal voice in the discussion. I thank hon. members for bearing with me so long, for I fear that I have wearied them; but I have indicated in a hasty fashion my views of the labours which I think this Convention may perform. Its ultimate outcome should be the building up in the future the great and glorious empire of Australia.

Sir JAMES LEE-STEERE: I cannot say, like some hon. members, that I rise with a feeling of awe to address this Convention, when I see around me the faces of so many friends who in former years have met to discuss the federal question; but I do feel a certain amount of diffidence, and that diffidence would be very much increased were it not for the fact that I have more confidence in the present federal meeting of the representatives of Australia than I have ever had before, from the fact that I am now the delegate of a legislature possessing equal constitutional rights with that of the other colonies of Australia. The delegates of Western Australia are, I think, at a slight disadvantage in discussing this question from not having been here at the commencement, and not having had the benefit of listening to the interesting and instructive speeches delivered before our arrival. But, although we are at a certain disadvantage in that respect, I do not know that in other respects we have not been gainers, because, from a partial perusal of the reports of those speeches, I gather that there is a consensus of opinion drifting in a direction which I think will be agreeable to the delegates and the people of Western Australia. I shall not detain the Convention very long, because I think that, the subject having being so thoroughly thrashed out, the sooner we leave off discussing general principles and deal with the details of the proposals, the more speedy progress we shall make. But I wish to lay before the delegates the peculiar position in which Western Australia is placed as regards this question, and unless very exceptional treatment is accorded to us I fear that we shall not be able to go into the federation at the present time. We have an immense territory, equal to about a third of Australia, but with a very small population, and I do not think it would be agreeable to the people of our colony to go into this federation if they were to be represented only on the basis of population. I have seen a draft bill in which it is proposed to give Western Australia two members. Now, do hon. members think that we shall consent to go into any federation if we are to be so miserably represented as to have only two members in the house of representatives? It would be futile, I think, to attempt to persuade the people of Western Australia to accept federation on those terms.

Sir SAMUEL GRIFFITH: We propose an equal number in the senate!

Sir JAMES LEE-STEERE: Certainly, and that seems rather inconsistent, because it is wholly opposed to any constitution in existence at present that a district's or state's representation in the senate should be in excess of its representation in the house of representatives.

Mr. CLARK: It is so in America. It is the case with several states in America!

Sir JAMES LEE-STEERE: But they represent a territory, and not a state.

Sir SAMUEL GRIFFITH: Rhode Island has only one!

Mr. CLARK: Oregon has only one!

Sir JAMES LEE-STEERE: I was not aware that it existed with regard to any state in the United States. With regard to the 1st resolution, I think I may say that I agree with that resolution for this reason: that there is such a decided opinion amongst the various delegates to preserve, as far as possible, all the rights which state legislatures possess at present, that I am quite certain they will not surrender any more than they can possibly help. And if it were not for that feeling, the resolution itself is drawn up in such elastic terms, and properly so, I think, that I should feel some hesitation in giving my concurrence to it. But knowing what I do of the feeling of provincial legislatures in this respect—knowing that they will not give up one iota more than they can help—I can unreservedly accept the resolution. The 2nd and 3rd resolutions I shall deal with together, because, to my mind, they cannot very well be separated in discussing the fiscal policy as

regards Western Australia. We are more exceptionally situated with regard to our customs revenue than is any other colony in Australia, for this reason: that one-half of our revenue is derived from customs duties. The customs revenue of Western Australia is equal to £5 per head of its population, which is more than double the amount per head collected in any other colony except Queensland. That being the case, where are we to find revenue to carry on the government of our colony, and to carry on the public works which we are now about to initiate for developing our resources, if we are expected to give up one-half of our revenue? We have just entered upon what we may call our national life, that is, upon a system of self-government, and the Government has initiated a scheme of public works, and is about to raise a loan to construct those works. The Government has received a very large amount of support for the programme which it placed before parliament, and its policy has been indorsed by parliament, because ministers told the people and told the parliament that the works will all be carried out without any resort to extra taxation, as the prosecution of the works will cause such an influx of population as to increase the customs revenue to such an extent that there will be no need to impose any direct taxation on the people. What will the people of Western Australia say to us if we go back and tell them that we agreed in the Federal Convention to give up the whole of our customs revenue for the purposes of the federal government, that we shall not now have customs revenue to pay the interest on the money we are about to raise for the carrying out of a scheme of public works, and that therefore we shall have immediately to impose direct taxation? I ask hon. members whether, if that is the case, there would be the slightest probability of the people or the government of Western Australia agreeing to federate on such terms as these? I apprehend that all the delegates are keeping before their minds this fact: that whatever resolutions may be arrived at here, whatever constitution act may be drawn up here, they will have on their return to their several colonies to submit those resolutions and that bill—I do not know exactly to what body it is proposed to refer them, but I fancy it will have to be referred to the people by all the legislatures, because I do not think a single legislature has been elected since the question of adopting a federal constitution was raised here, excepting, of course, in Western Australia.

Sir SAMUEL GRIFFITH: In New Zealand.

Sir JAMES LEE-STEERE: I am told that a parliament has been elected in New Zealand since it was determined to have a federal convention here; but I am not aware what was the result of the question when it was brought before the people of New Zealand.

Sir SAMUEL GRIFFITH: It was never discussed!

Sir JAMES LEE-STEERE: I was going on to say that it was exactly the same in Western Australia, for I do not think a single candidate for the suffrages of the people referred to the federal constitution about to sit, or the federal constitution about to be brought before that Convention.

Dr. COCKBURN: It ought to be the sole issue submitted to the people!

Sir JAMES LEE-STEERE: I think it should be made the sole issue at a general election. I do not think it is sufficient to refer the question to the legislatures. I do not think a government would care to have a dissolution to refer the question to the people. I have not quite made up my mind yet in what way it should be done; but I think the various colonies should devise some means by which the people may decide whether they will accept the federal constitution which I hope will be drawn up before we separate. With regard to intercolonial trade, we in Western Australia are in this position—that one-half of our imports come from the other colonies, and one-third of our customs duties are levied upon articles coming from the other colonies, not necessarily the productions of those colonies, but goods imported into those colonies and re-exported into Western Australia. It might be said that if we were to surrender our customs duties to the federal government it would not signify very much to us what the amount of those intercolonial duties was; but it would make a great difference to us in this way—that we should receive so much less from the federal government, assuming that they would return to us the amount of customs duties not required for the purposes of federal government. I have not yet been able to gather whether it is intended that the federal government should take over the debts of the various colonies. That question was foremost in the minds of all of us at the conference which was held in Melbourne last year.

Mr. DIBBS: At a valuation.

Sir JAMES LEE-STEERE: It was impressed upon our minds at the Melbourne conference last year that if the debts of the various colonies were taken over by the federal government several of the colonies would be placed at a great disadvantage. But I have been given to understand that it is not now intended that the federal government should take over the debts of the colonies. I have, however, been told by some hon. members that they intend to propose that that shall be done. It seems to me, therefore, that we are, to a certain extent, groping in the dark at the present time, and that we scarcely know what we are really proposing to do under these resolutions.

Sir JOHN DOWNER: Until we get into Committee!

Sir JAMES LEE-STEERE: I think the sooner we abandon this discussion of principle, and approach the details of the measure upon which we hope to come to an agreement, the more speedily shall we end our labours. I think, however, that I have shown hon. gentlemen the difficulties under which we in Western Australia labour in agreeing to give up the whole of our customs duties to the federal government unless some arrangement be made under which we shall be recouped. I am aware that in the case of some of the North American colonies which did not join the Canadian federation in the first instance—I refer to British Columbia and Prince Edward Island—an arrangement was made with those two colonies that they should receive an annual subsidy from the Canadian Government by way of consideration for the surrender of their customs duties. There is a further condition which I should like to see made in the case of Western Australia, and it is this: that the federal government should agree to carry out a railway to that colony. We should be quite prepared to give the necessary land, as was done by British Columbia. In many respects there is, I think, a great analogy between the circumstances and position of British Columbia at the time of the Canadian federation, and those of Western Australia at the present time. British Columbia occupied an extreme position on the western coast of the Canadian dominion, and there was no communication by railway between that colony and the dominion. In many other respects there is an analogy between the positions of British Columbia, in respect to the dominion, and that of Western Australia in respect to the other Australian colonies at the present time. It may be asked that if I and my brother delegates—some of whom, I presume, will follow me—have come here only to point out all these difficulties, why have we come at all? I have often thought of the expression used by, I think, Captain Russell, at the Melbourne conference, that there were 1,250 reasons why New Zealand should not join in a federation of the Australian colonies.

Mr. DIBBS: A reason for every mile.

Sir JAMES LEE-STEERE: Precisely; and it has often struck me that we of Western Australia

might use the same argument, seeing that the distance between our capital and the nearest capital of the other Australian colonies is exactly the same number of miles, namely, 1,250. We also might say that there were 1,250 difficulties in the way of our joining an Australian federation; but we have come here not only to solve those difficulties, but to join with the eminent men I see around me, and to see if we cannot overcome them. It is, I am sure, the anxious wish of all of us that we should join most heartily in a federation of these colonies. But it must be recollected that all of the other Australian colonies have had a long time within which to develop their resources, whereas we in Western Australia have had no time whatever. We are, in fact, but just commencing to do so. Therefore we require in proportion a larger amount of revenue for that purpose than is required in the other Australian colonies. Unlike the hon. member who last addressed us, I feel no difficulty in giving my concurrence to resolution No. 4. I do not think it will be apparent to many hon. members that resolution No. 4 points in any degree whatever to a standing army. It does not do so in my view; and I am sure it was not intended to do so. The intention, I take it, is this: that we should maintain a permanent force or a militia, which would be available in time of danger, and with which we might be in a position to assist the mother country in her defence of this portion of her dominions. I myself, and most hon. gentlemen here, would feel humiliated if, on war breaking out between the mother country and some other power, we had to call upon her to send a force here to defend our hearths and homes. It is our desire that we should not be made to feel that humiliation, and that we may be prepared, as we ought, to assist the mother country, rather than ask her aid, should war at any time break out. It is with that view that it is proposed:

> That the military and naval defence of Australia shall be intrusted to federal forces, under one command.

I believe, as has been stated by some other members, that Major-General Edwards' report was the origin of the conference held in Melbourne to consider the advisableness of framing a Federal Constitution for the whole of Australia. Sub-section 1 of the resolutions, if I may so term it, provides for:

> A parliament, to consist of a senate and a house of representatives. . . . . .

I entirely agree with those hon. members who wish to give the proposed powers to the senate. There is no legislative body in the world so generally admired as is the Senate of the United States. It is a body which is respected not only in the United States, but throughout the world. It has been said by one of the morning papers published in Sydney, from which the hon. gentleman opposite—Mr. Dibbs—quoted, that we had no right whatever to give so much power to the upper house, and that in so doing we should be taking from the lower house a great deal of power. There is no country in the world more democratic than is America, and so far as my reading goes I have never seen any complaint that the Senate of America takes too much power from the House of Representatives. Bryce, in his history, says that there has never been any serious deadlock between the two houses. There are often conflicts between them, but they are invariably settled by a compromise. There never has been, according to Bryce, any serious conflict between the Senate and the House of Representatives in the United States. How are the rights of the smaller colonies to be safely guarded unless the senate we are about to establish is to have rights co-ordinate with those of the lower house? I do not see how the smaller states can consent to enter into a federation of the Australian colonies without conserving their state rights. I think the senate, therefore, must be endowed with all the rights of the lower house, except the right of originating money bills and taxation. With regard to the proposal to do away with appeals to the Privy Council, I may say that it does not commend itself to my mind. It would be cutting another strand of the painter that binds us to the mother country. We have now few ties uniting us to the Crown, and this particular tie is, I think, one which ought not to be taken away from the people of Australia. I noticed with some little surprise that all the legal members of the Convention have approved of the taking away of this right, and I have heard it said that they are the only gentlemen who have a right to express an opinion upon this point.

Sir JOHN DOWNER: No!

Sir JAMES LEE-STEERE: I do not agree with that view. I think the point is one upon which the laymen of Australia ought to be consulted. Some hon. gentlemen have asked what powers the Crown has in the colonies now. I think we must all confess that the Crown has a great deal of power in these colonies, when we consider that we could not federate at all except by the permission of the Crown, and of the Imperial Parliament. We shall have to go to the Imperial Parliament to get our federal constitution act passed. Of what use then, is it to say that there is no power in the Crown? There is a great deal of power in the Crown, and I hope that it will continue to exist, and that the right of ultimate appeal to the Privy Council of England will not be taken away from us. I have this consolation—I believe that if the Convention agreed to the taking away of this power the dominion parliament would not agree to it. I partly agree with the last speaker that we shall have in some way to settle where the capital of the future federation is to be, and where the first federal parliament is to be called together. I think we might leave it to the federal parliament to determine, as was done in the case of British North America, where the seat of government should be. In the case of Canada the parliament decided that Ottawa should be the capital unless parliament should otherwise decide.

Sir JOHN DOWNER: No; unless the Queen should otherwise decide!

Sir JAMES LEE-STEERE: At all events, we shall have to make provision at the present time for the place where the federal parliament shall be first called together.

Mr. PLAYFORD: Leave it to the Queen!

Sir JAMES LEE-STEERE: Who is to decide the question unless we do so? The Queen would not take it upon herself to say where the first parliament should meet. I feel pretty confident that she would not do so; the responsibility is too great to permit of the Queen, even with the advice of her ministers, deciding the question. I myself have a strong suspicion that the place where the first federal parliament meets will ultimately be the capital of federated Australia.

Sir JOHN DOWNER: Not necessarily!

Sir JAMES LEE-STEERE: Not necessarily, but there is a strong presumption in favour of the supposition. I can only express my hope that if Sydney is to be fixed upon as the capital of federated Australia, the sessions of the federal parliament will invariably be held in the winter instead of in the summer. I am quite certain that the parliament would not get through its business so well or so satisfactorily if it were to meet at the time of year at which we are now assembled. I will only say, in conclusion, that I hope we shall, before we separate, draft a Constitution Bill that will be, in the terms of the resolution passed at the Melbourne conference, just to all the colonies.

Dr. COCKBURN: I think we are all agreed upon one thing, and that is that the field of discussion is a vast one, and that every inch of its ground is debatable. So far, hon. members who have spoken have,

as the hon. member, Mr. Dibbs, put it, been treading somewhat gingerly upon the fringe; but I do not think we can justly say that the hon. Member himself, or Sir James Lee-Steere, has abstained from going right into the heart of the territory. The hon. member, Mr. Dibbs, certainly let some bomb-shells fall into this Convention, and I feel that it is rather to the disadvantage of those who follow him that they have to address a somewhat mutilated assembly. He fired three shells of the first magnitude in his speech. The first was the shell of the fiscal question; the second, the shell of possible separation; and the third, the greatest shell of all, the question of the site of the capital of united Australia. It has been said that the first and third of these questions should not be dealt with by the Convention; that they should be put aside altogether for the federal parliament to decide. There is a great deal to be said from that point of view; but seeing that the federal parliament will have all its work cut out for it—a new body under new circumstances having to recommend its government to the whole of Australia—I think, as far as possible, we should make its path clear before it, and we should be prepared to take upon our shoulders some of its burdens, unless our motto is to be: "Once we are married the troubles begin." As to the question whether or not this movement is going to lead to ultimate separation, I do not think we should occupy ourselves with that. We should trust to the great forces of evolution which have so far guided us. In spite of this question having been raised before, the authorities of the mother country have shown themselves anxious to assist any steps towards Australian unity, no matter what the result may be. That is a circumstance which we may well remember. Even supposing that ultimately it may be found that the child can walk without the aid of the sheltering hand of the parent, that will in no way loosen our ties of loyalty and affection. With regard to the capital question of the capital site, I do not think it is so much a question as to where the capital is to be as to where the capital is not to be. It is agreed on all sides by the authorities who have written on federation—and this, after all, is a matter in which we must trust to authorities to a great extent, because we have no experience of our own—that it is exceedingly dangerous to have the capital of federated states in any city which is unduly powerful. I am inclined to think at present that the great capitals of the most populous colonies of Australia are rather out of the running on that account. There is another question to be considered. It has been found in the experience of America that it is absolutely necessary for the federal authority to have absolute control of the territory in which the capital is situated, otherwise the federal government may be turned out of doors by a wave of popular feeling.

Sir SAMUEL GRIFFITH: It is not necessarily so. It is not by any means a universal conclusion!

Dr. COCKBURN: There is no instance to the contrary. No great city was chosen in the United States, or in Canada, and for the reason that I have stated. I would suggest to the hon. member, Mr. Dibbs, Sydney might very well be the site of the capital, if he is willing to give to the federal authority a radius of 10 miles from the head of Circular Quay.

Mr. DIBBS: We will give you the Parramatta River!

Dr. COCKBURN: However, I do think that, as far as possible, we ought to settle these matters, which will not only be bombs in this Convention, but also will be matters which may seriously disturb the authority and influence of the federal parliament, which will require to have the goodwill, or at the least the good wishes, of all at the commencement of its career. I do not wish to occupy the time of the Convention at length in dealing with general principles; but still, to a certain extent, we must deal with general principles before we go into Committee. Those who are speaking at a somewhat late stage of this debate have this advantage at least: that the points which they had in their minds at the beginning have been gradually lopped off, and there is not much left for them to talk about. There are, however, one or two points which I feel it is necessary to raise on the general issue. It has been well said by the hon. members, Mr. Thynne, Colonel Smith, and others, that we are not here to advocate the question of federation, that being looked upon already as a settled subject. We are sent here simply to draft a constitution; and the desirableness of federation is our major premise. That would be quite right if it only meant the discussion of federation as against continued separation; but another point has been brought in: that is, the question of unification has been raised in more than one quarter. So that, although it is not necessary to argue in favour of federation as against continued separation, it will be necessary to argue for federation as against unification; because, between the two levels of separation and unification, there lies federation as an intermediate stage, which can be reached either by ascending from separation, as was the case in the American colonies, or by descending from unification as was the case in the Canadas; while in Switzerland we have had examples of both. In Switzerland there was a descent from unification, from the republic one and indivisible, forced upon it by Napoleon, down to a loose confederation, and then an ascent again to a complete federation, at which point equilibrium has at present been obtained. So we have at least to combat the arguments for unification. Although we have heard several able advocates and veteran statesmen urging unification, I do not think that that point of view will recommend itself at present to the delegates representing the various Australian colonies. Federation is an intermediate stage between the two extremes, and like all compromises, it possesses some of the advantages, and many of the drawbacks of both originals. It is a compromise which is inconsistent with many of those things which we have hitherto regarded as advantages under which our privileges have sprung up. The hon. member, Sir Samuel Griffith, very properly spoke in favour of that elasticity of constitution which we may not notice changing from day to day; but when we look back, after ten or eleven years, it is easy to see that we have, to a large extent, changed that constitution. Now, it is impossible, unfortunately, that this elasticity, which has so much to recommend it, and whose advantages were pointed out by Sir Samuel Griffith, can be retained to the fullest extent when he makes this compromise of federation.

Sir SAMUEL GRIFFITH: We can have elasticity in its working, although there may be rigidity in the powers!

Dr. COCKBURN: No; the essence of federation is rigidity.

Sir SAMUEL GRIFFITH: Only in certain respects.

Dr. COCKBURN: There is rigidity as far as the constitution is concerned.

Sir SAMUEL GRIFFITH: No; only so far as the powers are concerned?

Dr. COCKBURN: It is a question of a written and rigid constitution as against an unwritten and elastic constitution.

Sir SAMUEL GRIFFITH: No!

Dr. COCKBURN: All our experience has been under an elastic constitution. Usage, no doubt, will, to a great extent, modify even a written and rigid constitution; but I think the hon. member, Sir Samuel Griffith, will agree with me that a written constitution is absolutely incompatible with that gradual change which takes place from day to day

Sir SAMUEL GRIFFITH: No; look at America!

Dr. COCKBURN: America is the very case I have in view. America has had a rigid constitution which has practically remained unaltered for the last 100 years.

Mr. MOORE: There have been thirty-seven amendments.

Dr. COCKBURN: There have been only four amendments in this century. The hon. member, Mr. Inglis Clark, is a good authority on America, and I am sure he will agree with me that out of sixteen amendments only four have been agreed to in this century. All the other amendments which have been made were really amendments which were indicated almost at the very framing of the constitution, and they may be said to be amendments which were embodied in the constitution at the first start. The very element, the very essence, of federation is rigidity, and it is no use expecting that under a rigid and written constitution we can still preserve those advantages which we have reaped under an elastic constitution. All our experience hitherto has been under the condition of parliamentary sovereignty. Parliament has been the supreme body. But when we embark on federation we throw parliamentary sovereignty overboard. Parliament is no longer supreme. Our parliaments at present are not only legislative, but constituent bodies. They have not only the power of legislation, but the power of amending their constitutions. That must disappear at once on the abolition of parliamentary sovereignty. No parliament under a federation can be a constituent body; it will cease to have the power of changing its constitution at its own will. Again, instead of parliament being supreme, the parliaments of a federation are co-ordinate bodies—the main power is split up, instead of being vested in one body. More than all that, there is this difference: When parliamentary sovereignty is dispensed with, instead of there being a high court of parliament, you bring into existence a powerful judiciary which towers above all powers, legislative and executive, and which is the sole arbiter and interpreter of the constitution. Therefore it is useless for us to hope that we can, at the same time, have the advantages of a federation and retain the advantages of that elasticity which has hitherto given birth to our greatest privileges. Even responsible government, which we have all learned to revere so much, has simply been a growth under the shelter of parliamentary sovereignty. We do not know that the parliamentary responsibility of ministers can exist under any other conditions. We have not seen it exist in the United States or in Switzerland, and we have no reason to suppose that it will be compatible with the conditions of federation here. I am inclined to think that it will not. I am inclined to think that our best course will be to follow, in this respect, the guidance of Switzerland, and have our ministers elected individually by the parliaments. I am all the more willing to recognise this because, quite apart from federation, this is an alteration in our constitution which for many years I have been in the habit of advocating even with our present local parliaments. This rigidity of constitution leads to some very strange results. When a constitution becomes immutable, not theoretically immutable, but practically immutable, as it must be in a federation, it is apt to become, as has been very well laid down by Dicey in his admirable work on federal government, the object of a somewhat superstitious reverence on the part of the people, which leads them to regard the constitution not only as something altogether apart from its true object, but something sacred in itself. From what the hon. member, Mr. Deakin, said, I rather gathered that he regarded that as an advantage. He spoke of a government "strong as a fortress, and sacred as a shrine." I am not altogether able to agree with the hon. member there. I think that parliaments are rather utilitarian devices. As has been well put by an authority on constitutional law, constitutions are devices founded on expediency, and possess no intrinsic right of existence. So that, whatever the form of government may be—whether it is that of a separate state, or the intermediate stage of a federation, or whether it is on the highest level of all, that of unification—still I think we shall best serve the real object of government if we regard all these, not as ends in themselves, and therefore not entitled to superstitious reverence, but simply as means with one object in view—that is, good government, strictly utilitarian institutions, to which no sort of superstitious reverence ought to attach itself. Otherwise we find that a rigid constitution becomes one of the strongest engines of conservatism. I quite agree with the hon. member, Sir Samuel Griffith, that elasticity is an advantage; and although we are about to depart from our unwritten and elastic constitution and embark on a written and rigid constitution, I think we should, as far as possible, give every play to that elasticity consistent with federation, for hitherto it has been attended by the very best results. I have mentioned the fact, which we must all recognise, that federation is essentially a compromise, and that one of our most difficult problems will be to reconcile that elasticity which is so necessary for the development of a constitution, with that rigidity which is recognised as being one of the characteristics of federation. Not only in that respect must federation be recognised as a compromise; but it is also essentially a compromise between the rights of the state as such, and the rights of the central government. In your opening address, sir, you appealed to the members of this Convention to forget as far as possible their local inclinations and to lose sight of the lines which divide them. While agreeing with you, that to a great extent this must be done, still, as federation is a compromise and essentially a bargain, if we lose sight of those inclinations which are one of the elements in the bargain, I am afraid we shall make rather a one-sided contract. It is not because we are dissatisfied with our past history, as I take it, that we are seeking federation. On the contrary, we have much to be proud of, and it is because we are so proud of our progress, and love so much those colonies with which our progress has been associated, that we look to federation not to destroy, but to protect and shield, those institutions under which we have so far obtained our rights and privileges; and we look upon federation as a cover, a powerful cover, under which we can advance to a still greater development of our freedom. And, sir, we could see at once that when the first crossing of swords took place between the two parties to the bargain—between the states-rights element and the element that makes for unification—we could see on which side the strength of the argument lay; and it will be here as it has been elsewhere. In America, the states-rights party won from the first all along the line; and even now, although in America several great factors have been making for unity, the states-rights party is predominant. There are two causes in America which have had a great effect in cultivating among the Americans an attachment to their central government. The first is the fact that there were only thirteen of the states of America that had originally sovereign powers; that of the forty-two states of which the union is now composed, the vast majority never had any other attachment than to the central authority. They are the children of the union. They are, as it has been well said, born of the compact. So that in America the vast majority of the states have never had anything like a divided attachment. They have, from the first, been attached only to the source from which they sprung—the central government. And then the war had a great amalgamating influence in America. That party which all through had been the states-rights party, and had been the exponents of liberty, found itself, by a very strange irony of fate, to be, not the exponents of liberty, but the upholders of slavery, and the central authority, which, until then, had

always been recognised as the party which, by its preponderating force, rather tended to crush the liberties which were upheld by the states-rights party—that central party was enabled, through the condition of the country, to take up the cause of freedom, and this again was a great force that made in America towards the authority of the central power. But even now, with all the advantages which America has enjoyed, the states-rights party is still the predominant party; and so it will be here. But seeing that we are about to embark upon an altogether new experience, we must, above all things, avoid carrying into our new territory any false analogies. As has been well pointed out by many speakers, there is no analogy whatever between the council of the states and an upper house. But although this has been well recognised, I cannot altogether agree with some of the arguments which have been brought forward in support of the contention that the council of the states or the senate should be given co-ordinate powers. I quite agree that they should have co-ordinate powers with the assembly which represents population. But some of the arguments have, to my mind, been rather of a mistaken nature. It has been contended that the council of the states should have co-ordinate authority with the popular assembly in order to act as a sort of check against hasty legislation—something to stand in the way of the will of the people. Now, in America there is no such thing. Federation cannot exist, co-ordinate houses cannot exist and work together unless they both recognise the sovereignty of the people, and yield to the sovereignty of the people; and the attempt, either here, or in any other free country where the people have been accustomed to exercise their liberties, to set up a council of the states—call it by what name you like—as something which is going to stand in the way for any length of time, or even for a short time, of the pronounced will of the people, I think will be found to end in a disaster. There is no fear of bursts of popular opinion if popular opinion is allowed to flow easily and in broad channels, as it does in free communities. It is only if it is improperly resisted that the force of popular opinion becomes overwhelming and carries all before it. And here we must recognise as, I think, the very principle of the Constitution in America, that both houses must be equally subject to properly-expressed popular opinion, and that neither house, surrounded by what bulwarks you like, will be able to exercise a function which some look to one house to undertake, and to stand in the way of a properly expressed popular will. For this reason, I think the council of the states should be elected direct from the people, because there can be no question but that democracy has proved that the judgment of the whole people is better than the judgment of any section of the people. I should like to see the house of representatives partake also in another respect of the nature of the council of the states. It is proposed to make the council of the states perpetual. It is proposed to have an infusion of new blood at periodical intervals—every two or three years. Why should not a similar principle apply to the house of representatives? I do not think that in a federation you can have a dissolution of either house, penal or otherwise. I question very much whether it would be found possible to incorporate the principle of dissolving either house summarily with the principles of federation, and therefore I should like to see the lower house also constructed on the same basis as that on which it is proposed to construct the council of the states. Let the lower house be renewed from time to time by degrees. Let there be an infusion every year or every two years into that assembly of a certain proportion of new blood. And we recognise this, that the more often in a free country the people are called upon to exercise their franchise the more interest they will take in the ends of government, and the better they will be able to make a wise choice. With regard to the powers that are to be conceded to the central authority, and the powers that are to remain with the states, I do hope that no attempt will be made to define the powers which are not surrendered by the individual states; because to define means to limit, and if we know anything we know that the advance in the future will be in the direction of the state taking upon itself many functions which are at present performed by private individuals. There is a constant and increasing tendency on the part of the state to take upon itself all sorts of new duties, and we can hardly say at present what it may not be necessary for the state governments to take up. Many things which are now entirely conducted by private enterprise, I believe in accordance with the spirit of the times, will before no long interval of time elapses, be undertaken by state governments. Therefore, we must not attempt to define, because in our ignorance of what extension may take place in this direction, by defining we shall limit. And then with regard to uniform legislation, there has been an opinion generally expressed that the more uniform our laws are the better. Well, this is only true to a certain extent. We have great problems to work out in this new country, and it is much easier to work out a problem on a small scale, where it is possible to make an experiment on a small scale, than it is to work it out on a large scale. Many have advocated that the criminal law, for example, should be uniform.

Mr. CLARK: I hope it will not!

Dr. COCKBURN: I quite agree with my hon. friend, the evolutionist, opposite. I hope it will not; because I recognise that our criminal law is not by any means perfect; that we have many improvements to make before we even get hold of the rudimentary principles which should govern us in the treatment of criminals.

Mr. CLARK: Hear, hear!

Dr. COCKBURN: At the present our prisons are reformatories in no sense of the word. In South Australia—I do not know what is the case elsewhere—we have a First Offenders Act, by which it is optional with the judge not to impose any sentence whatever on an offender who for the first time comes before a court of justice. That, I think, is advisable, and that is an advance, an experimental advance, which can be made on a small scale by an individual state; but it would be very difficult indeed to introduce a principle of that sort on a large scale at first. I do not think that this is the place in which to define one's own particular views; but I look forward to further developments in this respect. I think that optional sentences—sentences for an indefinite term—are decidedly desirable here. I simply mention this to show that it is very much to the advantage of evolution that as much ground as possible should be left available to the states in which to make experiments in legislation. In fact, we have in the states, in our several governments, reaped many triumphs of the working of individualism. Whatever may be the case with regard to persons or societies, the period of individualism with regard to states has not yet been passed, and under the competition and emulation which individualism in states will engender, we can look forward to laying up many stores of experience which eventually will be available for the whole of Australia, and ultimately for the whole of the human race. I will not dwell upon the question of the standing army, because that has been already so excellently dealt with by the hon. member, Sir George Grey, the hon. member, Mr. Dibbs, and others. I think that those speakers have convinced this Convention that we do not want to unduly foster the military spirit in these colonies. There is, however, just one matter mentioned by the hon. member, Mr. Bird, to which I desire to allude. The hon. member expressed some surprise that the attitude of South Australia with

regard to the customs union appeared somewhat different now from what they did twelve months ago.

Mr. BIRD : I expressed pleasure !

Dr. COCKBURN : I think the hon. member also expressed surprise. I do not think there is anything to be surprised at in this, although I am glad that it has given pleasure to the hon. member. The fact is that those points which the South Australian representatives asked last year have now been willingly conceded, it appears, by the whole Convention, and we have no fear whatever that any injustice will be inflicted upon our industries. I think it is generally recognised that this is the case, and it is not necessary for South Australia to say anything further on the subject, seeing that those who last year were rather opposed to her demands—the Victorian delegates—this year have viewed the matter entirely from the standpoint which was then taken up by delegates of the smaller colony. Now, there are many other points to which, if I had spoken earlier in the debate, I should have alluded ; but I feel that these have been so ably dealt with by men of maturer years, and larger experience, that it would be presumption on my part to further allude to them. In Committee there will be plenty of time for any expression of individual opinion. As far as possible I am seeking to avoid repeating arguments, and taking up ground so much better occupied before. However, I must allude to one sentence in your opening address, sir, in which you said that it was the experience of the world that confederations, as opposed to federations, had been disastrous. Now, as far as my reading of history has led me to form an opinion on the subject, I have come to the conclusion that the reason why confederation—federation on a somewhat loose principle—has been fallacious in the past, is because no confederation has been constructed on such lines as to be able to stand the test of a prolonged war. All the federations of which we read in history—that federation, the Achæan League, which shed a lustre upon the declining days of the glory of Greece, fell from no other reason ; the first confederation in America fell from no other reason.

Mr. ADYE DOUGLAS : The hon. member is wrong there !

Dr. COCKBURN : It was in consequence of the war that it ceased to exist.

Mr. ADYE DOUGLAS : The confederation was not formed until the war was over !

Dr. COCKBURN : Confederation was found to be unequal to the demands of the long war with Great Britain, and a closer union was seen to be necessary.

Mr. CLARK : It was because of the demands of trade and commerce !

Dr. COCKBURN : No, it was because of the expenses incurred in the war. The continental congress of America had made itself liable in consequence of the war for an enormous amount of money. Its credit was at stake, and it tried to get the money by levies upon the states ; but it was not forthcoming. It was distinctly the result of the war. I have always been rather an admirer of the first step taken towards Australian unity. From the first, I gave allegiance to the Federal Council, which is a loose confederation, and I must confess that as time goes on I find it somewhat difficult to sever that allegiance. Of course we all recognise that the Federal Council did not go far enough. It is necessary to give it an executive, and to provide for the common defence, and to have a supreme judiciary ; but I cannot help thinking that if we take the elements which form the basis of the Federal Council fully, and if we add to them these necessary things—an executive, means for defence, and a judiciary, and if we continue to add to them the powers of that council—we shall solve the problem which is at present facing us and which presents so much difficulty. We shall, by beginning low down on the few common points of agreement, be able to build up gradually under the power of reference to the Federal Council which obtained in that bill, a federation, and be able to reconcile what the hon. member, Sir Samuel Griffith, contends for—elasticity and rigidity on certain points. I think it will be found when this Convention has concluded its labours that if these necessaries to which I have alluded are adding to the powers of the Federal Council, and if instead of one chamber, two chambers be made out of it, but on the same model, and the number of members be increased so as to give it that respect which is its due among the colonies over the destinies of which it will have, to a certain extent, to preside, we shall have arrived at a solid ground upon which we can commence to build a lasting fabric, because time is a necessity in all enduring structures. If we begin on that ground, gradually adding to the building, I think we shall get the union which we desire to see more quickly than if we break altogether with the past. I am not now pleading for the Federal Council as it stands. It is inadequate in many respects. But if we give it an executive, the control of defence, and provide for a judiciary, and settle, at the same time, the fiscal question—which can easily be settled under such a principle as that—and if, supposing the Convention favours the idea, we divide the chamber into two, and have a house of representatives as well as a council of state, but maintain that principle which was distinctive of the Federal Council, that it should grow in power by the gradual reference to it of matters agreed upon by the various legislatures, I think that will be our quickest way in the long run. We are all agreed on the question of union. There is absolutely no opposition on that ground whatever ; there is no obstacle whatever to the carrying out of our views. The only resistance which we may encounter is that which may be due to our own momentum. The resistance increases according to the velocity with which we travel. If we build gradually and give time for endurance, we shall find nothing like the difficulties which will present themselves if we attempt at once to launch a definite, rigid Constitution, which we expect to last for many years, practically without change, or with change in only small degrees. I think that all our paths converge towards union ; but at present our steps lie in diverse and varied territory. Our eyes are fixed on the same point, but at the same time we must give our attention to the difficulties which lie in our path, otherwise we shall lose ourselves in the entanglements and the pitfalls at our feet. I think if we can in any way at this last moment recognise the past—recognise the work that has been done, as was done in America, we shall do well. The American Constitution, which we all admire so much, was not obtained by any sudden flight. Much as they saw that the powers of the continental Congress were inadequate for the Congress, they did not break with that Congress. It had a voice in fixing the convention which framed the Constitution. The resolutions carried at the convention were submitted to the Congress, and the Congress took upon itself the duty of referring them to the states. America did not obtain that proud position of federation by breaking in any way with the past, and I think we should be careful in breaking with our past. We must recognise the work which has been already done, and which has not been utilised. Does it not appear that there is something strange in our now applying for more complete federal powers when we have not used the powers which form part of our constitution ? Why should we not work the existing machinery up to its fullest, and when we find it inadequate get other machinery ? I did not mean to refer to this point. I meant to keep away from any reference to the Federal Council, and I must apologise for not having done so.

Mr. CLARK: South Australia is not in it. The hon. member's colony is out of it!

Dr. COCKBURN: She would not have gone out of it if there had been shown a general desire to utilise those means to the fullest extent. Our country would to-morrow, if Parliament met, gladly enter the Federal Council, and give it the powers and every opportunity to justify its existence. However, I have been led into stating my opinion on the question of the Federal Council, because I felt it necessary to show that because confederations have not proved successful in the past that is no reason why a modified confederation should not be successful in the future. We are treading on altogether new ground; we have no experience whatever to guide us. The problems of the old country are no guide whatever to the solution of those problems which will have to be solved on the continent of Australia. As was pointed out by you, sir, Australia stands by itself. It is already defended, and defended in such a way that millions and millions of pounds might be expended without so good a result, by that mighty moat which was placed round it at the dawn of creation, and it has, therefore, nothing to fear from those causes which, in past history, have proved so fatal to federation. I cannot help thinking that after we have been sitting here, and when we get into Committee upon the details of the subject, we shall find that if we settle the fiscal question, and give those additional powers which I have indicated to the Federal Council, we shall have solved as much of the problem as it is possible for us to solve. And in that way, I think, we shall be able to make a solid step in advance. I am afraid that if we aim at too much we shall get nothing. Any one can see at once the difference between the tone which pervades this Convention and the tone which pervaded the conference in Melbourne last year. Many subjects then brought forward as essential to federation have now been recognised as subjects with which we should not deal. Our principal common ground is becoming more and more limited, and we shall find, as it becomes limited, the advantage of not ignoring the foundation already laid, and we shall discover that by meeting round the table we can get over the difficulties and misunderstandings which attached to that earlier form of confederation. As I said at the commencement of my address, we have no experience to guide us; therefore, in this matter we must fall back, to a certain extent, upon the authority of those who have studied the question. It has been said that federation will only take root in the soil when the ground here has been prepared by a looser bond. Now, sir, the ground has already been prepared by a looser bond. We have recognised the inadequacy of that bond. Let us recognise its present requirements; let us build it up upon a sure foundation; and, step by step, let us attempt to avoid, as far as possible, the rigidity which attaches itself to the federations which we have seen in other parts, and which is so fatal to evolution; and so, I think, we may hope to see, without let, without obstacle, the gradual development and the gradual rearing of such a structure which we shall feel proud of from the commencement, and which will prove itself to be enduring forever. I must apologise for having trespassed so long upon the time of hon. members, and I thank hon. members for the manner in which they have listened to me.

Mr. BROWN: In addressing myself to the resolutions before the Convention, I have present to my mind the fact that all, or nearly all, that could be usefully said on the general matters which we are considering, has been already said; and it becomes more and more evident, I think, as we proceed, that the real work of this Convention will only commence when we go into Committee on the resolutions which you, Mr. President, have submitted for our consideration. At the same time, I cannot help feeling that those from whom I derive my authority to sit here as a delegate in this important assemblage would not be satisfied if I, or any other delegate whom they have sent here to represent their views, were to be altogether silent in this preliminary discussion. Whatever diffidence I may naturally feel in addressing this august assemblage, is certainly not diminished by the consciousness of the ability with which the questions before us have been discussed by those who have preceded me. I am sure that we have derived a great deal of interest and a great deal of instruction from the contest of legal acumen and debating power between the hon. members, Sir Samuel Griffith and Mr. Deakin. We also owe very much—and in this I am expressing the opinion of many delegates besides myself—to the important contributions to the discussion we have received from the representative of South Australia, the hon. member, Mr. Baker, and the representative of New South Wales, the hon. member, Mr. Barton. Those two gentlemen, placed before the Convention, in the most clear, forcible, and logical manner, the considerations which ought to guide us in dealing with the important questions which are before us. At the same time, there are some points raised in the discussion of the resolutions which I should like to touch upon; but before doing so, perhaps I may be permitted—inasmuch as the interest that Tasmania has taken in the cause of federation from the very earliest day is well known; inasmuch as through her late lamented premier, the Hon. Mr. Justice Giblin, she gave no inconsiderable aid in formulating the present Federal Council Act—to refer briefly to the operation of that act so far as it has gone. I am one of those who regret to some extent, or have regretted until the past few days, that the institution which was founded by the Federal Council Act has not been used in the manner indicated just now by the hon. member, Dr. Cockburn, as the beginning of larger and more important functions to be devolved upon a federal legislature. No one at all acquainted with the facts supposes, that the authors of that act ever intended that it should be anything more than the initiatory step, in a series of steps, which would ultimately lead on to the object, which is now, in a concrete form, before us in the resolutions which you have submitted to us. We always recognised the fact that we were simply doing what it was possible to do at the time. We hoped that the Federal Council would gather round it, as time went on, the adhesion of the whole of the colonies; and that, when that adhesion was secured, there would be a central body around which the federal idea would gradually grow, and that, as the interests of the people became more and more evident as regards federal legislation, they would be able to evolve from that beginning something of a much more important and imposing character. It has been a matter of extreme regret, as you, Mr. President, very well know, to those who have, like myself, interested themselves in this question, that the important colonies of New South Wales and, until a very recent time, South Australia, were not able to see their way to come in and help us; and it is, of course, a matter of equal regret that the important colony of New Zealand has not been able to see its way to join us, although I know, having had the pleasure of meeting the hon. member, Sir Harry Atkinson, in the Convention of 1883, and having subsequently had conversation with his colleagues who were present with him there, that it has not been from any want of loyalty to the cause of federation that that adhesion has not been given, but simply because they found, as you, sir, found, in New South Wales, and have placed the fact on public record, that it was impossible to get the people of their colony to interest themselves sufficiently in the subject to gain their assent to joining the Federal Council. I am quite sure of this, sir, that if it had been possible to carry on the Federal

Council, always supposing, of course, that we had had the adhesion of the important colonies I have referred to, we should, as the hon. member, Dr. Cockburn, has said, have been much more likely to have arrived at satisfactory and enduring results than we can by going to work as we are now, and attempting at one stroke of the pen, as it were, to place before the various parliaments of the colonies, a carefully prepared paper constitution. Far be it from me to cast any doubts on the results of our labours. On the contrary, I do sincerely hope that the result of our being here will be to build up a constitution which will fulfil the conditions required of it; that is to say, that it will furnish appropriate means for attaining legitimate ends. I may say that, even supposing, as I sincerely hope will be the case, we succeed in arriving at conclusions which will be generally satisfactory to those of our co-delegates whom we meet here from other colonies—in the not altogether impossible event of that result, when it is submitted to the various parliaments whom we represent, being declined, or at all events not accepted for a very considerable time, as I fear will happen in one or more of the colonies, it certainly must be matter for congratulation that, in the Federal Council we shall still have a rallying point round which the federal idea may gather and grow, and by-and-by render much more easy the task of those who desire to see an absolute and perfect union of the whole of the colonies. Having said so much, if you will permit me to do so, I should like to congratulate you, Mr. President, and those whose assistance you have been able to secure, on the success which has so far attended your labours in assembling this Convention—and I think it is only fair and right that I should give voice to the opinion which I know is held by many, that we are in no small degree indebted to the self-denying, patriotic, and statesmanlike conduct of the hon. member, Mr. Gillies, for having arrived at the point at which we have arrived. I think, if the hon. member, Mr. Gillies, will permit me to say so, that there is no doubt that were it not for the means he took to secure the adhesion of New South Wales and the other colonies to the proposal to assemble this Convention, we should not have been here to-day; and, on my own part, and on the part of those who are interested in the federal cause, whilst thanking you sincerely for the prominent part you have taken, and the cordial and loyal manner in which you have acted towards the cause of federation, I join also with those who acknowledge their obligations to the hon. member, Mr. Gillies, for the work he has performed in connection with the matter, not forgetting for a moment that the present Premier of Victoria, since he has had the opportunity, has also rendered loyal service in the same cause. As to the resolutions which are before us, the most important are those which refer to the tariff question, and on that point I think the Convention is as yet without the information which it will be necessary for us to have before we proceed very much further in the consideration of the question. We know that the hon. member, Sir James Lee-Steere, at the conference held in Melbourne last year, raised the very important question as to the amount which would be sacrificed by each of the colonies by the abandonment of the intercolonial duties. I have seen various calculations as to the amount that would be so sacrificed; but I have, as yet, seen no authoritative statement from any one in the position of treasurer of a colony as to what that amount is likely to be. We have, of course, before us, the calculations of statisticians and others who have interested themselves in the matter; but I think it would be well if this Convention were informed by some one who has had the responsibility of administering the finances in a colony what is really likely to occur in that respect. With regard to the ultimate result which we all aim at, the free interchange of commodities from Port Darwin on the north to Hobart on the south, and I hope also with our friends in New Zealand, no one will, I think, question this proposition, that no matter what the individual losses may be—and we know some individuals must lose by the operation of such free interchange—they will be absolutely lost and merged, and must be considered of the very slightest importance in consideration of the vast advantages which will be given to the whole of the colonies by the increase of trade and commerce, and the enormously enlarged markets which will be placed at the disposal of those colonies which now, unfortunately, by hostile tariffs, are closed to them. It has been said that there has been a want of impelling force to drive us to this union; that there is no prospect of war or invasion. I should like to ask those gentlemen who know what has been going on within the last twenty years how long they suppose it will be before some very serious questions will arise between these colonies on the continent—of course, as far as Tasmania is concerned, we are in the happy position of not being in that close juxtaposition with our neighbours which sometimes leads to unpleasant results—but I ask then how long they think it is likely—tariffs being avowedly constructed for the purpose of inflicting injury upon neighbours—that that state of things will continue without some very serious results arising? It is true that the differences between the colonies in this matter have hitherto been adjusted without any very serious results; but as the military forces of each colony increase—as they are increasing from day to day—with the power of each colony increasing, as it is increasing from day to day, does any hon. member of this Convention mean to tell me that there is not a risk of some very serious conflict arising? But, quite apart from that impelling force, we have quite enough in the consideration of the enormous advantages that we shall all enjoy from a free interchange of products and manufactures throughout Australasia to cause us to welcome the day when that glorious state of affairs shall be brought about. It has been a surprise to me, as no doubt it has been to other hon. members of the Convention, to find the colony of Victoria the first to cry out for some consideration in the arrangement that may be made with this ultimate object in view. This is one of those rather comical incidents with which we occasionally meet, which requires some explanation, and, no doubt, we shall have some explanation given later on. However, I am inclined to agree with those who are disposed to have some time fixed before the free interchange shall take place; and, if that is the only condition, I should hope that New South Wales will not be so rigid in its adherance to what it considers its rights in the matter, as was indicated by the hon. member, Mr. Dibbs, this morning. We are here, sir, to perform that duty which you have placed before us—to give and take— and if, in this matter above all other things, there is not a disposition to give and take, we are not likely to arrive at a satisfactory conclusion. I was very glad indeed, sir, that in the graceful and charming speech of the hon. member, Captain Russell, we had recalled to our minds the fact that this is an Australasian Convention, and I shall be glad indeed—and I am sure that I am expressing the opinion of all my fellow-colonists—if the result of our labours shall be of such a character as to show New Zealand that if she does join our federal union she certainly will not have any cause to regret having done so. There is no doubt that it is desirable that the union to be formed should be an Australasian union, and it will, I think, be deplorable if one important member of these Australasian communities should, for any reason, think it necessary to stand out. While, as indicated by the hon. member, Captain Russell, New Zealand has been, and is likely to be, so coy, I think that the coyness of New Zealand is far surpassed by the coyness of

Western Australia. We have had placed before us by the hon. member, Sir James Lee-Steere, various conditions under which Western Australia is likely to consent to join the union. Those who take that view with regard to Western Australia I hope do not lose sight of the fact that as regards that vast territory this is "the day of small things," and that although with her resources, her enormous extent of territory, and her position, she would be under some disadvantage now in joining the union—we are not here to contrive legislation for the present, but to look forward to a future day when instead of 40,000 inhabitants, which I think is the number in Western Australia now, there will be perhaps 4,000,000 or 5,000,000 within not very many years. But the hon. member, Sir James Lee-Steere, raised a question which I think demands some consideration with regard to the representation of the smaller states in the house of representatives. I quite concur in the view expressed by that hon. member, namely, that the number of representatives proposed to be accorded to the smaller states would, if taken on the basis of population, be altogether inadequate; and I think it will be for this Convention to consider later on whether they may not fairly stipulate that as regards the existing smaller colonies, and as regards future smaller colonies—or states I suppose I should call them—which certainly will be carved out of the larger ones, there should be a minimum representation in the house of representatives. The calculation giving a representative to each 20,000 inhabitants would be as the hon. member, Sir James Lee-Steere, said, two for Western Australia, eight for Tasmania, sixteen for South Australia, as against fifty-six each for New South Wales and Victoria. I think it will be for us to consider whether, as regards the smaller states now existing or those which will come into existence hereafter, it would not be fair to say that there shall be a minimum of twelve representatives. That, however, is one of those matters of detail which, of course, will have to be considered very carefully; but I can understand any representative of Western Australia taking exception to the small amount of representation which that colony would secure if the number of population alone were to be taken into consideration. With regard to the 4th resolution, providing for one command for the military and naval defences, I have been very much surprised at the way in which that resolution was slurred over. It was not noticed at all by some hon. delegates; and its full effect was not taken into consideration, or, at all events, not given prominence to, by those who have noticed it. I should like to know if there is to be an organised military and naval defence under one command in the Australian colonies, what is to be done with regard to the large amount of defence which we now receive from the mother country—partially paid for only as regards annual maintenance, and as to the other portion not paid for at all? Is it proposed by those who advocate this step, that the defence now afforded us by the mother country is to be continued as it is, or is it contemplated that there shall be some sort of treaty with the mother country as regards supplying any necessary defence that may be required hereafter? There is no doubt that the taking of this step with regard to the defence of the colonies will involve a very much larger expenditure than any that we have contemplated for some time past. I am entirely in accord with those hon. delegates who have taken the view that, in forming our legislative machinery, we should give the very utmost power that can safely and properly be given to the senate or state council, as it may be called; and I have been very much surprised to find, on the part of many who have discussed the question, such a disposition to confuse the nature and the constitution of the senate with the nature and the constitution of the upper houses, as we know them in the colonies. It appears to me that nothing could be further from the truth than to represent the senate, as we contemplate it, as representing only a section of the people. As I understand the proposition, the members of the senate will as thoroughly and as fully represent the people of the various states as the representatives in the lower house will represent them. In the colonies now there are, I think, three nominee councils, and the others are elected on a restricted franchise. With regard to the senate, its mode of election and its touch with the people of the various states will be entirely different; and therefore I am quite unable to follow my hon. friend, Mr. Deakin, in his violent declamation against the past encroachments of upper houses which are now in existence, and the possibility of encroachments on the rights of the people by the senate which we hope to create. With regard to the appeal court—the judiciary—that is a matter which has been dealt with by the legal members of the Convention, and as to which I am not disposed to trespass on the time of the Convention now. All I would say is, that it appears to me, while admitting that it would be an enormous convenience and saving of expense to parties in the colonies to have the opportunity of appealing to a local court of appeal, yet I cannot see why the option of appealing to the Privy Council, as I believe is the case in Canada, should be withdrawn altogether; and, as regards severing the links that bind us to the old country, if the establishment of the proposed court of appeal is to be taken as an indication of a wish to sever that link in the least degree, as it has been taken by some to mean, I say that it would be deplorable that it should come about. In this connection I should like to refer to the very able speech which we heard this morning from the hon. member, Mr. Dibbs, a representative of New South Wales. I am one of those who have been taunted from time to time with the possible results of the course that I have advocated, and am now advocating, to secure the union of these colonies. I am told that what we are going to do will lead to something terrible in the future. All I can say is that what we have hitherto done, and as far as I know what we are likely to do in the future, has been done and will be done, with the full concurrence of the mother country. As far as I am aware, there is no disposition to hamper or cramp the efforts of these free communities in the southern seas in working out their own salvation as they may think proper; and if there is to be, as indicated by the hon. member, Mr. Dibbs, and others, a complete separation from the mother country, which God forbid—if there is to be that complete separation which has been so boldly, and if the hon. member, Mr. Dibbs, will pardon me for saying so, I think injudiciously, indicated this morning—if there is to be that complete separation, there is no doubt that it will be with the full concurrence of those who are responsible for the destinies of the empire, and who have devoted their time and attention for many years to the solution of these problems.

Mr. GILLIES: It won't come in our time!

Mr. BROWN: I am content to take things as they are. I think that if such results as have been pointed out by the hon. member, Mr. Dibbs, are to come about, it will be a very long time hence. It is not for us to trouble ourselves about the ultimate results, but to carry out as best we can those institutions which are likely to give us the full benefit of the freedom which we have inherited. I have little more to add. I should have been pleased if we could have had some more certain indication from the hon. and learned member, Sir Samuel Griffith, and others who have studied the question as to what is likely to be the result of the attempt to graft upon the legislative body which we propose to create, responsible government as it is understood in the colonies. I hope we shall be able to see some way to do that, because the institution of responsible government, notwithstanding the carping, and

sneering, and adverse criticisms to which it has been subjected from time to time has, on the whole, worked fairly well. It is a mode of government with which we are familiar, and one which, I think, is much more in accord with the instincts and the aspirations of the Australian colonies than any other mode of administering government which has been submitted for our consideration. And in this matter I am entirely in accord with the hon. and learned member, Mr. Barton, that we must take something for granted. I think it is not at all impossible or improbable that we shall find later on that the responsibility of ministers to the house of representatives will not be after all such a bad thing as it is feared it may be. For we have to consider—and I find from a conversation with the hon. and learned member, Mr. Barton, that he is entirely in accord with me—that no body of men called upon to assume the responsibilty of government would, in forming an administration, ignore—in fact they could not afford to ignore—the voices and wishes of the senate, or the council of the states, if it is to be anything like as powerful as we have indicated our wish to make it. And to talk of the possibility of the council of the states acting in the narrow-minded and obstructive manner indicated by the hon. member, Mr. Deakin, is, I think, going very much beyond what we are entitled to assume. And with regard to the wish of the hon. and learned member, Sir Samuel Griffith, that elasticity should be given to the machinery of government, I think his views on this question have been very much mistaken. He has never said that he wished to see nothing but rigidity in the principles laid down for the foundation upon which the legislature will work; but what he said, as I understood him, was that we cannot hope to have a constitution which will be in accord from time to time with the views and aspirations of the people for whom it is framed. The hon. and learned gentleman no doubt had in his mind what has been well expressed by Professor Max Müller:

> Nature teaches us that nothing can live which cannot grow and change, and all history confirms nature's teaching by showing us that nothing has been more fatal to institutions than a blind faith in their finality.

And when hon. gentlemen speak of the constitution of the United States of America, surely they have only to turn to the volumes of Mr. Bryce, and other standard works, to see how, partly by usage, and partly by interpretation by the supreme court, that constitution, not in very important principles, but in various principles regulating the relations between states and the federal government have been varied very considerably during the last thirty or forty years, or longer. So that I think what we have to try to do on this occasion is not to lay down rigid rules to operate for all time; but simply to construct the frame-work of a constitution which we may submit to our respective parliaments with some hope that they will concur in our work, in order that we may take the first step in the federation of the whole of the colonies. I hope the result of our labours will be to give to those colonies, so far as such conditions can be secured by any human institutions, unity, strength, peace, and concord.

Mr. WRIXON: I shall endeavour, Mr. President, to briefly direct the attention of the Convention to certain issues which seem to me to have been raised by the discussion in which we have been engaged during the past week. The subject before the Convention is a vast one, and it would be impossible for us to here embrace it in every aspect which it presents. But I think we should have debated in vain for the past week if we did not find certain issues eliminated from the general mass of discussion and on which our decision is now challenged. That those issues involve difficulties need not be conceded. We are all acquainted with the difficulties which surround them, and we have to find, not merely those difficulties, but a remedy for them. The people of our different communities who have sent us here, charged with the great commission of framing a constitution for them, are quite aware of all the difficulties which underlie the task, and they look to us, not merely to see what the difficulties are, but also to see where the remedy lies. And in that respect I cannot help saying that I think the forcible speech of the hon. member, Mr. Dibbs, this morning, is perhaps open to some little comment, because he put in the most effective way every possible objection against federation, and found some other objections, which do not seem, perhaps, to come strictly within the range of normal objections to it. He put every possible objection, but certainly he was not able to favour us with a solution of some of those difficulties. I think I am safe in saying that, while the question of the situation of the capital may be a difficulty, and while the question of the river Murray may suggest difficulties, we should be a people sadly wanting in the political genius and instincts of our forefathers if we allowed any such questions as those to stand in the way of federation. And I certainly do not expect to find this great province, if I may so call it, or state of New South Wales, or any other state that now proposes to federate, turned aside from its purpose by any such obstacles as these. More than that, I say the other difficulty which the hon. member adverted to—the fiscal difficulty—is a difficulty which, the nearer you come to it, really seems less. It looms vast in the distance; but when you come to grapple with it it seems gradually to disappear. Now, we have been challenged, I may say, on this point, to say why it is that Victoria makes particular stipulations. Sir, I am not aware that Victoria ever has, or that she ever desires to make any stipulations whatever. As far as I understood, what was put forward by my hon. friend, Mr. Deakin, was in regard to all the states—not to one state alone, but to all—that they should be assured of a certain time and certain conditions, before bringing into effect any great fiscal changes.

Mr. DEAKIN: Hear, hear!

Mr. WRIXON: That surely is not a matter involving a serious difficulty with which we shall be unable to cope. It seems to me, if I may express my opinion—an opinion which I am glad to find has been before expressed by many strong representatives of the protectionist interest, notably by my hon. and gallant friend, Colonel Smith—that there need not be the slightest uneasiness on the part of any province, and there is no need for any special conditions being made by any province with regard to its vested interests, or its existing industries, because the situation is clear. They will all retain their present tariffs until the federal parliament makes changes, and we all know that in that federal parliament the voice of the mass of the people will be thoroughly represented. I may go further and say that I do not think any of us can doubt that that voice will be for protection against the world. Therefore I apprehend that this fiscal question is one the difficulty of which lies rather upon the surface, and can be grappled with when we come near to it.

Colonel SMITH: Where should we be if it were decided the other way?

Mr. WRIXON: Certainly; but I share the courage which my hon. and gallant friend displayed, as I understood him yesterday in his speech, when he said that we in Victoria are afraid of no reasonable competition, and are prepared to take our lot with others. But with regard to all the colonies, it may be necessary to make certain conditions before bringing into operation any great fiscal changes.

Mr. DIBBS: What about preserving vested interests?

Mr. WRIXON: That is just what I am talking about. I say that we need not have the slightest

fear about vested interests not being fully preserved; because the people of the country will be amply represented in the federal parliament, and I apprehend that they are not disposed to do violence in regard to any of their interests. But I may say that this very question of the fiscal difficulty applied in full force in the case of Canada. There the different provinces had different tariffs and were allowed to keep their tariffs until the federal government was able to bring legislation into operation; and when the federal parliament came to deal with the tariff question, it dealt with all the different existing interests. In some cases it made concessions; it was a matter of give-and-take with regard to certain points, and it considered the wants and the interests and the just demands of every province in the dominion. Surely our parliament will do no less than that. We may contemplate, however strongly attached any of us may be to protectionist principles, with the most perfect equanimity the action of the federal parliament. It seems to me that what we want now with regard to the fiscal question is not so much pledges from this Convention, not so much consideration of general principles, as a committee of some six or seven practical gentlemen—financial and fiscal authorities—chosen from this body, who would look into the details, and be able to give facts and figures for certain conclusions, at which afterwards the Convention would be asked to arrive. If we get that knowledge I think our course with regard to fiscal reform and fiscal changes contemplated by federation will not be difficult. While I have adverted to what the hon. member, Mr. Dibbs, has said, and the difficulties which he seemed to me to put in our path, I cannot altogether exclude my hon. friend, Sir James Lee-Steere, because he also seemed to me somewhat to exaggerate the difficulties of the situation. Whether it is that he regarded his colony as being entitled, as the youngest child of all, to be made somewhat a pet of, I do not know; but certainly he seemed to me to lay down some hard conditions with regard to his province joining our confederation, because, as I understood him, he wanted not simply a money consideration in regard to customs revenue, but also a railway to be made across the continent to his province. While I would say that these are questions of importance—questions of great importance, but questions to be considered in detail—they need not frighten us in proceeding on our path and firmly treading our way towards that confederation which we hope to see brought about. Therefore, we are indebted to both those hon. gentlemen, and also to others who put all the difficulties before us, because, really, when we come to look at them, we see that they are not so very great. Now I will turn to what seem to me to be the particular issues which have been raised by this discussion so far. The first—regarding our fiscal policy and condition, concerning which I say that we want more light and inquiry than upon anything else—I have already glanced at. The next—and it is a matter of great importance—is the question, as it has been called, of state rights. Certainly it is a serious question, because it lies at the root of any proposal to federate at all, and it is impossible to arrive at a solution of the question unless upon the principle of give-and-take. Now we seem to have been agreed—at least up to this morning—that we should federate upon the lines of the English Constitution as regards the executive; and, as regards the legislature, that we should have a senate, in which the states will be represented, and a house of representatives, in which the population will be represented. I have not heard as yet any serious proposal to abolish our own form of government—the ancient system of English constitutional government.

Sir SAMUEL GRIFFITH: No; modern!

Mr. WRIXON: It depends upon what you call ancient and modern. It is older, at any rate, than are any of the communities we here represent—I mean the system of responsible government.

Sir SAMUEL GRIFFITH: No!

Mr. WRIXON: I differ from the hon. member. However, our time is too valuable to be occupied with a discussion as to whether I use the correct term or not when I say the ancient constitutional usages of our forefathers. Such I believe them to be. However, I have heard no proposal—and this is an important point for hon. gentlemen to consider—to abandon the English system of responsible government in the government of the dominion we are about to constitute. The hon. member, Dr. Cockburn, incidentally said it might be necessary to take the American system, and Sir Samuel Griffith said that the constitutional system of England might develop into something else. That is very true. Mr. Barton distinctly repudiated, as I understood when I read his speech, any desire to depart from the English principle of government. I think we shall all concur in the wisdom of retaining the English system of government in our new dominion. I do not think we shall be prepared to add to the great difficulties of our present situation the further difficulty involved in an entire alteration of the system of government in our dominion, constituting in that dominion the American system of government, while in each state we still retain the English system. I do not think it is seriously proposed to do that. Certainly if it were proposed I should say that it was an exceedingly unwise proposal. Coming to the question of state rights, I ask hon. gentlemen to observe that what is proposed to us is that we should retain the system of English constitutional government, but that we should give certain powers to the senate, with a view to the thorough representation of the states. Now, the states, we are told, under this proposed plan—which I regret to see has already obtained the assent of many hon. gentlemen—the states as represented in the senate, are to have expressly given to them the power of controlling finance. That, sir, seems to me an exceedingly serious proposition, and we ought to pause well before we go further with it; for what does it mean? Finance is government, and government is finance, and under the English system of government one or other house must appoint the executive. No one here has proposed to take the executive out of both houses, as in America, and to have them appointed by the people. One house or the other under our proposed system must appoint the executive, and I say that the house that really controls the finances will be the house that will really control the government. You will observe that this veto, which we are now asked to give to the senate, will not be a power of general veto, such as the upper houses in these colonies now have, and which they exercise, and exercise properly, in an emergency. This is a power to be expressly given to the senate, to be exercised in the interests of the states, enabling it to amend in any way it pleases any of the financial proposals of the lower house. That means the handing over to that body of the real control of the finances, and the handing over of the real control of the finances means the handing over of government. I ask hon. gentlemen in all seriousness to consider whether it is likely such a proposal could be seriously entertained? Our anxiety is to do something. Surely we do not wish merely to meet together here for the purpose of putting forward hypotheses which will come to nothing. We want to do something, and I ask hon. gentlemen to consider whether a scheme of government of the kind suggested will be lasting—that is, a scheme under which three or four states, with a population of something over 1,000,000, could control the action of other states with a population of 2,250,000. Do hon. members think that that would be submitted to? Is it likely to last? The larger states, as well as the smaller ones, have their feelings; and while it may be quite

right to give the smaller states a certain power and weight, this proposal would give them, not only weight, but the power of absolute command, control, and government over the whole of these dependencies. Now, it is of no avail to talk to us of the United States, because you are not proposing to copy their form of government. If you were proposing to take the executive out of the two houses, you might divide the power between them as you chose; but that you do not propose to do.

Sir JOHN DOWNER: Why?

Mr. WRIXON: I have not heard it proposed as yet—in fact, in the speeches of Sir Samuel Griffith, and of Mr. Barton, and other members who supported their view, the idea was repudiated.

Mr. CLARK: No!

Mr. WRIXON: Does the Attorney-General of Tasmania mean to say that it is seriously proposed that we should start a dominion government upon the lines of the United States?

Mr. CLARK: No!

An HON. MEMBER: Switzerland!

Mr. WRIXON: Or of Switzerland either? Is that seriously proposed?

An HON. MEMBER: It is to be a hybrid form of government—it is to contain a little of everything!

Mr. WRIXON: Is it really proposed to add to the difficulties of our position in dealing with federation by going off into an entirely new experiment as to the federal government and instituting a form of government different not only from that of England, but from that of each of the provinces?

Dr. COCKBURN: It will be necessary!

Mr. WRIXON: I do not think so. That remains to be proved. If you adhere to the English principle of government you must bear this in mind, that what is really asked for by the smaller states is practically the control of the dominion. That is what it comes to.

Mr. CLARK: What is asked for is co-ordinate power!

Mr. WRIXON: There is no such thing as co-ordinate power in this matter. It is an observation at least as old as Shakspere that if two men ride a horse one must ride first. If you have the English system of government, you can have no co-ordinate powers as between the two houses: it cannot be done—it is an impossibility under the English system. We all know that under that system the lower house is the real centre of government. Occasionally the upper house may differ from the lower house, but that does not matter—the government goes on as before. I would ask hon. gentlemen to pause before they seriously insist upon this view, because the effect of it would be this: that while it is put merely as a financial question—as a question of amending a money bill—the real effect of it is to give the determining power of government into the hands of, it may be, a small minority of the people. And I do not think any federation founded on those lines would be lasting. I think we are making a large concession to the smaller states in allowing them equal representation in the senate. I think, also, that there are other concessions which might be made to those states. But, to maintain that they should have the financial power claimed for them, would be to attempt to lay the foundations of this new confederacy in a thoroughly false way. But do I ignore the difficulty of the position? Do I attempt to say that nothing should be done for the smaller states? Do I look at merely one side of the question, and see only the difficulties on that one side? No sir. I admit that there is weight in the contention that the smaller states ought to be given as powerful a voice as is consistent with the carrying on of the ordinary principles of the English system of government in this dominion. I quite agree, for one thing, that with regard to the house of representatives, the smaller states should have a larger representation than that to which they would be entitled in proportion to their population.

Mr. CLARK: That is a sop!

Mr. WRIXON: It is a very effectual sop—a sop that was given and taken in Canada. I think, for instance, that it is unreasonable to provide, as was provided in the bill of my hon. friend who interrupts me, for two representatives of Western Australia in a house of 150. The Attorney-General of Tasmania talks of a sop. We should need to offer a very large sop if we were to constitute our house of representatives upon such lines. I, for one, would not be in favour of it. I think some minimum should be fixed, and that any state, however small, should have a certain number of representatives in the lower house. The smaller provinces acting together through their representatives would be a very important body, and would constitute a formidable minority. Hon. members will remember this: that all governments are, as the government in the dominion parliament will be, anxious to conciliate all sections of the house. Governments live by so doing, and the notion of a government wishing to override the views of all the smaller states is imaginary. It is the first duty and interest of a government to conciliate every section of the house, and if we were to give a fair representation to the smaller states, I think they would form an important body, liable at any time to be consolidated. Also, I think it is well worth consideration whether some provision might not be made that not more than a certain number of members from the large states should be ministers. I think something might be done in that direction, so as to facilitate the government being composed partly of members from the smaller states, and partly of members from the larger ones. I think it is not impossible to introduce some such provision. I think we might also indicate a certain class of measures which should be included in separate bills. It is possible that the ingenuity of a carefully composed committee, looking at this question dispassionately and fairly, might be able to point out certain classes of works, federal and other, which might be dealt with in separate bills, and, in respect of these, we might give the senate the full power of veto. I ask the Convention to look at the question in the light of remedies such as those I have mentioned, and of others which hon. gentlemen may be able to devise better than those I myself suggest. We should rather look to measures such as these for a remedy for difficulties than to a violent change in the whole nature of our government, with the result that we might set up in the proposed federation a government by the few instead of by the many. I make this suggestion to the Convention with great sincerity, because I cannot but feel that if we simply adhere to an advocacy of each side, and allow ourselves to be divided into big states men and little states men, evincing no desire to come to a compromise or arrangement, we shall, in all probability, seriously endanger the proposed federation. It is just in such a case as this that the whole of the provinces of Australia look to us to arrive at some solution of the undoubted difficulty that presents itself. I will not dwell further on that subject. I wish to say one word about the constitution of the judicial body of the federation. It would be one of the greatest advantages of the federation to have one judiciary, and I trust that the result of the arrangements we shall make will be to make the supreme court judges, and also the county court judges, all through the dominion, the judges of the dominion government, under its authority and appointed by it. I think the proposal to constitute a court of appeal for Australia is an excellent one. Many minor but great results will follow in the wake of these proposals. I am not disposed, at least until I have heard further argument from him, to agree with the disinclination of the hon. member, Mr. Clark, to pass a uniform criminal law. I should have thought at the first blush that it would be advantageous to have the principles of the criminal

law uniform throughout our new dominion, as certainly a large portion of our law must be and will be. Look at the advantage it would be to the mercantile community to have a uniform patent law; and I trust we shall have a uniform bankruptcy law, and have the process of the courts running throughout our great dominion. I know that so far I take the whole Convention with me—my learned as well as my unlearned friends—I mean unlearned in law only—but I now come to a point on which I have observed that several of my learned friends have expressed opinions which I sincerely trust will be deeply considered before they are adopted: that is, in favour of taking away the appeal to the Privy Council. It seems to me that if you do that you make a very great sacrifice for a very small gain. At present it is one of the noblest characteristics of our empire that over the whole of its vast area, every subject, whether he be black or white, has a right of appeal to his Sovereign for justice. That is a great right, and a grand link for the whole of the British empire. But it is more than that. It is not, as it might be considered, a mere question of sentiment, although I may say that sentiment goes far to make up the life of nations. It is not merely that; but the unity of final decision preserves a unity of law over the whole empire. The Privy Council at any rate, when it decides, decides finally, and for the whole of the empire. If you provide that your court of appeal in Australia shall be final, this evil may rise: The Supreme Court of Australia, will decide (say) a commercial question on the construction of a charter party in one way this year, while next year the Judicial Committee of the Privy Council, composed, I will say for the sake of argument, of a very strong court, will decide the very same question in another way. We should then be in this curious position: that we should have a different law from that of the rest of the empire on a great mercantile question. There would then be a feeling in our local courts as to whether they should follow the decision of the court of appeal in Australia or the decision which they might consider to be the better law of the judicial committee in England. I believe there is a vast gain in unity of administration and interpretation of the law, and in having in all these distant and scattered dependencies, not only the decisions of the English judges to go upon, but also the legal literature of England, the books and comments upon them, to guide us as to the law on different subjects. All lawyers know how valuable that is. All that, however, would be lost when you cut away the connection in judicial matters between the dominion and the old country. I may mention another difficulty which seems to me to stand in the way of this proposal. I think it would be very difficult to constitute a court of appeal in Australia sufficiently strong to command unquestioned confidence in the provinces, the decisions of whose courts it would over-rule. I will take the example of my own colony of Victoria. There, important matters are heard before six judges, and I believe I may say truly that those judges are six of the ablest lawyers in Victoria. I doubt whether it would be possible to constitute in the dominion a supreme court that would so completely overshadow that court, and all other provincial courts, as to give perfect satisfaction when it reversed their decisions; whereas, when we go home to the old land—partly on account of the able men who generally, I do not say on every occasion, preside at the Privy Council, and partly, perhaps, it may be, on account of the feeling of veneration for the old land, and partly, also, on account of the fact that the decision of the Privy Council is final and general throughout the whole empire—the decisions of that court are always accepted and acquiesced in by the different colonies, the decisions of whose courts are dealt with by it. You will throw away all that if you take away the appeal to the Queen from the people of Australasia. I do not think the evil you seek to cope with is very great, and I do not think the appeals would be very many. Every lawyer knows that when appeals are made, the courts impose conditions as to costs, and in other ways, which, as far as possible, prevent the appeals from being too numerous.

Sir JOHN DOWNER: The conditions imposed are insufficient!

Mr. WRIXON: I hope to see the hon. member, Sir John Downer, a member of that appeal court, and I trust he will impose sufficient conditions before he allows an appeal to the Privy Council. I have no doubt he will do so. I will not delay the Convention any longer on this point; but I have noticed that so many gentlemen, particularly my legal brethren, have declared so positively in favour of a final court of appeal in Australia, that I wish to ask hon. members to think about it before we arrive at a final determination. I will not detain hon. members any further, because I feel we are bound to be brief if we want to get to business. I repeat that I do not think the difficulties are so great when you look at them. There are always difficulties when you wish to take action. What we want to do is to grapple with one or two points, and I think they can be readily grappled with. The fiscal difficulty I believe to be imaginary. It only needs to be taken in hand by an intelligent committee, who can see practically how it stands and what we should do. The state rights difficulty is equally imaginary, if we only fix in our minds what we want and what we intend to do.

Sir JOHN DOWNER: It is not imaginary in the way the hon. member has put it!

Mr. WRIXON: It is imaginary if we only fix in our minds what we desire to do.

Mr. FITZGERALD: The hon. member has said that government is finance, and that finance is government!

Mr. WRIXON: The hon. member who favoured me with his attention at that part of my address did not favour me with his attention when I pointed out ways in which the rights of the smaller states could be better secured; and he ought to consider those ways before he decides absolutely in accordance with his interjection. With regard to the question of state rights, we must consider what is proposed. No one proposes that the smaller states should be swamped or voiceless. No one wishes that, or would agree to that. But on the other hand, does anyone propose that these smaller states should govern? No one will propose that, and if we approach the subject reasonably, we ought to have no difficulty in arriving at a satisfactory conclusion. The great characteristic of Englishmen has always been, not that they do not get into difficulties, but the wonderful way in which they get out of them; how they fight through them; how they face them; how they work through to a solution of them. I venture to think that we who are Englishmen, or the descendants of Englishmen, will not be frightened by the difficult points which have been raised here, but that we shall grapple with them and overcome them; and I have no doubt that we shall succeed in the enterprise which we have in hand.

Mr. J. FORREST: It was not my intention to speak to-day; but as there seems to be a disinclination on the part of members to continue the debate, and as it is still early, I have no objection to offer to the Convention at this stage the remarks which I deem it my duty to make, and, as I have not very much to say, I shall not detain hon. gentlemen very long. I am very pleased indeed to be here; and the colony I represent is both pleased and proud to have an opportunity of sending delegates to this great Convention. It is the first time, as you are all aware, that we in Western Australia have been able to meet the representatives of other colonies on quite equal terms; and it is a great pleasure to us and a great privilege that the first occasion on which we meet on

equal terms the statesmen of Australia should be with the object of founding an Australian dominion. There is no doubt that the feeling in Australia is that it should not be allowed to remain a number of small states. I hope that the result of our deliberations in the Convention will be all that the people of Australia desire; and I also hope that you, sir, who have conceived this great idea, may be rewarded for your great patriotism and your loyalty not only to the old country, from which you sprang, but also to Australia; and I hope that the result of your exertions will be that, at no distant date, there will be established in Australia a federal dominion. These are my individual opinions. I have looked forward for many years to the day when this continent would become one great dominion under the Crown. I have read with very great interest the able speeches which were delivered by the members of the Convention before our arrival, and I have watched with much interest the proceedings of the Convention since. The speeches, so far as I am able to judge, are remarkable for their dignity and for their earnestness, as well as for their broad and patriotic views. I notice also that the speeches generally were not in any way local in the directions they took. I felt myself in some difficulty, because I should have liked to follow in the course taken by those who preceded me. I will, to the utmost of my power, and as far as I am permitted, follow in that course. But I have a duty, and that duty compels me to examine the matter closely, as it affects the states having small populations and large areas, and foremost amongst these is the colony I represent—Western Australia. I regret that I shall have to descend in some remarks I shall have to make from the pinnacle to which other hon. members attained, and come down, I fear, to what may be called, by some, rather narrow views. The colony I represent is in a very exceptional position. My hon. friend, Sir James Lee-Steere, has placed this before the Convention to some extent. It has a large area, nearly one-third of the continent of Australia. It has, as you are all aware, a small population. It is just entering upon the management of its own affairs. It is like a young man just starting upon his career. Its people have not considered this great question of federation. We have no communication whatever with the other colonies except by sea. A thousand miles of unoccupied country separates us from this part of Australia. All these colonies now are independent. They have their own governments, they are as independent and as free as any of the nations of the world, and we shall have to ask them, in framing a constitution, to give up some of their independence in order to become a nation. Individually they will lose in prestige, and instead of being independent states, they will become to a certain extent merely provinces in order that collectively they may flourish, and in time become a nation. I believe that the question of prestige is one which will have an important effect in dealing with this question when it comes to be considered by the people of the different colonies, because, to some extent now, all these colonies are prominently before the world. They have their independent governors, their independent legislators, and their independent governments, and they are to a certain extent known to the world; but under a federated government we shall have to be content to sink our individual provinces, and become part of the whole nation. I am quite sure that we shall lose in prestige individually, and we shall probably suffer socially, I believe that that to a very large extent, has been the result of federation in Canada. As far as I have been able to judge, and I have travelled through the country, the provinces of Canada are to a great extent unknown outside of the dominion. Even the statesmen and governors of the several provinces are scarcely known beyond the limits of their own country. But that is not the case in these colonies at the present time. We all know who is the Governor of Victoria or the Governor of New South Wales, and who are the prominent statesmen here. Few people, however, will tell you anything about the prominent men in the states of America, or about the prominent men in the provinces of Canada. Although, as I said before, this is a matter of sentiment, it will have to be considered; and, since we are to a great extent ruled by sentiment, it will be largely discussed, and will require great attention, when the question comes to be thrashed out in the parliaments of the different colonies. At the same time I feel sure that every Australian, whether he be an Australian by birth or by adoption, must look forward to the time when he will be a citizen of Australia, when his boast will be, not that he is a Victorian, a New South Welshman, a Queenslander, a South Australian, or a Tasmanian, but that he is an Australian. and I believe that this is gradually becoming the position. It is not usual, when you meet people in other parts of the world, and ask them where they came from, for them to say that they are Tasmanians or Victorians, but they call themselves Australians. I believe that this sentiment is taking deep root in the minds of the people of this continent, and that the desire of young Australians undoubtedly is that Australia shall become a nation, and that we shall be no longer separated from one another by artificial lines. After all, these boundaries, as I believe was said by some one the other day, are merely artificial lines on the map. In some of the colonies where settlement has extended they have attained some practical permanence, and are actually known on the ground, but as a rule how they were fixed? Merely in a haphazard fashion on the map. The boundary between Western Australia and the more easterly colonies is the 129th meridian of longitude; but that boundary was fixed upon merely at haphazard, without any reference to the interests which might be involved. Again, the boundary between Victoria and New South Wales is the river Murray—a most unsuitable division. No line of division is so unsuitable as a river. The people living on each side of it marry, and become virtually the same people; but they are divided by artificial boundaries, such as customs tariffs, and everything is done to estrange them from, rather than to make them more friendly to, each other. In dealing with this question I feel certain that although sentiment, as I have just said, may play some important part, the good sense of the people of Australia will show itself; but we shall have to be able to show the people of the colonies that there is something to be gained by their becoming federated. At any rate, if we cannot show them that there is something to be gained, we shall have to prove to them that they will not lose anything by federation, and that in sinking to the condition of provinces or states—I do not think there is a great deal in the name, both words mean about the same thing; but, if I may be allowed to say so, I myself prefer the name state—they will be far greater as an integral part of the Australian dominion than as independent communities. That, it seems to me, will be the duty of those who have to impress upon the people of the different colonies the advantages of federation. They will have to show that there is something to be gained, or, at any rate, that there will be nothing lost by the act. I feel sure that upon our return to our respective colonies we shall be confronted with questions, not only by the supporters of the government in the house, but also by the opposition, who, on all subjects, even upon those which commend themselves generally, take an opposite side to that taken by the government;—we shall be asked, "What advantage are we to get by giving up our individuality and independence?" and what will be our reply? I have not heard this matter argued in this august assembly yet. It seems to be taken for granted by every one, in our desire to become a great

nation, and to bind all parts of Australia together, that federation is essential, and that the people will, of course, consider that federation is a desirable thing.

Colonel SMITH: But the hon. member's colony will have to give up its independence!

Mr. J. FORREST: We shall have to give up something. It is impossible to have a federal government unless that government is strong, and if any one holds the idea that we are to continue to enjoy all the privileges which we now have, I should like to ask what power is the federal government to have? We shall be asked, "What advantage are we to get by giving up our individuality?" and we shall say, "Our desire is to become a nation. You will be defended in the time of war by the whole of Australia; we will make you good laws, that shall apply and have effect throughout the whole of Australia, and we will give you free-trade all over the continent." It occurs to me that those are the principal advantages which we shall be able to promise to those who ask us what they will gain by federation. Their reply will be something of this kind: "You say we will be a nation; but we are part and parcel of a great and mighty nation already, and, as far as the matter of defence, we are defended by the power of Great Britain—the land of our forefathers; she alone is able to protect us from the forces we have to fear, from those forces which will come across the sea." Western Australia will ask, "How could Eastern Australia defend us; how can she bring her armies, if she has them, to defend us from invasion. Why, there are 1,000 miles of unoccupied territory between our occupied lands and theirs." As to the good laws which are to prevail throughout Australia, I expect the reply will be the one which these colonies once returned to the British Government: "We do not want your good laws; we will have our own." Again, as to the question of free-trade: it will be argued that that policy is even undesirable, and if it is desirable they will say, "We should like to settle it in our own way." It will be argued, too, that it is quite possible to have free-trade without federation. These are some of the arguments which will be used, I fear, by some of the smaller states, and I think they will require to be adequately replied to. I venture to think we shall have to show that the scheme is practically not disadvantageous to the different states, or I feel sure it will be almost impossible to obtain their acquiescence. I agree generally with the able remarks of the hon. member, Sir Samuel Griffith, in reference to the composition of the upper house. I believe that the only security the lower states would have would be that the senate should be strong and powerful. The colonies with small populations and large areas must not be annihilated altogether. Their only protection is a powerful upper house. I should like to ask hon. members what influence, for instance, would these small states have in a lower house of this federal parliament if they are to have two or three members representing them? It seems to me that if the lower house were fixed upon a basis of population, say, of 30,000 people for each representative—I do not suppose you would be able to have a lesser number than that, or the house would soon be too large—New South Wales and Victoria would each have something like 40 members, whereas Tasmania would have 5, Queensland 14; South Australia, 10; whilst Western Australia would have only 2. New South Wales and Victoria, which are two colonies situated close together, whose interests are almost identical, having, to a large extent, the same climate, the same productions, would each have more than the whole of the other colonies put together. The whole of the other colonies together would have about thirty representatives, whereas each of these colonies would have about forty. I should like to ask, what security would all the other smaller states have if these two colonies were in any way combined, and it is only natural to expect them to combine? I agree with what fell from the hon. member, Mr. Barton, that resolution No. 1 should be very clearly specified, and that

> the actual territory of any existing province shall not be subject to any kind of diminution or absorption for the purpose of constituting new provinces, except with the consent of the legislature of the province affected.

It seems to me that that is an important provision, and I think it was clearly intended by you, Mr. President, when you drafted the resolution that the territory of any state should not be interfered with, except with the consent of the parliament of that state. I think it would be well to have the words employed by the hon. member, Mr. Barton, added to the resolution so as to make it perfectly clear. I believe the only security to those states, with small populations, is that the senate or upper house should have equal power with the lower house in regard to amending bills. I cannot see that there is any great objection to this, because, as far as I know, it is the custom which exists in the United States of America, and I have been informed, and believe it is true, that it even exists in Tasmania, and that the Tasmanian upper house amends all bills, monetary or otherwise. I do not exactly know what the law of South Australia is, but the same privilege was contended for there for a long time; and I do not see any reason why the other house should not amend money bills, because they would be as clearly the representatives of the people as would the house of representatives. I favour the election of the upper house of this federal government by the legislature in the same way as in the United States. I believe that it is the best possible way of getting an upper house, because the consequence of having an upper house elected by the masses of the people is that you get two houses too much alike, and the object of an upper house is thus, to some extent, frustrated. I cannot myself see what objection there can be to the legislature electing the upper house. I believe you would get the most wise and most experienced house in that way. An upper house would be exactly the sort of house as that we now see before us, because we have all been nominated and elected by our respective legislatures. It seems to me, if I may be allowed to say so, that such a house would not be inferior to any house to be elected directly by the people. I do not see myself, with the little consideration I have been able to give to the subject, how the power to make and unmake ministries can be taken away from the lower house. A federal lower house would be a different body from the provincial bodies now existing. It would be elected by countries separated from one another. We should not have a lower house representing a particular area of country, in the same way as we have in Victoria or New South Wales, or any of the other colonies; but we should have in our lower house a representative body elected by different peoples, separated, probably, by wide distances from each other, and I think therefore that you would have a different kind of house from the lower house in any particular state. You would not find them so influenced by local events, and you would find them, I think, more likely to take a calm judicial view of the situation than would any house representing the people in any particular state or province. I do not believe in too radical experiments or novelties in legislation, and I myself should very much prefer to see the future legislature of the dominion of Australia based on the principles of the legislature of the old country—in fact, similar in all respects to the legislatures of these colonies. It is a form of government under which we have been accustomed to live—under which we have flourished—and which we, to some extent, understand. It is a form of government we are familiar with and like, and I myself have no desire to go in for any novelties or new-fangled notions in government, even if they

have been proved to exist in other parts of the world. I would rather stick to the old ship—follow the traditions of the British House of Commons, and try to found in this part of the world something like that which exists in the old country. I am therefore very much inclined to favour generally the resolutions which you, sir, have placed before the Convention, except that the senate should have power to amend all bills, money bills included, and that the colonies with small populations should have a fixed number of representatives until their population entitled them to exceed such fixed number. That has been very forcibly placed before hon. members by the hon. member, Mr. Brown, of Tasmania, and by my hon. friend, Mr. Wrixon, and I think that it would be a good way out of the difficulty. I think also that it is desirable that the Constitution Act should make provision for new states to be admitted into the federation, so that any state which is not willing or able to enter into the federation at the present time might at some future time be enabled to do so. There is, I believe, a clause in the Canadian Constitution enabling colonies to enter the federation, and I think that it would be a wise provision for us. While I am generally in accord with the resolutions which you, sir, have placed before us, with the one or two exceptions that I have named, I believe there will be extreme difficulty, and that it is extremely unlikely that the colony which I represent will agree to join the proposed confederation unless we can show the people there some means of rapid communication between these colonies and ourselves. I do not myself think that that is an insuperable difficulty; but it seems to me a difficulty that will require to be removed before we shall be able to satisfy our people that it will be to their advantage to enter into the federation. I have now exhausted all that I have to say on the subject. I thank hon. members for the attention that they have given me. I fear that I have not added very much to this very interesting debate; but I can say, sir, that it is the desire of all Western Australians to join in this great federation; and, as far as I am able, I will endeavour to urge on the matter. At the same time I see practical difficulties in the way. People sometimes look at things in a narrow point of view; and, unless we can show them that it is to their material advantage to join with the other colonies—in fact that if they will not gain anything they will not, at any rate, lose anything—I see very great difficulties in the way. In conclusion, sir, I can only say that I hope that the time is not far distant when all the difficulties to which reference has been made by myself and others will be removed, and that we shall eventually be able to frame a constitution which will be acceptable to the people, and do justice to each part of Australia.

Motion (by Mr. GILLIES) agreed to:

That the debate be now adjourned until to-morrow.

Convention adjourned at 4·47 p.m.

WEDNESDAY, 11 MARCH, 1891.

Federal Constitution (sixth day's debate)—Adjournment.

The PRESIDENT took the chair at 11 a.m.

FEDERAL CONSTITUTION.

SIXTH DAY'S DEBATE.

Debate resumed on resolutions proposed by Sir Henry Parkes (*vide* page 11).

Mr. GILLIES: I do not know, sir, whether it is an advantage to appear early or to appear late in this debate. Perhaps there are advantages both ways. This I can say: that hon. gentlemen who have addressed themselves to the subject before the Convention have adopted a course which I am sure many of us would often like to see adopted in our own legislatures—that is, to make it a general rule to have the discussions as short as possible; and I think we, to some extent, may claim that credit on the present occasion. It is not my intention, Mr. President, to discuss technically the resolutions which you have submitted. We all take it for granted that the resolutions are submitted in a general form to indicate what we desire to see as the basis of a federal constitution, and in that light I view the resolutions as generally indicating the objects which we all have in view. I confess to have been taken a little by surprise yesterday when my hon. friend, Mr. Dibbs, spoke upon this important question. I trust I did not do him an injustice when I thought that a considerable portion of his speech appeared to have originated in a desire to speak slightly from a party point of view; as a gentleman who, although I believe he is desirous of seeing a federation of the colonies, yet, at the same time, does not appear to be quite satisfied with the federation which is offered, or which we are likely to accept. While he was quoting from a public journal here which published some articles and letters some years ago upon the subject of federation, he indicated that it appeared to him, as far as I could gather, that we were making a mistake at the present moment, because we are proposing a federation before we had accomplished a customs union. Now, history is sometimes useful; but I think ancient history of that kind is not at all useful on the present occasion. And I may be permitted to remind the hon. gentleman that sentiments such as these coming from him at the present time, appear to indicate that he has forgotten the commission which the parliament, of which he is a member, has given to him to appear at this Convention to deal with this question. May I be permitted to remind him that he holds a commission to do certain work? He has accepted that commission, and yet he does not appear to be perfectly clear as to the objects for which the commission was furnished to him. Will he allow me to draw his attention to a resolution passed in the legislature of New South Wales only a very short time ago, in which it set out the principles in which it concurred when it granted the hon. member a commission along with other hon. gentlemen to represent it in this Convention?

> (1.) That this House concurs in the following resolution:—
>
> (*a*) That, in the opinion of this conference, the best interests and the present and future prosperity of the Australian colonies will be promoted by an early union under the Crown; and, while fully recognising the valuable services of members of the Convention of 1883 in founding the Federal Council, it declares its opinion that the seven years which have since elapsed have developed the national life of Australia in population, in wealth, in the discovery of resources, and in self-governing capacity, to an extent which justifies the higher act, at all times contemplated, of the union of these colonies under one legislative and executive government, on principles just to the several colonies.

It also passed a resolution that four members be appointed during the present year to act as

> delegates to a National Australian Convention, and be empowered to consider and report upon an adequate scheme for a federal constitution for the Australian colonies.

And among the names of gentlemen who were appointed on that occasion I find the name of George Richard Dibbs, Esquire. I should have thought, sir, that the mere fact of the hon. gentleman having accepted that commission to make an effort to frame an adequate scheme for a federal constitution would have precluded him from making the observation he made, that we were beginning at the wrong end; because, from what he told us yesterday, it appears that in his judgment we ought to have started by coming to an agreement as to a customs union before ever we attempted to frame a scheme for a federal constitution. I think the hon. gentleman

placed himself in a false position yesterday when he appeared to have forgotten the circumstances in which he is placed.

Mr. DIBBS: Did the Victorian Parliament pass a similar resolution?

Mr. GILLIES: Exactly similar, I believe. With the exception of the names of the delegates, it is *verbatim et literatim* the same.

Mr. DIBBS: Then, may I ask the hon. member, by way of explanation, whether the delegates from Victoria were justified by their commission in asking for material guarantees with regard to the fiscal policy of Victoria?

Mr. GILLIES: If my hon. friend had listened to what my hon. colleague, Mr. Wrixon, said yesterday he would have found that he was completely under a misapprehension about any such demand for a guarantee. I would point out to him that no proposal has been made by the Victorian delegates, nor did the parliament ask them or require them in any way whatever, to insist upon any guarantee at all. But what parliament called upon them to do was what is stated in the resolution, namely, to go to the Convention for the purpose of making an effort to frame an adequate scheme for a federal parliament and a federal government. That is what parliament asked them to do, and of course, having to frame a constitution to carry out that object, that constitution must necessarily include a variety of measures which would require to be dealt with before it could be properly framed.

Mr. DEAKIN: "Just to the several colonies"!

Mr. GILLIES: And the only question that was raised by any of my colleagues, as far as I understood them when I heard their speeches, and understood them after reading the report of their speeches was this: that one of the most important questions that would come before the Convention in the framing of that constitution would be the question of customs, and that question is dealt with in a very simple manner in the resolutions, which you, Mr. President, have submitted. The resolutions set out first what all the colonies understood—that one of the true objects of federation was to enable the colonies to join together, so that there would be the most perfect freedom between them in regard to all articles passing to and fro. Every one understood that that would be necessarily one of the principal objects that would be secured by federation. Then the next question arose necessarily as connected with that, namely, that of course it would be indispensable that the federal parliament should have the power of imposing duties of customs in order, in the first place, to raise the necessary revenue, and in the second place to obtain duties on articles introduced from abroad. In other words, the question which was raised was whether it was contemplated by all hon. members that such a tariff would be imposed on all articles coming from abroad as, at any rate, would secure all the colonies which had by means of the imposition of duties raised large sums of money, and originated and maintained industries. That question was not raised merely by Victoria; it has been raised by several other colonies.

Mr. DIBBS: It was raised by Mr. Deakin!

Mr. GILLIES: Victoria wants no more guarantee than every other colony in the group desires to have. Victoria is in this position: that she can express the most confident hope that justice will be done to all the colonies by the federal parliament in this respect. We have not come into this Convention for the purpose of saying that if we do not get material guarantees we refuse to join the federation. The colony of Victoria makes no such statement.

HON. MEMBERS: Hear, hear!

Mr. GILLIES: The colony of Victoria is prepared to join the other colonies in framing a federal constitution, and in creating a federal parliament for the purpose of accomplishing great and necessary federal work; otherwise she does not desire to claim anything that the other colonies will not claim and obtain. Victoria desires, as the hon. member, Mr. Dibbs, said yesterday, to join hand in hand with the other colonies in creating a federal constitution, a federal parliament, and a federal government, in the confident hope that justice will be done to all the colonies in the creation of that federation. The hon. member seemed to think that there were some proposals in these resolutions which involve such serious difficulties that it would not be possible for him to concur in them; in fact, I think he told us that he would take care in Committee to do all that he possibly could to take away the power proposed to be granted under the federal constitution to the federal parliament of dealing with the very large subject of defences. The hon. member appeared to me to think that the object indicated in these resolutions was to bring about what is known as a standing army, which the hon. member thought would be a menace to the whole of the continent. Now, in one sense all the colonies have small standing armies.

Colonel SMITH: There are altogether 31,000 men!

Mr. GILLIES: The people themselves have undertaken the duty of creating such a force as, in their judgment, would be sufficient to meet any foe that might land on these shores. There is nothing in these resolutions that I can see that would justify the statement that it is contemplated by any colony, or by any group of colonies, or by any individual, to bring about a standing army of such a kind as that to which the hon. member referred—a standing army that might be a menace to the liberties of the people. The people themselves have created such forces as we have, it is they who willingly maintain them, and these resolutions contemplate no more and no less. It is possible that when you have to consider the report of Major-General Edwards and the reports of your own officers, it may be found absolutely necessary to make some slight addition to the forces you already have upon this continent, and to provide that those forces should be under the command of some one having the control of the whole of them. In fact a great deal has been written in the whole of the colonies as to the necessity for maintaining a federal force in a proper and effective condition, so that in the event at any future time—and I hope it will be in the distant future—of a foreign force landing at any point upon the continent, arrangements might be made by which a joint force might be concentrated at that point, and so that instead of separate defences we might have one united defence of Australia. Surely we are not to be told that, because that is in contemplation, there is at the same time some secret purpose or object of depriving the people of their rights on any particular occasion when possibly there may be some great difference of opinion on a great public question. There have been no peoples in these colonies who have not enjoyed the most perfect freedom to express their opinions in public, and through their representatives in parliament, on any public question of importance. There has never been any occasion when such an opportunity has not been given to every man in this country, and so free and liberal are our laws and public institutions that it has never been suggested by any mortal upon this continent that that right should be in any way restricted. On the contrary, we all feel proud of the freedom which everyone in this country enjoys. It is a freedom not surpassed in any state in the world, not even in the boasted republic of America. I venture to say that there is not a colony in this group but is so attached to its institutions and its laws, and the freedom existing under those laws, that there need be no suspicion of anybody of the kind indicated by the hon. gentleman being created. It is possible that the force now existing may be

increased sufficiently for the adequate defence of the shores of these colonies against aggression; but I am astonished that the hon. gentleman should for a moment have imagined that it was in the mind of any one of the colonies to create a standing army of such a character as would be a menace to the liberties of the people. Those liberties have been too well enjoyed and too well appreciated to permit of any body of men, whether in a federal or in a local parliament, interfering with them, and I hope the hon. member will release from his mind any idea that it is contemplated under these resolutions to establish a federal force or standing army that would in the slightest degree interfere with our liberties, or that any of us, even in imagination, had that object in view.

Mr. DIBBS: The hon. member forgets that we have heard other speeches delivered in this chamber by the mover of these resolutions!

Mr. GILLIES: I have not heard a speech delivered in this chamber which conveyed the opinion or idea the hon. member has suggested.

Mr. DIBBS: Not in this Convention!

Mr. GILLIES: I heard the address of the President, and I confess I should be surprised if it were found possible to construe any portion of it as meaning an attack upon the liberties of the colonies. To me it is utterly incomprehensible how that view could have got into the mind of the hon. member. I can only assure the hon. member—and I trust he will see that it is so—that it is not in any way in contemplation, and that it is not expressed even in the most vague way language can suggest, to give effect to the idea he thought proper to indicate yesterday. I think there will be no difficulty in the hon. member obtaining the assurance of every member of the Convention that they have had no such idea in their minds, and that they would be among the first—in fact, quite as ready as is the hon. gentleman himself—to put their foot down upon any proposition so utterly intolerable to the feelings and views of the whole of the people of these colonies. The hon. member touched another point, and since reading one of the newspapers published in Sydney this morning it would appear to me that either he himself was yesterday inspired or that he has since inspired someone else, because in the newspaper to which I refer—and it is a journal which is acknowledged to feel very strongly the importance of federation—the writer appears to have followed the hon. member in his idea that we were justified in taking into consideration the question of the seat of the federal government. I thought yesterday—and I trust the hon. member will excuse me if I am dealing with him unjustly—that he was dealing rather harshly with us when he said he intended to throw a bomb-shell amongst us. I thought that rather hard, because I could not imagine what necessity could have arisen for the throwing of bomb-shells.

Mr. MUNRO: The hon. member wants to burst us up!

Mr. GILLIES: Of course I assume—I am bound to assume—that although the hon. gentleman may have strong views on the question of federation, and cannot altogether agree with some of the views contained in these resolutions, yet he is honestly anxious to bring about a federation of these colonies on terms just to each of them, and to do so as soon as possible. I will take that for granted; but I will ask the hon. member, seeing that we are all gathered together for the purpose of framing such a constitution, seeing that all the colonies who sent us hither believe, so far as the expression of their opinions is concerned, that the time has come when that should be done, how is it that he is anxious to throw bombs amongst us? Of course, bombs are unpleasant things, and we can only assume that he was prepared to throw bomb-shells amongst us because he desired to divide us, and to give us as much trouble as possible in coming to conclusions. One of his bombs was that we are bound to undertake the consideration of the question as to the site of the federal parliament and federal government. I venture to submit that that would be a great mistake. Our troubles are sufficiently numerous at the present time; our difficulties in the way of a general agreement are sufficiently great; and we should be regarded as men without worldly experience if we unnecessarily at present undertook to determine the site of the federal parliament and federal government. I believe there is a golden rule in the courts that the judges will not determine a point which they are not necessarily called upon to determine at once; but they determine the point which comes foremost, and which may settle the question under consideration. That is an admirable rule, and in this case it would be a golden rule to follow. I feel certain that hon. members who have the responsibility of considering the important question of the framing of a federal constitution will agree that they are not called upon to consider questions that are not now pressing upon their attention. That that question will have to be considered and determined by-and-by there is no doubt; but I do not think the members of this Convention will be held to be cowards, or to be afraid to determine that question when the time comes. I say the time has not come for the settlement of that question, and it is a most serious mistake for any hon. member to attempt to throw bombs into this Convention by raising unnecessary difficulties in the settlement of the questions we have to consider. I do not think, however anxious the hon. member may be for the settlement of the question of the site of the capital, that he need press it upon our attention; because we have greater work before us, and work that must first be attended to. The hon. member, Mr. Dibbs, was also good enough to say that he had the spirit of a republican. I do not know what that is. I do not know that if we created a republic on this continent tomorrow we could pass any better laws or establish a better constitution than the individual states enjoy at the present time. When I hear opinions expressed that probably a republican form of government would be very much better than any other in these states, I feel bound to ask how can a man come to that conclusion? Is it merely because he is in love with a president, or that he does not like the Queen? If our form of government were of a kind that was disagreeable or distasteful to him or to the people, I could understand such an opinion. Great changes in the government of states are not brought about without some reason, and unless the hon. gentleman desires we should think that he has some substantial reasons for his desire to alter the constitution of these states, I wonder why he made such a statement. It may be that at some future time, perhaps 100 years hence, we shall be an empire, and not a republic, and we might flourish quite as well under an empire as we should under a republic. But I must say that I think the time is not approaching, in fact, as far as we can judge, it is far away, when this continent will be under a republican government. That the people will have an opportunity of determining that for themselves when the time comes goes without saying. But it does not appear to me to be in the right tone and in the right spirit to introduce such a question when we are called upon to frame a federal constitution for the purpose of enabling a number of states to join together for doing higher work than the individual states can do for themselves. That was the idea which was in the minds of those who, a number of years ago, desired to see these colonies federated. They foresaw, and, after all, it was not difficult to foresee, that as these colonies were under separate governments and parliaments they would frame legislation which, instead of uniting with bonds of affection the people of these states belonging to the same race, professing the same religion, and living under one imperial government, would

have the effect of increasing year by year the difficulties in the way of joining in a federal union. These men were, therefore, extremely anxious, even in the earliest days, to come to some understanding in favour of a great federal union. But many of the colonies had only just then obtained their Constitutions, and they believed that the time had not come for them to join in a larger union. Now, however, when we are prepared to join in a larger union, we are coolly told, "What is the good? In all probability in a few years we shall be a great republic, and we shall then have the whole of our destinies in our own hands. We can then make such laws as we think proper, without even consulting the Imperial Government or her Majesty." In my judgment such remarks do not sound well at the present moment. We have nothing to complain of. We have no reason to find fault, and therefore there is no justification in speaking of such a dissolution of the connection between these colonies and the empire. We stand in close relationship to the empire, and there is nothing which we have ever asked in reason in modern times that has not been granted. Although it may be true that we may look forward with some degree of certainty to the probability that in the distant future we shall be a strong nation: whether that will be under a republic, or under an empire, or under a kingdom, it is impossible for us to say at the present time; and at the present moment it is not important what that form of government will be. All that any country looks forward to is to be well governed. The form of government which they think best is the form of government which they are entitled to have. But so long as we have the freedom which we enjoy on this continent, where we can make whatever laws we think proper without interference or direction, and so long as we enjoy such a constitution as we have, and which is one of great elasticity, I feel perfectly certain that we need not begin even to think of the foundation of a republic which may exist only in the minds of men 100 years hence. This debate has turned, after preliminary observations, on the important propositions contained in the resolutions of the President. Before passing on to the two important questions that have mostly occupied the attention of the Convention up to the present, I would venture to make one remark, which I think it is important should be borne in mind. When a story is repeated with miserable iteration it often gathers force behind it by its constant utterance, and yet there may not be a word of truth in it. It is well that the people of this continent, and the public of this colony—because on this question probably New South Wales and one or two other colonies are most interested—should clearly understand the point to which I am about to refer, namely, whether it is proposed in the creation of a federal constitution to grant to the federal parliament power to divide the states, to take a portion of territory from one of them and grant it to some other state? Now, does any hon. gentleman in this chamber believe that that is contemplated? It is not contemplated. Nobody has ever said it publicly in any way, and I think it is very unjust that an insinuation should be thrown out that under one of the resolutions it will be possible to do what I say was never contemplated, and to which utterance was never given by any hon. gentleman in the Convention. This question is in the minds of many people who are opposed altogether to the establishment of federation. One of the first reasons they give is, "Why, if New South Wales goes into this federation, what will happen? South Australia is anxious to have the silver mines; Victoria is anxious to go up to the Murrumbidgee; Queensland is anxious to have some of our lovely flats." Now, is not this a pity, when we are engaged in such an important work, the principles of which were considered by all the legislatures of this continent without a syllable having been hinted on that subject, or, if hinted, always disallowed, and without a syllable or a hint being contained in these resolutions, where, on the contrary, it is deliberately set out that all the rights now possessed by the various colonies entering the union are to be preserved, except such as may be necessary to hand over to the federal parliament. And to hand over in what way? To hand over, not generally, not using general language that might take in a whole host of things that people did not intend; but using language so specific that only for the purposes of federation, and no other, shall these lands be taken, and then only small pieces, and with the consent of the state parliament. When we are told in this way that our objects are very deep and profound, but cunningly veiled and concealed—that we desire no less than to take a large portion of the territory of New South Wales—I say it is not fair, it is not just, that any gentleman should, even by the use of language, mistakenly create the idea that such is the intention underlying the resolution, and the intention in the minds of members of this Convention. It is well that wherever necessary we should emphasise the fact that the idea to which I have referred is a mistake, and that no such thing was ever contemplated. I now come to the two questions involved in the resolutions which have formed the principal subject of debate. I did not originally imagine that there would be so much made of them. I did not think they indicated the trouble which is in the minds of some hon. members, and I will tell the Convention why. I understood that the colonies represented here came together in good faith; that, joining together for the purpose of doing a great and good work which they could not do individually, they came to this Convention in the most perfect good faith and trust, and in the belief that there was no idea of any two or three colonies being able to join together for the purpose of overreaching them when they had become federated. Yet there is a notion that this is the very result that may be brought about, unless something is done to prevent it. For the first time, we are asked deliberately on this continent to enter into a totally new state of things with reference to the powers of two houses of parliament. Under the proposed constitution it is intended to create a senate and a house of representatives. You, sir, I think, follow not only the track—but the beaten track—we have ever understood since we have been under responsible government, that the powers of the two houses of legislature, the senate and the house of representatives, should be absolutely equal in all respects but one, and the reason of that exception is this: that two houses cannot do all the same work. I thought that principle was so well recognised that there would be very great difficulty indeed in raising any opposition to it, and instead of appealing to imagination and sentiment, I desire to appeal to experience. I desire to appeal to all the experience the Imperial Parliament has had, and to all the experience the people of the colonies have had on this point. But for the explanation which some gentlemen have given who contend for what are called state rights, I should have imagined that state rights meant that they must watch carefully over all powers taken away from individual states, and granted to the federal parliament. That is what I consider to be the protection of state rights. We all know what rights the states have, and if it were proposed to hand over certain of these state rights to the new parliament to be created under federation, then I could understand that the states would question every one of those rights, and search keenly and closely to see that they would be dealt justly by—to see, in fact, that rights that they have now the opportunity of exercising should not be taken away, unless they and all of us were satisfied that they were taken for federation purposes

alone, and that it was indispensably necessary, in order to carry out our proposals in the interests of the whole people, that those rights should be taken away for the purpose of securing the greatest good to the greatest number. But now we are told that the rights of the states may be jeopardised unless the senate has the same power as the house of representatives to deal with all bills with the exception of money bills, and the only thing that has not yet been asked for is the power of initiation. Now, I am going to ask in a minute why it is that the power of initiation should not be given? But before we enter briefly upon that question, we must bear this in mind, that the powers that it is proposed should be given to the federal parliament are reduced to the smallest possible compass, with the object of not disturbing in the slightest degree the right to legislate on all subjects which has been granted to the several parliaments throughout this continent. We disturb that power as little as possible; and the range of the subjects which the states will have to discuss and determine is scarcely interfered with, and not interfered with in any degree that will effect their legal rights and interests. Keeping that in view, I should like to know in what way the federal parliament, by continuing the practice of the English Constitution with reference to money bills, can seriously or in any way injure the particular states, because their representatives in the senate have not the power to amend those bills? There are only a very few bills, as you, sir, and every hon. member present, must know, of the nature and character of money bills. There is, of course, an annual appropriation bill, which deals, or is supposed to deal, only with the expenditure of the year, and with nothing else. It is not expected to deal with any new principles at all, nor with the imposition of expenditure of a totally new character of which parliament has not heard before. It is simply expected to deal with the expenditure for the year, and it is introduced year by year, and taking the many years' experience of the various states all round, I may say that upon the whole they have generally kept within the limits in regard to appropriation bills, and in cases where there has been serious disturbances between the two branches of the legislature, I undertake to say that it has been felt that they have arisen from the absence of proper care to keep the provisions of the appropriation bill within the due limits of the expenditure of the year. Both branches of the legislature in our colony and in the other colonies feel that the interests of the people are best promoted by harmony, not by disagreement, and that brings about an anxiety that both houses should never come to loggerheads on any financial question at all, if it can be avoided.

Mr. DIBBS: If it can be avoided!

Mr. GILLIES: There is no difficulty in avoiding it, as I will show in a minute or two. The imposition of taxation and customs duties is, of course, a matter of great importance; but all proposals of that nature should be dealt with in separate measures, so that the second branch of the legislature—in this case the senate—would not be prevented from expressing its most clear and deliberate opinion upon any proposal submitted to it with reference to direct taxation. This subject was referred to by my hon. colleague yesterday, and by the hon. member, Mr. Playford, and, with great respect to the opinions of many hon. members, I should have been glad if they had made an effort to answer the latter hon. gentleman. But his speech appears to have been passed over without a word of comment, though I venture to say that the rule which he laid down contained the absolutely true and perfect principle that has been followed by the House of Commons for centuries, namely, that where you have to deal with a great and important measure of taxation, the question ought to be submitted in a separate bill to the second branch of the legislature. It is as much intended by the constitution that that body should consider questions of public policy, as that the lower house should, because they speak for the people, and with reference to the Legislative Council of Victoria, they now represent a very powerful body of electors—nearly as large a number of electors as the Legislative Assembly represent. They are elected on a suffrage that is really very low, with a small qualification, and they represent a very large number of persons. All questions of principle should be discussed between the two houses with the most perfect freedom. When an important question of taxation, involving some great principle is passed by the popular branch of the legislature, it ought to go in a separate bill to the other house, to allow the most perfect freedom of discussion there, and to give it the most ample power to deal with the measure, though it could only be dealt with in the way of acceptance or of rejection.

Mr. BIRD: That is not ample power!

Mr. GILLIES: I consider that it is ample power; because experience has shown us that, if we are going to discuss great questions of principle, and to trash them out in detail, it is next to impossible to come to an agreement without wasting a great deal of public time, and perhaps no agreement at all can be come to. But there is a distinction to be drawn. Suppose an income-tax were proposed, what would be done is this: the principle of the income-tax would be laid down, and then a bill to carry out the tax would be introduced separately, setting out the whole of the details of the proposal, and the second branch of the legislature would not be precluded from dealing with the principle of the measure by rejection if it thought proper on the question of policy, or from dealing with the matter in every detail. In all the colonies it has been found that where these questions have to be dealt with, it is infinitely better not to complicate them by putting several in the same bill, but to send them up in separate bills. And I think the proposal which emanated from the hon. member, Mr. Playford, and which was discussed elsewhere, would remove any imaginary difficulty that might lie in the way of the senate in dealing with questions of this kind. One serious difficulty, however, was raised, and I am sorry to say that after my hon. friend, the Premier of South Australia, explained the point to which I have referred, he propounded this conundrum: what would happen if two of the larger colonies or states joined together for the purpose of what? One hon. member said "plundering," another said "riding rough-shod" over the smaller states. Now, I would ask, what is the origin of these expressions? Does any one mean to say that any two of the colonies would join together for the purpose of plundering the other four? I regret to think that such an idea should enter their minds. I do not think that any of the colonies would think of doing such a thing; in fact, it would tend to the creation of a greater amount of bad blood than one can imagine; and unless a government had lost their senses, and were entitled to be sent to Yarra Bend, they would not humiliate themselves by submitting proposals on behalf of one or two colonies, which would be the means of riding rough-shod over other colonies. One cannot conceive of men occupying a distinguished position, and a house of representatives, so lost to every notion of propriety, that they would be prepared, merely for the sake of a little personal aggrandisement, to adopt a course of that kind—a course which would humiliate them in the eyes of all decent thinking men throughout this continent and elsewhere. I cannot conceive that; in fact, I will not argue the matter upon that ground. I have mentioned that there has been no attempt on the part of any hon. member to seek, on behalf of the senate, for the power of initiation. May I ask why? May I ask upon what principle, if the power of

amendment is to be taken as representing justice to the states, they do not ask for the right of initiation? They are to be equal in every respect. What harm would be done by their asking for the right of initiation, because the right of amendment, and even the right of rejection, sometimes involves a great deal more than one may think. The right of amendment may, of course, involve your being landed straight off in a sea of trouble, because, as the hon. member, Mr. Playford, has pointed out, the idea of the senate amending a customs bill, is—it goes without saying—practically impossible. I can understand, as every one can understand, that two legislatures, if they are by any possibility to work harmoniously together, must be reasonable, otherwise legislation is impossible, because the second branch of the legislature has the right to reject any bill which may be sent from the first branch of the legislature, and the first branch has the legally constituted right to reject any bill which may be sent from the senate. Therefore, unless they are willing to be reasonable, you absolutely stick in legislation; you absolutely stick, and cannot get ahead. The real reason of the possibility of two houses of parliament working together, is the fact that they bring to the consideration of various questions, not the idea of personal squabbles or personal power, but the idea that they both represent the people, and it therefore becomes them to be careful as to the manner in which they make proposals, and as to the manner in which they amend them. It is only by an anxious desire on their part to do the right thing, and by the wise and discriminate exercise of the power possessed by each branch of the legislature, that it is at all possible to get any legislation through parliament. You, Mr. President, know that as well as any man in this community. I would like to know how it is that those gentlemen who claim the right of amendment have never for a second thought of asking for the right of initiation. Should I tell them why? I think that the popular branch of the legislature not only is the necessary house to initiate legislation with reference to money bills, but with reference to finance generally. It is because they are nearer the people; they are more truly representative of the people; and the people look to them with more confidence, as their direct representatives, than they would look to the best senate you could create. I have said that the house of representatives, the popular branch of the legislature is more in immediate contact with the people, and we have known that to our cost. Every hon. gentleman present has known it. Why, the popular branch of the legislature can be dissolved. Sometimes it can be dissolved if it disagrees with ministers; sometimes it can be dissolved if it creates some difficulties, even though they may not be of a strong character, in the house itself. We know of a celebrated occasion on which things came to such a pass that a minister said to a governor that he thought, although he had obtained large majorities in Parliament from time to time, and had always defeated his opponents, yet the state of the popular branch of the legislature was such that there ought to be a dissolution; and he got a dissolution. I say that the house of representatives is nearer the people, and is more anxious, not only to do the right thing, but, as we know, to conciliate the people. Parliament has often been dissolved when difficulties have arisen through ministers not being supported, or through difficulties having arisen with the second branch of the legislature. The house of representatives, therefore, have a closer and more intimate relation with the people it represents than has the second chamber with the whole of the people. I could understand that if the senate were placed in the same position as the popular branch of the legislature they might claim the right to initiate money bills, and to amend them too; because if the power of dissolution, of sending the senate to their constituents from time to time, existed, we should have a different state of things in the country from what we have at the present time. Not but what I acknowledge openly that the second branch of the legislature is, no doubt, as much governed by what it believes to be its public duty as is the first branch of the legislature. We all know, however, that persons are naturally very strongly influenced by their immediate surroundings, and if it is put to a body of gentlemen representing any legislature, "You must either pass this bill or go to your constituents," they will unquestionably satisfy themselves whether they are bound in the public interest, and in the interest of their constituents, to reject the bill or go to their constituents. I believe that if they are perfectly satisfied that good, broad, public grounds exist for their doing so, they will be prepared to reject it and go to their constituents. That may not be a bad thing. I am now, however, speaking of the powers of the popular branch of the legislature which were granted in reference to money bills. There are some slight distinctions between some of the constitutions of the various colonies; but there are not many. There is one, for instance, which one of the hon. members for Tasmania and myself have been looking into. In Tasmania the Upper House claims the right, and they have exercised it for many years, of amending money bills. Their contention is based upon one thing, which is not contained either in the constitution of New South Wales or in that of Victoria, and it is this: The present two houses were formed from one house, and a provision in the Constitution Act sets out that the two houses shall have all the powers and privileges which the Legislative Council had. Hence it is contended that, as the Legislative Council formerly had the right both to initiate and to amend money bills, and as the power of initiation only has been taken away, the right of amendment remains, and has been exercised ever since. That is a different state of things from what prevails elsewhere in the colonies. I am not going to discuss it now, for it would be out of place to cast a reflection which there is no occasion to cast, and for doing which I do not feel that I have any justification; but I venture to think that if they, like Victoria and some of the other colonies, had a new constitution granted to them, in all probability that power would not be retained. At any rate, after more careful consideration, it was thought wise to place the power not only of initiation, but also of amendment when a money bill was introduced, in the hands of the popular branch of the legislature, and the constitution absolutely provides, in the case of Victoria, that the power of initiation shall rest with the Legislative Assembly, and that the power of rejection, but not the power of amendment, shall rest with the Legislative Council.

Mr. GORDON: But there is no analogy between our upper houses and the council of states!

Mr. GILLIES: That is a great mistake. I think there is a great analogy.

Mr. GORDON: The hon. member is arguing on wrong premises altogether!

Mr. GILLIES: I do not think that I am arguing on wrong premises. Each of the present states has two houses of parliament. For the reasons that I have mentioned, full powers are given to the second branch of the legislature, with the one exception that I have mentioned.

Mr. GORDON: They both represent a homogeneous state!

Mr. GILLIES: The Legislative Council in each of our colonies—in Victoria—represents a homogeneous state as perfect as you can imagine a state to be; in fact, perhaps a little more perfect than the new federal parliament that we are going to create—at any rate, quite as perfect.

Mr. BIRD: It represents a class!

Mr. GILLIES: I have pointed out that the Legislative Council of Victoria represents the whole people. I do not know what the hon. member means by a class.

Mr. BIRD: A property class!

Mr. GILLIES: A property class! Every man in these colonies, I am glad to say, is a propertied man. I believe that you cannot go to any part of the world where there is such a large proportion of the population who have got something. You cannot go down the street without seeing every one pretty well dressed. Of course there are occasions in every great city when a certain number of persons are unable to obtain work; but I venture to say that every hardworking, determined, sober-minded, honest man can throughout the greater portion of the year get work. At any rate, one thing we can say. Of course this is a divergence, I am sorry to say; but, seeing the character of the interruption, I do not know that it is an improper divergence. If the hon. gentleman who made the interjection thinks proper to look over the statistics of the colonies, he will find that in all the colonies there are large sums of money in the savings banks, and in the various institutions where the people can lodge their money and get a considerable amount of interest. Considering how we came here—and we all came here to do the best for ourselves—I suppose that none of us were great plutocrats—we did not bring any mountains of gold with us, but came here to seek for it—and taking into account the circumstances of the colonies, the amount of wealth accumulated in those institutions which, to a great extent, represent the working-classes, is something marvellous; and to attempt to make a distinction between what some people call the working-classes and others, I do not think can be done. There are a few people who, through hard work, thrift, and good opportunities, have acquired great wealth, a fact to which I have no objection, and am sure that everybody would like to see everybody else in a comfortable position; but as to talking about the working-classes as contra-distinguished from any other classes in the state, I venture to say that we are all members of the working-classes—the hon. gentleman himself is a member of the working-classes—and to create such distinctions is quite unnecessary. I pointed out that in Victoria the suffrage is so low that the great body of the working-men—I mean men who work every day with their hands, tradesmen and others—have votes for the Legislative Council, and the members of the council see that they are under a great responsibility in representing such a large constituency. I see no distinction between the position of the two houses in a state and the position which the two houses will occupy in the federal parliament. Even assuming that some of the states are very naughty, how is it practicable for a few of those states to join together for the purpose of plundering another state? I am taking for granted, as I must, that those who will be members of that senate will be men who will not be driven, but who will decline to be parties to the plundering of other states, if that should be attempted by bigger states. It is imagined that this will be done unless power is given to the senate to amend money bills. What are they to do? The proposal here is that each state is to return to the senate an equal number of representatives. How will that stand? On this continent—not speaking of New Zealand, but including Tasmania—there will be six states, each returning an equal number of members. The two larger states—the two states that will represent 2,250,000 people, will return half the number that the other four states will return, although not numbering one-third of their population. What are we to say about that? Are we to conclude that the smaller states being represented in the senate by double the number of members representing the larger states, will allow the larger states to swindle the smaller ones, or are we to turn round and suppose another thing? Are we to assume that, being represented in the senate by two to one, it is possible that the smaller states would send representatives to the senate to eat up the bigger states? Am I to imagine that? I do not imagine that at all. I believe they will go hand in hand in an honest desire to serve the states on the continent within their limits of legislation—they cannot go outside them—and seeing that their limits would be comparatively small, I say that it is the beginning of an injustice to insinuate that, although the senate would perhaps have power to do lots of mischief to the larger states, they would think of doing it. In all legislation, whether it be general or financial, who has to bear the brunt? I will suppose that a particular tax is proposed, and that after being passed by the house of representatives it goes to the senate, the majority of the members there representing probably, as indicated, the smaller states. Do you mean to tell me, Mr. President, that you would be of opinion that the smaller states would reject a proposal of taxation, of which they in the abstract approved, because it affected their people? Why, it would affect the larger states more than it affected the smaller ones. Who is to find the great proportion of the money? Is it not the larger states? Does any one mean to tell me that in the house of representatives the larger states, by their representatives, would think of imposing taxation of a character that would not be justifiable, and would not be approved in the face of the knowledge that it would be their own people who would pay nearly all of it? Three-fourths of it any way? Surely that is not a reasonable contention. Seeing that the distribution of taxation would be equal in all the colonies, then those who are in the greatest majority, of course, must contribute the largest amount; so that you have a perfect security that those who represent the larger states in the house of representatives will be no parties to fleecing their own people simply because they have a sort of idea that one of the smaller states would not like to be subjected to this taxation at all.

Mr. GORDON: Have we the same guarantee as to the expenditure of the money?

Mr. GILLIES: I hope so. I am glad the hon. member has reminded me of the point, as I was going to pass it over. The federal parliament will have the power of imposing certain taxation. An illustration was given—an unfortunate one, I think—by the hon. and learned members, Sir Samuel Griffith and Mr. Barton, who both touched the question raised by the hon. member behind me. The one said it was quite possible that some taxation would be proposed that would meet with a strong opposition and disapproval of some of the small colonies. Well, as I said, the answer to that is that no tax which meets with any very strong disapproval will be proposed at all, for the simple reason that no people like to be taxed if they can help it. It is only upon urgent necessity that a tax will be imposed. For instance, as was remarked, take a proposal to increase the federal force. I will assume that it is sent to the senate in a separate bill. The senate will be in a position to say whether they think it is necessary to increase the federal force to the extent proposed, or whether it should be increased at all. It could reject the bill.

Mr. ABBOTT: Would it not be in the appropriation bill?

Mr. GILLIES: Certainly not.

Mr. ABBOTT: That is not the case here.

Mr. GILLIES: That would be a bill containing a distinct enunciation of a principle. I am quite aware that sometimes increases in the forces are proposed in the annual appropriation bill; but they have first been started by bills regulating the forces. In order that there might be no doubt on the subject

clauses might be inserted in our Constitution Act which would tie the hands of parliament and of ministers down to seeing that proposals of that character, and all proposals containing important principles, and creating a new departure should be sent up to the second branch of the legislature in separate bills. But take other cases: We know, Mr. President—it is in your knowledge and in mine—that there are a number of cases in which large expenditure is proposed. For instance, some colonies have the advantage of looking forward to the defence of King George's Sound; others have the advantage of looking forward to the defence of Hobart; others have the advantage of looking forward to the defence of Thursday Island. May I ask the representatives of those colonies who will bear the brunt of that expenditure? It will be the larger colonies. Will they grumble? Have they said a word in all the conferences we have had? Have the larger colonies made one solitary objection to bear their share of the expenditure on those works, although so distant from them? On the broad ground that it is in the interests of the whole of the colonies that that expenditure should be incurred, they are quite willing to contribute towards the works. So when an hon. member thinks proper to insinuate that the larger colonies are going to do something which is unjust, I say, the experience we have had of the conduct of all the colonies, whether large or small, is that they are prepared always to come forward, and put their hands in their pockets without a grumble, and contribute to anything which is acknowledged to be for the welfare of the whole of the continent. I am sorry, therefore, to hear these objections raised on grounds which, I think, are wholly insufficient. One may have an abstract idea of the desirability of giving new powers to the new senate; but I venture to say that all our experience shows that it is safer, and more for the public interest, that all these matters should be under the control of the popular branch of the legislature, which has a responsibility that the second branch has not, and never can have. I repeat that I do not see, and I hope no hon. member will imagine, that I am saying anything to the disparagement of the senate. I believe it will be a very powerful body, indeed; but to make a comparison between it and the American Senate, is a big and huge blunder too, and the very arguments which I have been using show that. The parliament of the United States is the parliament of a republic. There is no queen to whom ministers are responsible for every act they do. There is a president, who is responsible to the public. There are no responsible ministers, for the ministers are appointed by the President, and are responsible to him. His ministers do not go into parliament and explain the whole position; they do not go and submit their estimates and defend them line by line; and, in addition to that, in some respects they have nothing like the powers of the senate. The senate was specially created, and granted special powers, some of them plenary, for the purpose of meeting a new and untried state of things: that is, instead of having responsible ministers, they had ministers who were not in parliament, and were not responsible to parliament, but were responsible to the President, who holds his office for four years. Now, if they had responsible ministers, who were responsible only to parliament, I venture to say we might have had a different state of things altogether. But a new state of things was suddenly brought into existence, they required to give great powers to one branch of the legislature, at that time was very excitable. The popular branch and they knew the popular branch of the legislature of the legislature is sometimes very excitable all over the world, and it is an excellent thing that there should be a wise and judicious senate—and I hope we shall have that here—but it would not add to its usefulness to give it power to amend money bills. The great power that was given in America to the popular branch of the legislature in dealing with general legislation, and in initiating these bills, was at the same time, to a great extent counteracted by the original framers of the constitution, who feared that they might proceed too far. The senate has worked this out with remarkable patience, and has done wonderfully well under all the circumstances. It has great power over the President, and great power over the constitution, and there is no doubt whatever that upon the whole it has worked wonderfully well. But I challenge anyone to say that the English Constitution has not worked as well and without a real hitch. I challenge anyone to say that the constitution of these colonies, worked by many men with no previous experience of government, has not worked as well as the constitution of the United States. I venture to say it has, because we have this advantage: that whenever any body of men, whether it be a government or a house of representatives, attempts to proceed too far, or behave improperly, or behave unjustly, or not carry out, after thorough care and inquiry, the deliberate wishes of the people, there is a means provided in the constitution by which those men shall be displaced, and the country represented by the men of its choice. Again, some people may be inclined to ask, what is the use of the second branch of the legislature? I say it is of great use. Sometimes there will be a difference of opinion between men in the popular house; and whenever it comes, sir, to a conflict—such a conflict as a difference of opinion between the two branches may bring about—then I say public opinion will be able to decide the question; and if public opinion is found to be reasonably evenly divided, then, of course, there will be no chance of expecting that the second branch will give way. But what will result? A most important thing will result: time will be given for the consideration of the new question raised, and time is a most important element in our constitution. It cools the hot-headed, and it gives confidence to those who believe they are right. There can be no doubt whatever that there are occasions when the second branches of legislatures have performed important work in our constitutions by affording time for further consideration. That is what you, Mr. President, and what the Speaker of every legislative assembly in the world does. If two parties vote equally, the voice of Mr. Speaker is invariably given—is bound by constitutional practice to be given—in favour of delay. All, then, that the senate would do—when the two houses disagreed, and when it appeared that the general body of the people were not of one mind—would be to stand firm and give an opportunity for further consideration, and they might, by so doing, save the nation from difficulty. Another question—and I will touch upon it very briefly—is that with which you have dealt in your resolutions, the responsibility of ministers to one house of parliament, that being the popular branch, it being understood that so long as they possess a majority of votes in the popular branch of the legislature they will remain in office. Now, the position of ministers, as we all know is this: that, in many cases, the constitution under which they exist contains no provision requiring them, of necessity, to sit in parliament. The English Constitution contains no such provision. But, for all that, we know that the law of parliament governs nearly everything. I venture to say that if in England ministers did not sit in parliament, they would not live one day longer. It is the practice of the constitution. Although they are not compelled under the law to make their appearance in parliament, they are all anxious to do so, and if a minister be defeated in an election it is a cause of great heartburning, because he is aware that it is necessary that he should appear in parliament in person. The English practice of carrying on public business would be impracticable unless ministers

appeared in parliament, and ministers under the English Constitution are responsible first to the Sovereign, and then to parliament. No doubt parliament includes two branches—the House of Lords and the House of Commons. But it is well known that if the popular branch of the legislature, the House of Commons, does not approve of a ministry, it gets rid of them in no time. There is only one redress, and it is this: that ministers may induce the Sovereign to exercise the power of dissolution. The popular branch of the legislature being the branch which determines the existence of ministries, even if you inserted no provision on the subject, it would be indispensable that ministers should appear in that branch. Their political existence is dependent upon the voice of the popular branch. Of what use, therefore, is it to shut our eyes to the fact? It is said that it is not well that the existence of ministers should depend absolutely upon the popular branch of the legislature. If hon. members will insist upon shutting their eyes to all the experience of the past they may make that contention; but I challenge anyone to point to a single instance of such a thing being tolerated throughout the whole experience of the British Constitution. It is necessary to remember that ours is a constitution that is not every constitution. It has not been made up of parts of all the constitutions of the world. It has been the growth of centuries; it is based upon well-known principles; its working is well recognised; and he who runs may read it.

Mr. GORDON: It will not work in a federal government!

Mr. GILLIES: I require something more than a mere statement to that effect; I require some proof of it. I do not believe the hon. member could point to one set of circumstances in which the constitution as it is proposed to establish it—ministers being responsible to only one house of the legislature—would not work. What I take it, sir, that you desire to indicate in these resolutions is that, in view of the working of the British Constitution, we ought to follow this practice. But if I am asked whether it is indispensable that this particular provision should be included in our constitution, I say that it is not necessary—that it is not included in the British Constitution, and that it is not to be found in the majority of our own constitutions. The only provision in the Victorian Constitution affecting the point is this: that there must be four ministers sitting in Parliament. Some of these might sit in the Legislative Council, if it were thought proper. But if you were to eliminate this proposition completely, it would come to the same thing, because ministers must depend upon the support of the popular branch of the legislature. If the House of Commons finds in existence, or has thrust upon it, a ministry it does not want, what does it do? It stops supply. There is only one case in English history, so far as I am aware, in which a government succeeded in remaining in office when supply had been stopped. I refer to the well-known Pitt Government, which remained in office to support the king, and which subsequently appealed to the country. But under any circumstances, if it be conceded that every government will have to abide by the will of the popular branch of the legislature, it cannot live, it cannot go on with business, if that branch be opposed to its existence. I ask the hon. member who just now interrupted me, to say whether, if the popular branch of the legislature under the new constitution were dissatisfied with the government of the day, and if an hon. member succeeded in carrying a vote of want of confidence, the government could live? How could it possibly live unless the prime minister obtained a dissolution from the governor-general? How long could the government live if he failed to get that dissolution? The hon. member, Mr. Gordon, is going round the subject when he says that the practice will not work with a federal government, because we all know perfectly well that the support of the popular branch of the legislature is as necessary to the existence of a government as is breath to every hon. member. One word upon another question and I have finished. I can scarcely help calling it a funny question, and it is all the more funny because it emanates from some gentlemen who, I am sure, have had a long experience not only in parliament, but as members of governments. They appear to think—I cannot exactly make out why—that a government should be formed which would be all-powerful, not only in the house of representatives, but in the senate, and they declare that they can devise a way by which all the states would be so represented that they would be bound to get fair play. I will put a case. I will assume, sir, that you were honored by the representative of your Sovereign in the person of our first governor-general by being asked to form the first federal government, and that you, with your long experience, following out the idea hinted at the other day, thought that you saw your way to a long political life if you could associate with yourself gentlemen from the Parliament of Victoria. You would thus have a government representing New South Wales and Victoria, and, according to the idea set forth the other day, it would have a life extending far beyond the ordinary span allotted to man. In fact, it would never be known when you could be put out of office. While you were supported by such an overwhelming majority, representing two great colonies, the hopes of the lesser colonies would expire. A suggestion was therefore made that it would be wise to insert a provision in the constitution that each of the colonies should be represented in the ministry as nearly as possible. It is remarkable to hear hon. gentlemen put forth such a view. Surely their experience of parliament teaches them differently. I will assume that such a thing as has been described might happen, and that you, sir, might form a government of that kind. I look around this hall, and I can see gentlemen who would be in opposition instantly, whether you represented New South Wales or not. There is my hon. friend, Mr. Dibbs. Do you think he would submit to such a government? It would be impossible. There are a number of other hon. members of the New South Wales Parliament as well as Mr. Dibbs who would as naturally go into opposition as they would take their breakfasts if they were hungry.

Mr. DIBBS: The hon. member forgets that the proposition came from a Victorian delegate!

Mr. GILLIES: If the hon. gentleman is correct, I deplore the want of consideration shown by a Victorian delegate, because it must be self-evident to everybody that as soon as ever a government might be formed, no matter what it might represent, an opposition to it would be forthcoming immediately. If some gentlemen from Victoria were placed in the government, will any intelligent man tell me that there would not be a number of representatives from Victoria who would go straight into opposition? That would be the case with respect to every other colony.

Mr. GORDON: The hon. member is reckoning them very low!

Mr. GILLIES: It is impossible to find gentlemen who will agree upon every point. I am taking the facts as I find them. The universal experience is that there never has been a government in this or any other country which has not had a very fair amount of opposition. I do not assume that the members of those oppositions have been dishonest or dishonourable. I take it for granted that men hold different views from many of the views held by those in office, and, although they may have no personal dislike to the members of the government, they feel

that it is their duty to watch the course of legislation. You may assign whatever reason you like. It is not for me to seek for reasons; I take things as I find them. If any man ignores all his past experience he is very unwise. Past experience teaches me that as soon as a government is in office—if it be the best government under heaven, if an archangel were at the head of it—there is strong opposition offered. Therefore, I think that this great fear which has been expressed is a real live bogey.

Mr. ABBOTT: What is the good of an opposition if it is not strong enough? Sir John Macdonald has been in office for thirteen years!

Mr. GILLIES: I would ask, how has he kept office so long? Was it his policy to pick the members of his government from two great parties? Not at all. In order to remain in office for a long time he adopted the course which has been suggested, of taking the members of his government from the various provinces. He did not render himself powerful by selecting ministers from two great factions or colonies. He wished to convince the whole Dominion of Canada of his fairness and discrimination by selecting capable men from the various colonies.

Mr. GORDON: Then it would be a good thing to provide that that should be done here!

Mr. GILLIES: But the reason given is altogether wrong. It was said that if two large colonies came together the ministry would be too powerful. But I point out that it is not at all likely. There would be a large amount of opposition to a ministry composed in such a manner. Probably every member from the smaller colonies would consider it such a rank injustice that he would go into opposition at once. Whether that would be the case or not, that is not the principle on which we should work our constitution. Unquestionably it will be to the interest of whoever is called upon to form the government in the first instance to select those gentlemen who are best able in his judgment to do good work for the federation and who at the same time will fairly and truly represent the whole of this continent. If you frame your constitution and form your ministry with an anxious desire to do justice and give fair play to all, without reference to the idiosyncracies of individuals, and without calculating whether or not you will secure one or two votes, I feel perfectly satisfied your ministry will be fairly received by both branches of the legislature. The ministry will be bound to give satisfaction to the popular branch of the legislature, and if they do their duty they will give satisfaction to both houses.

Mr. CLARK: At one stage of this debate I felt disinclined to take any part in it, firstly, because the opinions I hold upon the several subjects embraced in the resolutions had been fully and forcibly expressed by speakers who had preceded me; secondly, because the ground traversed by those speakers—and over which I shall have to follow them—will have to be travelled over again when we go into Committee to consider the resolutions seriatim. But upon stating this disinclination to a member of the Convention, he suggested that it was desirable, before we went into Committee, that every member of the Convention should take part in this debate, so that every member should as far as possible know the exact position of every other member with regard to the particular questions on which there may be the most divergence of opinion, so that the directions in which mutual approaches are required, in order that a satisfactory compromise may be effected, may be ascertained at as early a stage as possible in our proceedings. Acting upon that suggestion, I have determined to address the Convention to-day, and to attempt to place before hon. members the opinions which I hold on those subjects respecting which the most divergence of opinion has up to the present time been expressed. I hold what may be considered very strong and decided opinions upon some of these questions; at the same time I believe there is no hon. member more ready to meet other hon. members in compromise, and to give away very much that I value for the sake of the principle and substance of federation. I suppose that in political as in private life we all have our ideals; but it is not given to any man to realise his ideal fully, either in private or public concerns. I do not expect my ideals to be realised in the federal constitution about to be framed, and I do not think any other member expects that his ideal will be realised. But it may be that upon exchanging our private opinions we shall each see in the ideals of others some very important points that never appeared to us before, and for which we are willing to exchange or sacrifice something which at one time we thought essential. The hon. member, Mr. Gillies, appears to have something like a horror of a written constitution. He wants everything to be left to usage and custom, and no doubt there is a great deal to be said in favour of an elastic constitution, which goes very much upon usage and custom. But I should like to point out to that hon. gentleman a fact which he may have overlooked, but which he will at once recognise to be a fact when I say to him that we are inevitably committed to the adoption of a written constitution in the matter of federation, and to one which must, to some extent, be very rigid. We have had that experience already in the Australasian colonies. We hear hon. members talk about living under the British Constitution and working our constitution upon the same lines; but we have not the British Constitution in these colonies. Each colony has a written constitution, and we find on tracing the constitutional history of these colonies that one thing after another has been provided by law which was not thought necessary to be inserted in the constitutions first given to the colonies. For instance, in my own colony, and in South Australia, there is nothing said about ministers at all, except that a civil list is provided for her Majesty, including the judges and a few other officers named, such as the Attorney-General, the Solicitor-General, and the Colonial Secretary. But when we come to the Constitution of Victoria we find it positively provided that there shall be four ministers—not mentioned as officers of the civil service by name, but simply referred to by the indefinite name of ministers—in parliament. When we come to the Constitution of Queensland we find a provision that there shall be a certain number of ministers, six, I think, who may hold such offices and have such names as the Governor-General from time to time may assign to them. We are, therefore, going more and more in the direction of written constitutions every year that these colonies exist; and with regard to the task now before us we are going to take a very much larger step than has yet been taken in the same direction. We are here, Mr. President, to consider and report upon an adequate scheme for a federal constitution for the Australasian colonies, and I should like hon. members to pause and think seriously what is meant by the words of our commission, as I may call it—the resolution passed at the conference in Melbourne—under which we are appointed. A federal constitution is a totally new thing to these colonies, and I may say a totally new thing, in the sense in which we understand it, to the British empire, because it is generally understood that we are not going to follow the lines of the Canadian Dominion. I have an aversion to overloading a speech with quotations. I know it only tends to weary members, and to deprive the speaker of that attention which he would like to secure; but I have two quotations which I intend to offer to hon. members in connection with the observations I shall make, and I shall read the first one at this time. It consists only of a few lines from the English author who has studied the most closely, and written the most exhaustively, on federal government—

Mr. E. A. Freeman, the eminent historian of the Norman conquest. He says with regard to federal government in general:

> That ideal in its highest and most elaborate development is the most finished and the most artificial production of political ingenuity. It is hardly possible that federal government can attain its perfect form except in a highly refined age, and among a people whose political education has already stretched over many generations.

Now, if the task set before us is to frame a constitution, and to produce a government upon the lines indicated in the quotation from Mr. Freeman, I think we shall have to depart very widely from the standard which Mr. Gillies has set up and go a great deal in the direction which he seemed to deprecate, and that was, to depart from the beaten track; we shall have to depart from the beaten track very much indeed.

Colonel SMITH: Why not?

Mr. CLARK: The hon. member, Sir Samuel Griffith, who, I regret to see, is prevented from attending here to-day on account of indisposition, very properly and very wisely told us at the outset of his speech that we had two very important things to consider in connection with this matter. One was the respective powers of the two houses, and the other the position of the executive, and I thoroughly agree with that gentleman, and those who followed him, in saying that a second chamber in a federal constitution must be a very different thing from a second chamber in a unified community. Some hon. members seem to be led away altogether by mere names. Because it is called a second chamber or a senate they appear to me to be incapable of diverting their minds from the nature and composition of the second chambers or senates of which they have had experience. We call that chair and that table both pieces of furniture, and they are made of the same material; but they perform very different functions and are made for very different purposes; and as the chair differs from the table in the intention of its manufacturer and the use to which it is put, although they are both articles of furniture, so this second chamber or senate in our federal constitution will be a totally different institution, and created for different purposes and different functions altogether, from those performed by the second chambers in the colonies at the present time. But before I proceed to deal definitely with the question of the power which should be given to this second chamber, I should like to deal first with the question of responsible government; because, believing that the second chamber, or senate, ought to have the power which has been claimed for it by Sir Samuel Griffith and other hon. members, I also believe, with those gentlemen, that the position of the executive demands from us the most careful consideration. Not that I wish hon. members for one moment to think that I would like to see embodied in the federal constitution any distinct proposals committing us to the American or to the Swiss system. I merely wish to have a constitution as elastic as was asked for by the hon. member, Sir Samuel Griffith, so that if it is found that responsible government, as we understand it, cannot be worked under the constitution, there may be room and opportunity left to adopt some other system. The hon. member, Mr. Gillies, is a very great believer in responsible government, and, if I may say so, sang its praises very eulogistically in the admirable speech he delivered to the Convention; and he asked, as if he challenged an answer, whether it had not worked admirably in these colonies, and quite as well as the Constitution of the United States. Well, I accept that challenge at once, and I tell the hon. gentleman that in these colonies responsible government has been at the same time a success and a failure. As a working machine, it has always been a success. It has been able to move, and the legislatures which have had responsible government associated with them have always been able to do their work. But has that work been of the highest or the best possible type? Has not the very existence of responsible government very often lowered the character and quality of legislation? I do not think there is an hon. member in this chamber who has had experience of it who will deny that such has been the case; and if it could be possible for us to devise a system which would give us legislation of a higher and better character, free from the blemishes and blotches which responsible government has forced upon the legislation of the colonies in the past, I think we all ought to rejoice to try such a system. Not that I am prepared to suggest any one, cut and dried, at the present moment; but when we hear the praises of a certain system sung in the way in which they have been sung in this Convention, I think it only right that those who hold a different opinion, and who have formed their opinion from personal experience, should speak out and express their convictions upon the matter. If I wish to quote authorities upon the disadvantages and defects of responsible government, I could go to very competent observers, and on the maxim that "Onlookers often see most of the game," I might think that it would be a trump card to quote the opinions of American and English authors who have watched the working of responsible government in these colonies; but I will refrain from doing so, and will only quote the opinion of a colonial statesman. The quotation which I am now about to inflict upon hon. members is the second and only other quotation which I shall make in the course of my remarks. The hon. member, Mr. Deakin, spoke very highly of Chief Justice Higinbotham, both as a statesman and as a lawyer, and I think that I yield nothing to the hon. member in my admiration for the character, ability, and patriotism of that gentleman. It was my extreme pleasure, some years ago, to hear him deliver a speech in the Legislative Assembly of Victoria, and that speech was so full of high thought and eloquence that it impressed itself permanently on my mind, and whenever this question of responsible government crops up I think immediately of a passage in it, with which I am so familiar that I can always go at once to *Hansard* and pick it out. It reads as follows:—

> I do not know whether hon. members have observed it; but it ought to be observed, that there are many persons now in this country who have even begun to question the foundations of our constitution—to ask, "What is the use of responsible government; what good can possibly come out of this House?" These feelings of distrust and disapproval are, if I do not mistake, almost entirely occasioned and generated by the accursed system under which the party on this side of the House are always striving to murder the reputations of the party on the other side, in order to leap over the dead bodies of their reputations on to the seats in the Treasury bench.

I think that that description is as applicable to every legislature in the Australian colonies now, as it appeared to Chief Justice Higinbotham to be applicable to the legislature of Victoria at the time at which he spoke.

Mr. DEAKIN: What about the language of parties in America?

Mr. CLARK: If the hon. gentleman wishes me to diverge at this moment, I will answer him, and say that party government is just as strong in America as it is in the Australian colonies, or in England.

Mr. DEAKIN: Without responsible government!

Mr. CLARK: But it cannot upset the ministry for the time-being simply for the purpose of upsetting them and getting their places, and for no other reason whatever.

Mr. GILLIES: Perhaps they ought to be upset, but cannot be!

Mr. CLARK: In connection with this question of responsible government, it appears to be the opinion of a number of the members of the Convention that some provision ought to be put in the constitution to

the effect that the portfolios should be equally distributed among the different colonies. I know that the hon. member, Mr. Gillies, deprecates such a distribution; but other hon. members appear to think very strongly upon the point, and if their wishes should prevail, I can only say that the problem of working the system of responsible government under the federation would be made yet more conflicting and difficult than it would otherwise be. We must always remember that the system has undergone new developments in this country, differing from any which it has undergone in the mother country. The questions considered crucial, and on which ministries go out of office here, are not the questions upon which they go out of office in England; and the questions on which ministries would go out of office in England are not considered of sufficient importance in these colonies to cause a change. But the question of responsible government in connection with our federal constitution only becomes of chief importance to us in connection with the question of the distribution of powers between the two branches of the legislature; and I shall now proceed to deal with the question of the relation of the two branches of the legislature in the proposed new constitution, more particularly with the question of what power or what rights and privileges shall be given to the second chamber, which has been spoken of sometimes as a senate and sometimes as a states house. I agree altogether with the hon. member, Sir Samuel Griffith, and a number of other speakers who have preceded me, that the senate or states house ought to have what the hon. member, Sir Samuel Griffith, has very properly and concisely styled the power of veto in detail with regard to money bills, but not the power of initiation. I think, perhaps, it would be a convenient course, at the very outset of my argument on this branch of the subject, to reply to the challenge thrown out by the hon. member, Mr. Gillies, when he asks, "Why not also claim for it the power of initiation?" Well, I would tell him why I think we may very well claim the power of veto in detail, and yet not claim the right of initiation. In the course of the debate it has been said that government is finance, and finance is government. I do not altogether agree with that maxim, but there is a large amount of truth in it, and I agree with it so far as to admit at once that deadlocks with regard to finance are more serious and more injurious than deadlocks with regard to any other subject. We can easily see that if both houses have the power of initiating money bills, we might have two adverse financial policies before the country at the same time, and each house would be prejudiced in favour of its own, and there would be a more serious kind of deadlock than any that has yet occurred with regard to money matters in any colony or any country with which I have any acquaintance, either personally or by reading. It is quite probable—in fact I believe it has occurred in past times—that two different bills dealing with the same subject may be introduced in two different branches of the same legislature. But they have not produced the serious deadlocks and the injurious consequences which would be produced by the initiation of two adverse financial policies; and for that reason alone I think initiation ought to be confined to the one house, and I flatter myself that that is a very good and sufficient answer to the objection of the hon. member, Mr. Gillies. In dealing with finance we are dealing with what is admitted to be a very special and what is commonly called a very peculiar question. Deadlocks or adverse policies with regard to finance would produce more embarrassing conditions than adverse policies with regard to any other subject. As a matter of fact, the House of Lords is not deprived by law of the right to initiate money bills; and, if I remember rightly, it did once attempt to initiate a tax in the shape of a paper duty. Of course, when the bill came to the House of Commons it became a dead thing; I believe it was laid beneath the table. Still, there was a positive assertion of a legal right to initiate a money bill, and it is only by custom that that power has fallen into disuse. But it is not so much that the House of Lords, out of any consideration to the smooth working of the government, or from motives of public policy, has resigned that right. It comes about in this manner: that we have responsible government and the unity of the cabinet in connection with the British Constitution, and no tax can be proposed except by message from the Crown. And the cabinet, being united and working together, of course it could only propose to tax in one house or the other. Therefore, even if the House of Lords did have the right of initiating taxation, it would not produce any ill consequences whilst you have responsible government, and the cabinet is working in unity, with the condition that no tax can be imposed except by message from the Crown. If every proposal to impose a tax must come from the cabinet, it becomes a mere matter of detail or of expediency whether it should be introduced into one house or the other. But when we come to America, where they have no responsible government, and the cabinet does not propose taxation, then it becomes necessary to confine the right of initiation in the constitution to one branch of the legislature; and we ought, on the same lines, to confine the right of initiation to one branch of the legislature, although we may commence with responsible government, because the time may come when we may change our system. I do not say that that time ever will come, but it may come, and if, in the future, we should cease to have responsible government, and to act on the rule of every tax being proposed by message from the Crown, it would be very awkward indeed for both branches of the legislature to have the right of initiation. Those who believe in giving to the senate or states house the right of vetoing money bills in detail, are also in favour of giving each state an equal representation in that branch of the legislature; and the strongest argument I have yet heard against the double proposal to give the colonies equal representation in that house, and to give it the power of veto in detail in regard to finance has come from the hon. members, Mr. Munro and Mr. Wrixon, who both said that it would lead to the minority ruling the majority. Now, both these gentlemen seem to think that the British Constitution in particular, and representative government in general, is founded on the principle of an absolute rule of the majority. I take leave to flatly contradict that statement. Neither the representative government in general nor the British Constitution in particular is built on the system of the absolute rule of the majority. There are men, both political writers and statesmen, who have advocated that principle, and who have argued for equal and single electoral districts in support of that doctrine. But single and equal electoral districts have never yet been adopted in England, and have not been adopted, so far as I know, in any of the Australian colonies. The electoral districts remain at the present time, both in the Australian colonies and in England, very unequal in numbers, and as to the amount of representation assigned to them; and the consequence is that many important measures are decided in the House of Commons, and are decided in every colonial legislature, by a majority in that legislature who were returned by, and who represent, an absolute minority of electors. This may seem a very startling statement, but Mr. Fawcett, who has taken a great interest in this question, and who has very strenuously advocated the adoption of the system known as Hare's for the purpose of remedying it, has made some very instructive and curious analyses of important facts in reference to the matter. And he did

not go back to the old days before the Reform Bill of 1832; but he took the House of Commons in 1868, after several reform bills had been passed greatly extending the franchise, and endeavouring to attain to approximate equal representation as far as conditions would allow; and yet, after those wide-searching reforms, he found that te nsuccessful candidates at the general election—I think it was of 1868—only polled 1,873 votes, whilst ten unsuccessful candidates polled 83,217 votes. In two most important measures—one the Trades Unions Bill, and the other the Contagious Diseases Act—two important clauses were passed by a majority of members who represented only 287,000 electors, whilst the minority in that division represented 677,000. The absolute rule of the majority has never yet been accepted as the principle of the British Constitution, nor is it the principle of representative government. Representative government is not an expedient or a makeshift to obviate the necessity of having every man brought into one chamber to give his vote; but it is a substantial institution devised for the special purpose of endeavouring, so far as possible, to get the intelligence and the judgment of the community to decide what shall, and what shall not, be law, and not simply to count mere heads. Of course it is presumed, and very naturally, that there will be more intelligence and judgment in the majority than in the minority. But it is not always the case, and while we presume that the majority will have a preponderance of intelligence and judgment among them, we always have to remember that, for the time-being, with regard to any measure, they may not have the preponderance of judgment and intelligence, and we must always give the minority an opportunity to prove that it is right and to become the majority. In fact, we must always challenge the majority for the time-being to legitimatise itself, and prove that it has the preponderance of judgment and reason and intelligence on its side. That is the object of all representative institutions; and therefore it is no argument to say that the proposal to give equal representation and veto in detail to the senate must occasionally give the minority the power of preventing any measure from being passed. That happens every day, and will happen under all representative systems, even if you have equal electoral districts. The Frenchmen are supposed to be more in love with theory and with political symmetry than Englishmen are, and in their endeavour to establish the absolute rule of the majority they have decided that if three or four candidates stand for an electoral district in France, and the one at the top of the poll does not get an absolute majority of all the electors polled, the two or three candidates who obtained the largest number of votes shall go to the poll again. I undertake to say that if you proposed to have such a provision in our constitution, the very first men to denounce it as theoretical, visionary, and un-English, would be the members of this Convention who have denounced the proposal of equal representation in the senate. They are not prepared to go the whole length of the principle they advocate, and boldly to attempt to establish the absolute rule of the majority. Even in the election of the President of America the principle of the absolute rule of the majority is not exercised. Every man has not an equal right to vote for the President of the United States. The mass of the electors only elect a certain number of electors in every state, and those electors are selected on exactly the same principle as the congressional delegation; that is to say, each state elects as many electors as it has members of Congress, including both branches; and the consequence is that repeatedly the President of the United States has been elected by an absolute minority of the people of that country. The gentleman who at present holds the position was elected by an absolute minority. Mr. Cleveland received an absolute majority of primary votes. The Americans submit to that state of things, and never indulge in a revolution to upset it. With all their love of democracy and republicanism, they have never yet committed themselves to that wide and uncertain sea of the absolute rule of the majority, but they have adhered to the definite principle of representative government and constitutional system, and they abide by it even when the minority for the time carry the point at issue. But it has been said that the great objection to giving the senate the powers that some of us would claim for it, and giving equal representation, is that it would not so directly represent the people. The hon. member, Mr. Deakin, seemed to me to be prepared to give it the power which we claim for it if, in his own language, it could be said "to represent the reason and manhood of the respective colonies." I am quite prepared to accept any suggestion for the election of the senate which will produce that result. That is all that any of us want, and if the hon. member, Mr. Deakin, or any other hon. member, can show us that by direct election by the people the senators would more directly represent the manhood and judgment of the states, I, for one, should be very pleased indeed to give my adherence to a proposal of that kind. Now, it is said that if the senate or states house has co-ordinate power given to it with the other branch of the legislature, or, to be more particular, if it really has the power of veto in detail given to it in regard to finance, it will soon become the more powerful house of the two, and the other house will deteriorate; and the example of the House of Representatives in America has been quoted in support of that statement. I quite admit that the Senate of the United States has always commanded the attention of the world more than has the House of Representatives, and that the majority of the great intellects who have appeared in the political arena of America have during the greater part of their careers exerted their influence and performed their work in that particular branch of the legislature. But it is too sweeping an assertion to say that on account of the power which that Senate possesses the other house has deteriorated. If it has deteriorated at all, it has done so for a variety of reasons. Amongst the reasons which have been given for it, is the shortness of its term compared with the length of the term of the Senate, and that, I believe, has been a very powerful factor in making able and prominent men desire to have a seat in the Senate rather than in the House of Representatives. But I take up the challenge boldly, that that house is the inferior chamber that some writers and some speakers have described it to be. We know that the Speaker of that house is possibly the most powerful personage in Congress, and that he has rapidly been acquiring powers and a position more like those of the Premier of England than any other man in the American Government. The chairmen of the various committees in that branch of the legislature are also very powerful personages, and, I believe, exercise as much, if not more, influence in the legislature of the country than does any private member of the Senate. And there is this very important fact, which we cannot overlook, namely, that the majority of the great men of America who are now known to the world in connection with American history, and who helped to make America what it is to-day, have been members of that branch of the legislature at one time or other of their career. The names of the matchless Chief Justice Marshall, and Clay, Calhoun, Webster, Garfield, and Lincoln all occur to me as those of men who commenced their career in that branch of the legislature and who adorned it while they were in it, and some of them never left it, except, as in the case of Garfield, when he left it to be President of the United States. And we have the brilliant instance of John

Quincy Adams, who, after serving his country as its ambassador at various courts, in Europe, and as senator and as president of the republic, surpassed all his former career, and gave himself an immortal name by seventeen years' service in the House of Representatives, towards the close of his career. A house that could attract John Quincy Adams at that time of his life, and also the other men I have mentioned, is not the inferior and deteriorated house that some hon. members imagine, and which some writers have declared it to be. Some hon. members seem to think that fiscal or financial questions are the only ones which could occasion a deadlock, or the only ones with regard to which the public mind may become very much agitated if there should be a difference of opinion between the two branches of the legislature. I admit that in the past taxation has been the subject on which the public mind has been most agitated with regard to differences of opinion between the two houses, and it has been the question which has most affected the rights and privileges of individual citizens. But I believe the world has passed through that stage when taxation will be the most important subject to be discussed. It will certainly always be a very important one. But we know that new political problems will arise in the evolution of society, and I believe the time is fast approaching when what are known as social questions will create more difference of opinion and more agitation in the public mind than taxation has ever done in the past. We know that next to the right of an Englishman to be taxed only with his own consent, and by the vote of his own representatives, he has always valued the right of freedom of contract. But we know that the great principle of freedom of contract is now being challenged, and probably we shall see legislation in the future which will very much interfere with it, and, when that time comes, in all probability we shall see as much agitation in the public mind, as much excitement, as much division of opinion between various classes of society on that fundamental principle, as we ever saw on the question of taxation. Yet all the second chambers in the colonies at the present time, and the House of Lords, have power to veto in detail or *in globo* bills dealing with that important principle, and with other questions which will probably have to be dealt with in the future. It is no use raising ghosts of the past to frighten us in regard to the future. I think questions of taxation will never be questions of agitation, or cause the same revolutions in the future as they have in the past. I believe we have outgrown that stage of political development. The American Constitution has been pointed to as having worked for 100 years very satisfactorily with this power of vetoing in detail all financial questions vested in the senate. Some hon. members have said, "Oh, they have had friction and disagreements there; they have had secessions"; but curiously enough, broadly speaking, the disagreements have not been on financial questions. A book was written some years ago by a gentleman who visited these colonies, and whom several hon. members, no doubt, have had the pleasure of meeting—I allude to Mr. Moncure Conway—upon the working of the American Constitution. He called the book "Republican Superstitions." He was a great advocate of government by one chamber, and I may say he ransacked American history to see where the constitution of two chambers had worked badly; but in all his indictments against the American Senate, and in all the instances where he referred to deadlocks, he does not produce one financial question; they are all questions of slavery, of organisation of territories, and such like. Undoubtedly that constitution has received magnificent eulogies at various times from writers and public men in England and in these colonies. We know the eulogy passed upon it by Mr. Gladstone, and we know that the hon. member, Mr. Deakin, the other day spoke of it as "that superb constitution." But it has had one tribute paid to its excellence, one eulogy passed upon it beyond anything that the tongue of man can ever give to it, and possibly beyond anything which any other constitution ever had or ever will have given to it. The eleven states who, in 1861, seceded from the Union because they could not get what they regarded as their rights under it, because they said it had become tyrannical and oppressive, and had been swerved from its original intention, re-enacted it almost word for word for themselves to live under, including this power of veto in detail in financial matters. Where do you find such a tribute paid to any other constitution in the world as that the men who seceded from it, after asking to be delivered from its shadow, re-enacted it *verbatim et literatim* to live under? I now proceed to deal with the question of state interests. I prefer that phrase which the hon. member, Mr. Barton, suggested to us in preference to the phrase state rights; because I think the phrase "state rights" has occasioned a good deal of misapprehension in the minds of some persons, particularly in the mind of my hon. friend, Mr. Gillies, who seemed to think that the danger, which seemed to us so great on this question, amounted to a threat of what he called "plunder." I never had any dread of anything which we could call the plunder by one state of another. But I can very clearly see that state interests may be endangered; that certain states may unjustly suffer by the legislation of the federal government, if they are not equally represented in the senate, and if each state has not coordinate power with the others to veto any measure which may injuriously affect it. The hon. member, Mr. Deakin, asked, as if he challenged an answer, with full confidence that one could not be given, what powers given to the federal government, either in the American Constitution or in the Canadian Constitution, could possibly create any danger to state interests? I accept the challenge, and will tell him at once that there is one very important power given to the central government in both those constitutions, which may at any time endanger state interests; and that is, the power to regulate commerce. It has frequently in America caused legislation, which, in the judgment of many of the states, has injured their interests. New Jersey in particular has been in the supreme court twice on the matter; but she has been defeated there. That is the answer to the statement of the hon. member, Mr. Deakin, that we should put our state interests under the protection of the federal constitution and the federal courts. There are some injuries for which there is no judicial remedy; the remedy is only political, and that has been recognised by all the writers on the American Constitution. Mr. Justice Story, whose commentaries were quoted here a few days ago by the hon. member, Mr. Barton, and who was reckoned one of the greatest writers on American law, has left on record his deliberate opinion, and as a matter of legal argument has placed it beyond all doubt, that the whole protective system of America is unconstitutional and is an injury to several of the states; but he admits that there is no judicial remedy for the injury, that the remedy is only political, and can only be had at the polls, and that if the electors do not choose to remedy the injury, it must be submitted to as the inevitable. We know that South Carolina attempted to secede from the Union thirty years before the civil war on that very ground. She said that the protective tariff was aimed at her products and her industries, and would be especially injurious to her; and since the civil war legislation under the right to regulate commerce has injuriously affected several states, which have gone to the supreme court and found that there is no judicial remedy, notwithstanding the presence in the constitution of a direct provision apparently inserted for their special protection. There is a clause in the

American Constitution which positively prohibits any tax or impost on exports. Now, there are several states that raise principally tobacco, and they cannot find a market for all they raise within the states themselves: they must export. It would be in direct violation of the constitution to impose an excise duty on tobacco. We can easily see that if that were allowed these states would suffer a special wrong. Yet it has been done by indirect means. They have actually imposed a stamp duty on bales of tobacco, and they will not allow a bale of tobacco to leave the factories until the stamp duty has been affixed. Two cases have been before the supreme court for the purpose of testing the validity of the tax under the fundamental provision of the constitution, that there shall be no duty on exports; but the act has been so framed, so cunningly devised, that the courts have decided that it does not come within that prohibition, and the tax remains. The states which raise tobacco feel the injury; yet there is under the constitution no judicial, but only a political, remedy for it. The island of Mauritius obtains most of its revenue from an export duty upon sugar. I do not know whether it is intended to insert in our federal constitution a provision similar to that in the American Constitution, and to prohibit the federal government from taxing exports; but if we do not do so, might not the imposition of an export duty upon sugar seriously affect Queensland and yet leave her without any judicial remedy; but let us not trust to judicial remedies. Let us embody distinct remedies for injured state interests in our constitution; let us give to every state the power to protect itself. Self-protection is better than protection by another.

Mr. PLAYFORD: They do not do so in America!

Mr. CLARK: You cannot obtain perfection in everything, and there are some things for which the only remedy is a political remedy—a remedy at the polls, as Mr. Justice Story says. You must go there and fight it out. With regard to the Canadian Constitution, there is another section under which federal legislation might seriously affect the different colonies—I refer to the right of the federal government to deal with the fisheries; and it is quite conceivable that if the federal government here, as in Canada, had power to deal with the fisheries, it might take steps which would very seriously affect the various Australian colonies. My friend, Mr. Wrixon, said something about the desirableness of a uniform criminal law, and while he was speaking I expressed the opinion that we should not have a uniform criminal law. The hon. member invited me, I understood, to give some reasons why we should not have it. I have placed my note upon criminal law under the head of state interests, because I believe it comes under that head. It might be desirable in some colonies or in some states, to make certain things crimes which it would not be desirable to make crimes in other states. We know that in the American Union the eastern states are highly civilised, refined communities, advanced in physical, intellectual, and artistic culture; while, on the other hand, the western states, or the backwoods, as they are called, are in a very different position, politically, socially, and intellectually. It might be necessary in some of the states to pass stringent laws making certain things crimes which would not be so dealt with in other states. Besides, we know that the law is often used as a means of effecting indirectly some ulterior purpose, also for the purposes of class or special interests. The game laws of England occupied in former years, and occupy now to a certain extent, a foremost place in the provisions of British criminal legislation. We know what detestable and abominable laws they were, and we know that they were introduced, not for the protection of life and property and individual liberty in the ordinary sense—not for the same purpose as that for which you make murder or forgery a crime—but for the conservation of certain class interests and class privileges. In America, in the days of slavery, it was made a capital felony in some states to teach a negro to read or write; and even at the present day, when slavery has been long abolished, the marriage of black people with white people in some states is made criminal. Men who have chosen to marry a mulatto or a quadroon have stood in the criminal's box and have been sentenced as common criminals. Now, there was a time when the slave power was so strong in America that it appeared to be about to transform the whole union into its own hideous form and likeness, and, if the attempt had succeeded, it would have been a most lamentable state of things to have the laws which would have been then enacted in force throughout the whole of the Union—in Massachusetts, in the home of the pilgrims, as well as in Louisiana. We do not want to run that risk. Do not let us, therefore, have a uniform criminal law, but let each state have its own law. I will proceed now to the question of the judiciary. The resolution as it stands provides for only a court of appeal. I hope that when we get into Committee an amendment will be moved establishing a system of federal courts independently of, and in addition to, the state courts. I think we are irrevocably committed to that, if we are going to have a federation in the true sense of the word, and not unification—in other words, if we are about to adopt the principles of the American, and not those of the Canadian Constitution. In Canada they have only one system. Canada is what may practically be called a unified community; in fact, so unified is their judicial system, that the state governments cannot even appoint ordinary justices of the peace. Justices of the peace throughout the land have to be appointed by the central government. The county court, as well as the superior judges, are also appointed from that source, and hon. members can imagine what an immense amount of patronage that must give to the central government. Mr. Gillies referred this morning to the long period of office which had been enjoyed by Sir John Macdonald, and the hon. member seemed to think that it was due to that gentleman's tact and to the statesmanship he evinced in the distribution of ministerial portfolios. When we know that he has the power of nominating every member of the senate, and every lieutenant-governor, and of appointing superior and inferior judges and justices of the peace, as well as the power of vetoing all local legislation, his long term of office is easily accounted for. With such reins in his hands he might be expected to remain in the saddle an indefinite time. We do not want to place it in the power of the prime minister of our dominion to exercise patronage to that extent. What we want is a separate federal judiciary, allowing the state judiciaries to remain under their own governments. If you have your various governments moving in their respective orbits, each must be complete, each must have its independence. You must have an independent legislature, an independent executive, and an independent judiciary, and you can have only a mutilated government if you deprive it of any one of these branches. I therefore hope to see a complete system of federal courts, distinct from the provincial courts. I will not enter fully into the question now. I could give many other reasons why we should have a double system, and could mention many benefits which would flow from it. I content myself now by saying that I hope that in addition to a separate federal system of courts we shall have a court of appeal, as the resolution contemplates. That will be an innovation, and a wholesome innovation, upon the American system. The American Supreme Court cannot hear appeals from the supreme courts of the various states except in matters of federal law. I hope our Supreme Court

will take the place of the Privy Council, and hear appeals upon all questions of law. I now come to the question as to whether the decision of that court of appeal ought to be final or not. I unhesitatingly say that, so far as the cases which come before that court are purely Australian, the judgment ought to be final; but if a case comes before it affecting imperial interests, or depending upon the interpretation of an imperial statute in force throughout the whole empire, it would be absurd to talk about taking away the right of appeal to the Privy Council. If the British legislature does what it has the power to do, and what it has done—that is, if it passes a law for the whole empire, such as the British Merchant Shipping Act or the Plimsoll Act—it would never listen to a proposal to take away from its own court the right of interpreting its own acts. That, I think, is perfectly clear. This reminds me that when hon. members talk of breaking our connection with the mother country, or of cutting the first strand of the painter in a proposal to erect a federal judiciary, they have, it seems to me, a very hazy and imperfect notion as to what our relations to the mother country really are. Our real relation to her as dependencies does not depend upon our recognition of the Crown, or upon our appealing to the Privy Council. The great and mighty fact with regard to our position in relation to the mother country is that our legislative bodies are subordinate to the British Parliament, with their laws liable to be overruled by that Parliament. That is the position in which we shall remain while we are only a subordinate legislature—almost as subordinate to the British Government as municipalities are subordinate to the legislature which creates them. It is that which makes us practically a dependency, whether or not there is an appeal to the Privy Council, and whether or not the name of the Queen is used in our acts of Parliament. That is really the essence of the position which we hold as part of the British empire. It has been said that in addition to the cases which involve imperial interests, and the interpretation of imperial statutes, it may be desirable to have cases sent to the British Privy Council which embody fundamental principles of the common law. When I heard that statement I was reminded of an article in the December number of the *Contemporary Review*, by one of the most learned and scientific lawyers and legal writers of the present day—Sir Frederick Pollock. He is so dissatisfied with the system of teaching law in England, that he says if it is not very soon altered, the centre of the legal system of the Anglo-Saxon race will drift from the eastern to the western shore of the Atlantic, and that the colonies will look to the decisions of the Supreme Court of the United States for decisions on fundamental principles of the common law. The American courts administer the same principles of common law that the English courts do, and so far from its being a disadvantage to have two independent centres of interpreters, it has been a benefit, and the common law of England has thus been enriched. The Privy Council and House of Lords have frequently quoted with respect, and have acknowledged the benefit of, the decisions of the august tribunal on the other side of the Atlantic. There is no reason why our supreme court of appeal may not produce the same beneficent results, and enrich the stock of the common law of the empire by being an independent centre of interpretation. The hon. member, Mr. Wrixon, seemed to think there might be an objection to making it a final court of appeal, because, he said, in Victoria they have six judges who are amongst the ablest lawyers at the bar, and that it might be difficult to get a tribunal which would command more respect for its judgments than was felt for the decisions of the Supreme Court in that colony. I do not pretend to speak for the colony of Victoria, or any other colony, particularly; I speak generally; but I think the hon. member, Mr. Wrixon, will admit that we do not always get the six, or even the three, ablest lawyers in the community upon the bench of a colony. You get poor judges just as you get poor politicians.

Colonel SMITH: That is not the case now.

Mr. CLARK: It has been the case in times past, and it has been the case in other colonies. We must speak the whole truth and our whole conviction. I do not know whether those six able judges always sit together, or whether important questions are not often decided by three or four of the judges. Therefore, the argument as to six of the ablest lawyers coinciding in a case would have a very infrequent application. But what is the tribunal to which we appeal now, and which the hon. member, Mr. Wrixon, would retain? The Privy Council is a tribunal supposed to consist of fifteen judges, three forming a quorum. In one most important case that went from Queensland only three judges constituted the court; and without any disrespect to them, but simply in the interests of truth, I say that probably those three judges were the weakest men of the whole fifteen. Two of them are now dead, and I may give their names without offence. The court consisted of Sir Barnes Peacock, Sir Montagu Smith, and Sir Robert Collier, when the important case of Davenport *versus* the Queen was decided by the Privy Council. If the hon. member, Sir Samuel Griffith, were here, he could tell us more about the case. He argued the case in his own colony, and carried the court there with him. That judgment of the court was reversed by the Privy Council, and I know that up to the present time Sir Samuel Griffith, and all the lawyers of Queensland, believe that their own court was right, and the Privy Council wrong; and the hon. member, Sir Samuel Griffith, believes that if he had had an opportunity of going home to the Privy Council he would have induced the judges to look at the case in another light. That is the disadvantage of having a distant court of appeal. It is always inconvenient to send counsel so great a distance. My hon. friend, Mr. Wrixon, will not dispute the wisdom of sending counsel home from the colonies to place our cases fully before the Privy Council, because last year he saw that it was absolutely necessary to do so in the interests of his own colony, as our government also did in a case in which they were concerned. I know that Sir Samuel Griffith holds the same opinion, and that he regards the decision in the case I have quoted as a proof of the desirability of colonial cases being argued before the Privy Council by colonial lawyers.

Mr. DIBBS: Yet the three judges to whom the hon. member has referred have given very good decisions on colonial questions!

Mr. CLARK: That may be; but we are here to speak the whole truth; and I maintain that those three judges were the weakest of the team. The hon. member, Mr. Wrixon, seemed to think that in the Privy Council we had a court for the whole empire which gave uniformity of decisions. There, again, he was a little forgetful. The Privy Council is not the court of appeal for the whole empire. The House of Lords is the court of appeal for a large portion of the empire; so that there are two separate, co-equal, and independent courts which are not bound by each other's decisions. The House of Lords subsequently refused to follow the judgment of the Privy Council in the case of Davenport *versus* the Queen. Therefore, at the present time, we have conflicting decisions by two independent and co-equal courts in England. If we have under our federal government a court of appeal whose decisions shall be final with regard to Australian matters, we shall not be troubled by having conflicting decisions; we shall not have one lawyer quoting a decision by the House of Lords to a colonial court as one it ought to follow, and a lawyer on the other side quoting a

different decision by the Privy Council as one which ought to be accepted. I think that I have dealt with every subject that I intended to speak upon except the one question of the power of the Queen to disallow federal legislation, which was referred to by the hon. member, Mr. Playford. I have almost anticipated my remarks on that head by pointing out that we shall be a subordinate legislature, and that the subordinate position which we hold is really the thing that decides our place in the empire. If the power of disallowance be taken away, the link between us and the Crown formed by the governor-general will certainly be a cobweb. We shall be, to all intents and purposes, an independent nation. I may sympathise with the hon. member, Mr. Dibbs, in looking forward to that as the ultimate goal for these colonies; but we have not met here to carry out that object, and I do not think it would be wise for any of us to attempt to hurry it. If it is for the benefit of these colonies it will come in good time.

Mr. DIBBS: May we not indulge in a poet's dream?

Mr. CLARK: We may; but as one not at all hurt by the sentiments uttered by the hon. member, Mr. Dibbs, I would at present deprecate the taking away of the power of disallowance, because that would really be severing our connection with the empire, for which I do not think we are prepared. I thank the members of the Convention for the patience with which they have listened to me. I am afraid I have been rather rambling; but I was anxious to touch upon various points. I hope that I have made my own position clear, so that, as I said in my opening remarks, the directions in which mutual approach is required, and the distance that hon. members stand from each other may be pretty well ascertained, and I shall be as prepared as any man to go half-way to meet the Convention on any one of these subjects.

Sir JOHN BRAY: I join with hon. members who have preceded me in thanking you, sir, for having put before us these resolutions in such a shape that, while we can freely and fully discuss the whole question of federation, we do not in any way feel ourselves pledged to the exact words you have placed before us. I suppose we will all admit that, on meeting here at first, there was on the part of every one of us a little doubt and difficulty as to how the question we had to discuss was to be first approached, and we naturally relied upon you, sir, to put us in a position to have a full discussion of the whole subject. I think you have answered all our expectations in the way you have brought the matter before us, and although, for one, I would have preferred that, in some respects, the resolutions had been differently worded, still I feel satisfied that they will answer the purpose for which you moved them. I think the discussion has proved pretty clearly that it would have been easier for most of us if we had set to work in the first place to determine what sort of government would be satisfactory to the people of Australia, and the people of the different colonies, before we attempted to determine the powers to be intrusted to the new parliament, because, assuredly, we shall find in the long run that on the constitution of the federal parliament and the federal executive will depend the powers that the people of the different colonies are prepared to intrust to them. I feel, from the discussions that have taken place, and, perhaps, from the feelings of the people generally throughout Australia, that of whatever the senate and the house of representatives may consist, we must be prepared to be governed by what is known as responsible government. Before we finally determine that, however, I think we ought to consider whether or not, for the purposes for which this government is to be formed, it would not be possible to constitute a government on somewhat different lines that would answer better for the purposes we intend to carry out. I take it for granted, sir, as has been pointed out by you, and assented to by everybody, that in one of the two branches of the legislature, which for convenience you have called the senate, all the colonies should have an equal number of representatives; and if this were an ordinary form of government for the whole of the people of Australia without regard to the different colonies of which Australia is constituted, I should unhesitatingly say that this suggestion on your part, and the acquiescence in it on the part of those representing other great colonies, would be a very generous concession to the smaller colonies. But I take it after all that we are not here simply to frame—and I think my hon. friends, Mr. Gillies and Mr. Deakin, fell into an error in this respect—we are not here simply to frame a constitution for the government of the people of Australia. We have also to proceed on principles just to the several colonies. We are not to recognise simply the fact that the majority of the people of Australia must in the end prevail. I believe they must myself. I do not think there is any question about it. But still we are here, intrusted with the task of proposing a form of government that shall afford to the people of Australia an opportunity to govern themselves. We must, however, at the same time recognise the rights of all the different colonies. Now, what are those rights? was asked by the hon. member, Mr. Deakin. I will tell him one of them. In determining that we have to recognise the different colonies. We say this, that we must recognise them. That is a point that has not been put as clearly as it might have been. Why must we recognise the rights of the different colonies? Because the different colonies under the constitution intrusted to them have undertaken certain duties and carried out certain public works. They have undertaken certain responsibilities in connection with the payment for those works, of which the new federal parliament does not propose to relieve them. They have still to bear the burden of these duties and responsibilities, and we must do nothing whatever to prevent them from seeing that proper provision is made in their own colonies in order that they may carry out the duties and responsibilities they have undertaken. If the government we are now proposing to create for the whole of the people of Australia were to say to all these different colonies, and if these different colonies were willing to acquiesce in the proposal, "We will take over the whole government of Australia; we will perform all duties; we will undertake to carry through the obligations the different colonies have entered into," then we might fairly say to the people of Victoria and New South Wales, the two great colonies—colonies that at the present time contain two-thirds of the whole population of Australia—we might fairly say to them, "Since you have generously undertaken to carry out all our responsibilities and all our duties, we recognise the fact that the majority must prevail." But, so long as we say that each of the colonies must separately undertake to perform these duties itself, so long must we say, in any system of federal government that is established, "The colonies as colonies, apart from the colonies as people, shall have an adequate voice in the representation of the people and in the discharge of parliamentary duties." I am pleased that not a single member of the convention has suggested that there should be anything less than an equal representation of all the colonies in the senate. It is true that in the act we shall have ultimately to pass we shall have to make provision for the subdivision of some of the colonies, and of course it would be unreasonable to suppose that such subdivision should take place without the federal parliament being consulted and acquiescing in subdivisions that would in any way affect the representation of the colonies

in the senate. We are told that there is a possibility of Queensland being divided into three colonies. So far as South Australia is concerned I do not think there is any possibility for many years to come at any rate of any subdivision of that colony. But I think there is a misconception in the minds perhaps not of members of this Convention, but in the minds of many members of the public, who seem to assume that the Northern Territory is part of South Australia, that South Australia runs from Adelaide to Port Darwin, whereas, as a matter of fact, this is not the case. South Australia has no larger territory than that which was first granted to her. At the present time she has the Northern Territory placed under her control under letters patent from the Imperial Government, and it is quite possible for the Imperial Government at any time to deprive South Australia of the control of the Northern Territory. Some years ago, when I was in the government, and we thought that perhaps we should be able to deal more advantageously with the Northern Territory than we believe we are able to do at the present time, we suggested to the Imperial Government that, in order to avoid complications in the future, they should at once declare the Northern Territory to be part of the colony of South Australia. But the Imperial Government, while willing to assist us in any way with the government of that part of Australia, declined to accede to that proposal, and, therefore, the Northern Territory is no part of the colony of South Australia and will be required to be considered, I think, by members of the Convention when we go into Committee; because, as I have said, there is a possibility of the mother country saying either that the Northern Territory shall be handed over to one of the other governments of Australia or to the federal government apart from South Australia, and probably in the end it might be found to be most advantageous if it were possible to accomplish the latter. Now, I say that the states must for the reasons I have indicated to be adequately represented in any federal parliament and federal government, and I was very glad to hear the suggestion thrown out by the hon. member, Mr. Wrixon, who represents a large colony, that it might fairly be conceded that only a certain number of members of the executive should be chosen from any one colony. There is no doubt whatever that there is a great deal of reason and commonsense in the suggestion made by the hon. member, Mr. Gillies, that anybody who undertakes to form a government—you yourself, sir, for instance, and I know from your experience that you would do it—should look round carefully and not simply consider what is most likely to satisfy the representatives of New South Wales, and to carry out their wishes, but should consider the whole of the colonies, and form a government that would commend itself to the support of the representatives of the whole of Australia. The hon. member went on to say that there was a reasonable way of conducting things, and that he had no doubt whatever that men would be chosen in both branches of the legislature who would act so reasonably and harmoniously together that all these causes of friction which we anticipate would prove imaginary and would disappear altogether; and I felt then, as I feel know, that if we could select men who would sink all personal differences, all the motives which might appear to make them work harder for their own particular colony than for the rest of the country, we need have no written constitution at all. If the people of Australia could depend upon the men who were chosen to one house of the legislature not attempting to infringe upon the rights of the other house, but upon their doing their best to promote the interest of Australia without regard to the colonies from which they came, we should not need a written constitution. It seems to be taken for granted, too, that if we are to have a system of responsible government, we must also have an opposition. Now, I would ask hon. gentlemen in determining this question to consider whether it is absolutely necessary or desirable in the conduct of the affairs of any colony, or, at any rate, of a federal government, to have a responsible ministry and an opposition. Is it necessary to have men on the one side proposing what they believe to be best for the state, and men on the other side who advocate an opposite course, and who can only carry out their views by removing those who compose the government? It does not appear to me to be absolutely necessary to have a responsible government and an opposition. I agree with the hon. member, Mr. Deakin, that we must not readily cut adrift from the old system under which we have worked, and worked well. I agree entirely with the hon. member that mistakes have been made under responsible government, perhaps in all the colonies. At any rate I admit that mistakes have been made in the colony which I represent, and perhaps I should not be thought presumptuous if I said that I think similar mistakes have also been made in the other colonies. But under no system of which I am aware is it possible to avoid mistakes; though it appears to me an extraordinary thing that the management of public affairs should be so different from what takes place in the management of our private affairs, either as individuals or as companies having control of a large amount of money—that we should have on the one side men composing a responsible government, whose proposals, when they are brought forward, are torn to pieces by the men on the other side. We have been told by the hon. member, Mr. Gillies, with a confidence that inspired belief in all of us, that if an archangel came down and attempted to lead this parliament, or any other parliament, and introduced the most perfect measures, he would meet with opposition.

Mr. FYSH: One cannot have perfection in mankind!

Sir JOHN BRAY: I am sure that the people of Tasmania have the most perfect man at the head of their government; I will not say that each of us think the same with regard to our own colony, but at any rate a good many people do. Still, I am not going to elaborate this point now; but I ask hon. members to consider fully whether we are absolutely pledged to have a system of responsible government. I do not think we are, and I trust that when we get into Committee we shall not hastily dispose of this matter, but that we shall consider it carefully. I agree with those who say, like the hon. member, Mr. Deakin, and the hon. member, Mr. Gillies, that we must be absolutely satisfied that it is a better thing than we have got already. We must not drop what we have got for an experiment, and although we must not frame the constitution so rigidly as to prevent its being altered, yet at the same time we must have some basis which will give the colonies confidence that it will not be altered without the fullest and fairest consideration. I take it that we must provide some means of altering the constitution of the federal parliament and the federal executive. It should not be done without the consent of the other colonies probably; but still there must be some means of doing it, because I do not suppose that any of us is so sanguine as to hope that in the course of the next few weeks we shall be able to frame a constitution that, without alteration, will give satisfaction to the people of Australia for any great length of time. With regard to the powers of the senate, which is to contain an equal number of representatives from each state, I am amongst those who say that we must give it very ample powers; though I am perfectly satisfied that if we do adhere to a form of responsible government the voice that represents the large and undoubted majority of the people of Australia, must in the end prevail. But we must not make it too easy for that voice to prevail; we must not make it too easy for

the majority to say, "We represent the majority of the people of Australia, and although you represent the colonies of Australia, we must have our way." But, from my knowledge of them, I cannot believe that the people of Australia will be satisfied with any form of government that does not give the will of the people, when it is ultimately ascertained, the fullest possible control over the parliament and the government under which they live. Now, with regard to money bills. It seems to be assumed, I do not know why, that the control of money is different from the control of everything else. I do not see why it should be so. If the senate has the fullest possible power to alter the laws that control the liberty and the lives of the people, are they not to be intrusted with anything more than a nominal voice in the expenditure of public money? I say that I think they ought to be. It ought to be possible for them to have a direct voice, not in every detail—I do not ask for that—but in the expenditure of any large amount of money that involves any departure from the ordinary expenditure of the year. I think, however, that the ordinary appropriation bill ought not to be interfered with by the senate, providing that it contains only items necessary for the ordinary expenditure of the year. The hon. member, Mr. Gillies, acquiesced in that very clearly; but at the same time we must not have simply an understanding about this. We must have something definite respecting it in the constitution act which we have to prepare, and I suggest that we should have a provision, that no matter should be included in any money bill which the senate shall declare should, in the interests of any one of the colonies, or of all of them, be dealt with in a separate measure. We ought to allow them, not to reject a money bill because they do not like it, but to say, "We have looked at this bill, and it contains provisions which ought to be contained in one or more measures." They ought to have the right to say, "We require you to send this subject up in a separate bill." We have in South Australia a system that on the whole has worked fairly well, but which really in effect amounts to giving the power to the Legislative Council to alter money bills. About thirty-five years ago there was a collision between the two houses of parliament with respect to money bills, and they met together and made what is known as a compact. It is not, of course, part of the constitution, but it has been acted upon from time to time since. By that the Legislative Council can suggest, for example, that a certain line should be left out of a loan bill. In South Australia a separate bill for the construction of a railway is carried through both houses of parliament before the amount for carrying out the work is included in the loan bill; but in respect of harbour works and other public works proposed to be carried out by loan, the Council has the right, under this compact, not to amend the bill, but to suggest that a certain item should be omitted. If the Assembly do not omit the item, or the two houses do not come to an agreement upon the matter, it falls to the ground; but the houses have power to appoint committees to confer with each other, and to give the reasons why the suggestion should be either acted upon or dropped. The system is a rather complicated one, but, on the whole, it has worked with fair success in South Australia. With regard to taxation bills, I think the hon. member, Mr. Clark, fell into a little mistake in saying that a taxation bill required a message from the Crown before it could be considered.

Mr. CLARK: It is so in our parliament!

Sir JOHN BRAY: It may be the practice, but I do not think it is the law. I understand that the South Australian Constitution Act is much the same as that of Tasmania. The 33rd section of "An act to establish a parliament in Van Diemen's Land" provides:

> All bills for appropriating any part of the revenue, or for imposing any tax, rate, duty, or impost, shall originate in the said house of assembly, and it shall not be lawful for the said house of assembly to originate to pass any vote, resolution, or bill for the appropriation of any part of the revenue, or of any tax, rate, duty, or impost for any purpose which shall not have been first recommended by the governor.

That is to say that the house can raise money, but cannot determine what is to be done with it, unless the governor by message makes a recommendation concerning it. Then, in May's "Parliamentary Practice" it is clearly laid down that no private member can, without the consent of the governor, bring in a bill for taxation purposes.

Mr. CLARK: It must be a minister!

Sir JOHN BRAY: A message from the Governor is not necessary, but the request must come from the Crown. It is stated on page 650 of May's "Parliamentary Practice":—

> The Crown, therefore, in the first instance, makes known to the Commons the pecuniary necessities of the government, and the Commons grant such aids or supplies as are required to satisfy these demands; and provide, by taxes and by the appropriation of other sources of the income, the ways and means to meet the supplies which are granted by them. Thus the Crown demands money, the Commons grant it, and the Lords assent to the grant; but the Commons do not vote money unless it be required by the Crown; nor impose or augment taxes, unless they be necessary for meeting the supplies which they have voted, or are about to vote, and for supplying general deficiencies in the revenue. The Crown has no concern in the nature or distribution of the taxes; but the foundation of all parliamentary taxation is its necessity for the public service, as declared by the Crown through its constitutional advisers.

That is the point. It is for the Crown, through its ministers, to say what taxation is required; but an absolute, direct message from the Governor is only required when it is proposed to appropriate the moneys which have been raised by means of the ordinary revenue or in any other way. I quite agree with you, Mr. President, that if we are to have anything like a complete system of federation we must have trade and intercourse absolutely free between the colonies. I was a little astonished at the excessive precaution which appeared to be displayed by the hon. member, Mr. Deakin, on behalf of his people in Victoria with regard to this question. I think it is clearly understood by all of us, beyond question, that the federal parliament must impose a customs tariff before this free-trade and intercourse is accomplished, except, of course, by agreement between any one or more of the colonies. It may be desirable for us, in order to give more complete assurance, not simply to Victorians, but to colonists in all parts of the country, to fix some date before which the customs tariff of the federal parliament should not come into operation. Of course, in the ordinary course of events, it will be three years or longer before it can come into operation; but still it may be desirable to make some such provision. In clause 3 of the resolutions it is provided

> that the power and authority to impose customs duties shall be absolutely lodged in the federal government and parliament, subject to such disposal of the revenues thence derived as shall be agreed upon.

I am almost sorry, Mr. President, that you did not indicate absolutely in some general way, how you propose to appropriate these revenues. After all, the only clear indication that we have on the face of the resolution is that the federal government is to raise the customs duties, and provide for a scheme of military and naval defence for Australia, and to dispose of the balance as shall be agreed upon. There is no doubt whatever, as was clearly pointed out by the hon. member, Mr. J. Forrest, that in order to carry out a scheme of federal government we must be prepared to go back to our respective colonies and point out the advantages which will accrue to them from going into a federal union. There is no doubt whatever that in a general way the parliaments of all the

colonies have agreed that federation is desirable. They have asked us to determine, if we can, on a constitution which will carry out their wishes. But when we have done that, we shall have still some little labour before us. I hope, however, that we shall ultimately succeed in being able to persuade our respective colonies that it is to their advantage, and to the advantage of Australia generally, that some such scheme as we may agree upon shall be carried out. I am one of those who feel that if it were possible—I do not think it is possible at the present time—it would be desirable that the whole of the public debts of the colonies should be taken over by the federal government. I do not think that that could possibly be done for a time ; but I do think that we could arrange for a considerable portion of the debts of each colony to be so taken over. No one would attempt to suggest, I suppose, that we should prevent each colony from raising money to carry out works which locally are considered to be absolutely necessary. At the same time, I do think we ought to hand over to the federal government a certain proportion of the debts of each colony. The colonies would then see the advantage of federation more rapidly than they would in any other way. I believe we should find that a federal loan could be placed on the market on better terms, and would be much more eagerly taken up by the British public than any loan of the separate colonies. At the same time I am not prepared, and I do not suppose any of us are prepared, to state that a federal parliament should absolutely take over the debts of the whole of the Australian colonies. I can see, however, that great advantage would result if some scheme could be adopted which would enable a fair part of the debts of each colony to be undertaken by the federal government. I agree with the hon. member, Mr. Dibbs—and no one, hitherto, has been bold enough to say that he agrees with anything that hon. member has said—that it is not desired to raise up a great standing army for our defence from imaginary enemies. We feel that it is necessary for each colony to do something to provide for defence from common foes ; and I think that we may rely that a federal parliament will do the same, and no more. They will have no ambition to act contrary to the wishes of the Australian people, and, as far as I know those wishes, they are not that we should rear up anything like a large standing army. They are anxious that we should have amongst us some force which could be relied upon in time of danger; they are willing to give their own services to augment that force when the necessity arises. I hope, however, that no federal government or parliament will ever raise any unnecessary military or naval forces in the colonies, because they know the people are not prepared to support such a scheme. I shall now say a few words with regard to the house of representatives, or, as it has been styled by the hon. member, Mr. Kingston, the national assembly. I should be sorry—and I think we should all be sorry—to feel that we must be bound to limit the representation in the house of representatives to fixed numbers. I agree with those who say that the colonies which are more populous than others should have more members; but I think the indication thrown out by the hon. member, Sir James Lee-Steere, shows that it will be necessary to make some concession to the smaller colonies in that respect—in other words, you will have to provide that each of the colonies, no matter what their population may be, shall have a certain minimum number of members. As the hon. member, Mr. Gillies, states, some such principle was indicated in the Federal Council Act. We must see at once that if the idea which was thrown out in the bill which has been so ably drafted, and which I have no doubt will give us great assistance, were adopted, and the Western Australian people were asked to elect simply two members to the house of representatives, they would have cause to say that they were not adequately represented. While we must admit—and no one admits it more fully than I do, as I said before—that when once the absolute will of the majority of the people is ascertained, effect must be given to that will; still at the same time I say that, in order to offer a fair inducement for all the colonies to attach themselves to the federal parliament, we must fix the minimum number of members that shall represent any particular colony. With regard to the suggestion thrown out by my hon. friend, Sir George Grey, of New Zealand, that the highest offices in the state should be open to all persons, I agree with him, except in reference to the governor-general. I am quite prepared to go for that when I see any advantage to be gained from it ; but at the present time I do not see that any possible advantage could be gained. We have come here with a desire to frame a constitution under the Crown, and whatever the possibilities may be in 100 years, I quite agree with the hon. member, Mr. Gillies, that that is rather too remote a period on which to fix our attention at the present time. We can see a certain distance before us. We feel, I think, satisfied on the whole with the forms of government that have been intrusted to us, with the power to amend which we now have ; but I agree with the hon. member, Mr. Gillies, in saying that in all other respects the ambition of Australians will not be satisfied unless the highest offices throughout the Australian colonies are thrown open to them, and, as far as I know, there is no disposition on the part of those assembled in this Convention, or on the part of the parliaments of any of the colonies, to deprive them of those opportunities. I trust that the same kind and generous spirit that has been manifested by hon. members who have so far addressed themselves to this question will be continued throughout our meetings here ; and I hope that each one of us will determine that we will not separate without agreeing on some scheme that shall provide in a fair and, I hope, generally satisfactory manner, for the federal parliament and federal government of Australia.

Motion (by Mr. McMillan) agreed to :

That the debate be now adjourned until to-morrow.

ADJOURNMENT.

Motion (by Mr. McMillan) proposed :

That the Convention do now adjourn.

Mr. MUNRO : I think that we ought to have some understanding that the debate shall be continued until a reasonable hour each day. If we devote only four and a half hours each day to the debate, it will be absolutely impossible for many of us to remain here a sufficiently long time to finish the business. Whilst at the commencement of our proceedings we were all rather chary about going into debate, I think that we should come to the understanding now that we will sit longer and devote more time to the business each day. We have to finish more than this debate. We have to go into Committee on the resolutions, and if we agree to certain resolutions in Committee we shall have to draft a constitution and go through that ; and if it is understood that we are to devote only three or four hours each day to the business, it will be absolutely impossible for some of us to remain here—we must leave the business and not carry it on.

Sir JOHN BRAY : Perhaps I may be permitted to say that it will be very convenient if it is understood that we are to finish this debate to-morrow. Hon. members who wish to speak can be present and do so. I admit that we ought to have the fullest discussion, and if it is understood that this debate shall be brought to a conclusion to-morrow, it being, if necessary, finished in the evening, every one who wishes to do so can speak. I think that, with the exception

of the President, who may desire to speak at some length in reply, all hon. members who wish to speak should be prepared to do so to-morrow.

Mr. J. FORREST: I think that there is no excuse for those hon. members who say that they are not prepared to speak at the present time. I have been here several days—some hon. members have been here longer than I have—and those who wish to speak should have been prepared to do so long ago, or at any rate now. We, who represent Western Australia, are here at very great inconvenience indeed, and it is impossible for us to stay longer than is absolutely necessary; therefore I hope that those hon. members who intend to speak will do so as soon as possible. It is now very early in the day, and I think that we might fairly have continued the debate another hour. I am very sorry to see that towards the evening there is a desire on the part of hon. members to avoid speaking before the next day. I hope that it will not continue.

Mr. McMILLAN, in reply: I may say that as far as I am concerned I do not wish unnecessarily to stop the debate; but personally I have very many duties to perform, and it is impossible for me to go on this evening.

Question resolved in the affirmative.

Convention adjourned at 3·57 p.m.

THURSDAY, 12 MARCH, 1891.

Address—Federal Constitution (seventh day's debate).

The PRESIDENT took the chair at 11 a.m.

ADDRESS.

The PRESIDENT: I have received a telegram from the Mayor of Warrnambool, which the secretary will read.

Telegram read by the secretary, as follows:—

Warrnambool, 7 March, 1891.

To Sir Henry Parkes, President of the Federal Convention.

Meeting citizens held here yesterday, at which suggestion partly supported that Warrnambool excellently situated for being seat of federal parliament, and respectfully solicit support of assembled Convention.

JNO. HYLAND,
Mayor.

FEDERAL CONSTITUTION.

SEVENTH DAY'S DEBATE.

Debate resumed on resolutions proposed by Sir Henry Parkes (*vide* page 11).

Mr. McMILLAN: Mr. President, there has been some considerable contention in my own mind during the last two or three days as to whether I should or should not address this Convention at the present stage of its proceedings; but when I had the pleasure of listening to the speech of my hon. friend, Mr. Dibbs, and when he told the Convention that New South Wales has not been a hard step-mother, but has been a loving mother to the other colonies, and when he went on to say that her rebellious children have almost crushed her out of existence, it seemed to me it was time for somebody to rise to her defence.

Mr. DIBBS: Hear, hear! Especially a free-trader!

Mr. McMILLAN: Sir, I do not intend to traverse the speech of my hon. friend, because I think that that class of criticism or hyper-criticism which is generally indulged in in our houses of parliament is not exactly the kind of debate which should obtain here. Hon. members do not, perhaps, know my hon. friend as well as I do. They, perhaps, to use a commercial expression, merely see him in the bulk, which, sir, is very considerable; but I know the hon. gentleman in detail, and I should not be surprised, knowing the eccentricities of his previous career, that, although he has thrown several bomb-shells, as he calls them, into the midst of the Convention, before our proceedings close my hon. friend will be found to be one of the most docile in our midst. My hon. friend, Mr. Gillies, has, to a certain extent, rendered unnecessary any criticism upon the speech of the hon. member, Mr. Dibbs. But one expression to which that hon. member gave utterance, and which he reiterated two or three times, I cannot allow to pass unnoticed. The hon. member said, "I speak for New South Wales."

Mr. DIBBS: Hear, hear!

Mr. McMILLAN: Why, sir, you would think that the hon. member had two-thirds of the people of New South Wales at his back.

Mr. DIBBS: So he has!

Mr. McMILLAN: I contend that no delegate coming here for New South Wales can speak in that peremptory or autocratic way on this subject. When we have concluded our deliberations the people of New South Wales will speak for themselves, and I am perfectly certain that when this issue is put before them clear and distinct their verdict will be that we, the people of these colonies, should form a united Australia. I want, at this late stage of the debate, to be as concise as possible, without tedious repetition, following in the lines of previous speakers, although the speech of my hon. friend, Mr. Gillies, which took up many points with which I intended to deal, has, to a certain extent, dislocated my speech. But it is just possible that at this stage of our proceedings we may by general remarks save time in the later stages. It is not unreasonable to think that, at a certain stage of our proceedings, the finance minister of that colony—the mother colony—which for good or ill has kept to the fiscal traditions of the mother country, should be heard, and should have some voice in the settlement of that fiscal question, which some hon. gentlemen say lies at the root of the whole matter. I think that there are some general views which may reasonably be expressed at the present moment, and, although the most practical part of our deliberations will be to form the body of a constitution, still I hold that it is the spirit and the vital force of this discussion that will give shape to the anatomy of that body, and which will regulate its physiological functions. Therefore, I feel bound, sir, to make some preliminary remarks which may not meet with the approval of hon. members, and I trust that, although these remarks come from probably one of the youngest politicians in their midst, it will not be felt that they contain any impertinence, but that what I say I say with the full conviction and approval of my own conscience, and with a view to the great destinies which are placed in our hands. Now, sir, what is the attitude that we ought to have assumed in coming into this Convention? What is the spirit of the very resolutions which are the groundwork of our deliberations? The whole spirit of the Convention is in the mandate of the different parliaments of this country, and we are met together, not exactly to accumulate obstacles, not exactly to see the differences which divide us, but to promulgate a scheme which, by lessening those difficulties, by doing away with the differences which divide us, will bring us into a central form of government which will not only be a machinery for utilitarian purposes, but will also be a real live government in the centre of this country, radiating from itself the national life of the people, and bringing into itself the best forces of the various communities. Now, as far as I can see from the tenor of the debates up to the present time, the delegates have come here with more or less suspicion of one another's colonies. It seems to me that the lines which now divide us have been accentuated in their force, and that, instead of bringing our minds into that mental posture in which we might imagine ourselves to be when we have done away with our

custom differences, when we have really become one people, we are debating this question entirely on the basis of existing divisions. When we come to consider the question of what has been called by some delegates state rights—but what, I think, was more appropriately termed by my hon. friend, Mr. Barton, the question of state interests—what, after all, are those state rights—what, after all, are these provinces with their machinery for local government—machinery for doing exactly in certain areas what we do within our municipal areas?

Mr. CLARK: No!

Mr. McMILLAN: I repeat, what we do within our municipal areas. If we are about to establish a constitution which will be divided against itself, in which all parts do not work harmoniously together, which is not consummated step by step by a proper process from the lowest to the highest, we commence the creation at the very outset of a structure which, antagonistic as it will be, in its different parts, will be subject at any moment to fearful dislocation. Let us imagine that the customs barriers between the different colonies are removed, and what, then, are the actual and relative positions of these different communities one to another? One hon. gentleman in the Legislative Assembly of New South Wales, in debating this question from very narrow grounds —probably owing to his legal training—said, "Are we going to give to Victorians the same privileges as those which we ourselves enjoy? Here we are, with a certain debt, with magnificent assets, and with a magnificent territory, and possessing all these rights and privileges: are we about to let Victoria, without any *quid pro quo*, enter into the possession of the whole of them?" Why, sir, we welcome from Victoria now any able-bodied man who likes to come into our midst; and six months after he crosses the Murray he enjoys all the privileges attaching to the wonderful assets of New South Wales. I confess that I cannot rise to the patriotism of New South Wales or of Victoria, but I can rise to the patriotism of a future Australia and of future Australians. And it seems to me that if we lose sight for one moment of this great union it must be an impediment in our national path, and we commence our constitution-making at the wrong end. If we are imbued with such a spirit in the making of a constitution, I can see nothing for it in the future but failure. Now, I do not conceive that there is any strict analogy between the position of the United States of America in their earlier history and our position at the present time. Nearly all the constitutions of these colonies have been given comparatively during the last few years. There is no absolute difference, either in tradition, in laws, or in anything else, between the different peoples of this country, and it seems to me that to draw any strict analogy of state rights, such as exist between peoples who have originated in a different way and under different influences, would be entirely to misconceive the basis of any future union of Australia. The states of these colonies are differently situated from those of the United States, and this is one of the most important points in connection with the whole of this discussion. We have a series of states, and although I hold as strongly as any one that no territorial lines should be altered, except by the wish of the majority of the people of each state, still I say most emphatically that if Australia were to be subdivided again no man in his senses would subdivide the continent as it is subdivided at the present time. Each of these states has a littoral, each of them has a coast-line, which gives it all the elements of national life and independence. Each is so advantageously situated naturally that the time may come when, owing to its national resources and sea boundary, it may be an element of great danger to the union of Australia. Consequently it seems to me that, unless in making this constitution, we make the central government sufficiently strong, and give it all the elements of sovereignty, our national life may be endangered from within or from without; and unless we disabuse our minds of all narrow views at the present time, the constitution we create may, from the want of a true conception of Australian nationality, and of the sovereignty of its power, be unequal to the strain, and the consequences will be lamentable for all future time. Now, sir, what are the essentials next to the sovereignty of the central government? I am led, to a certain extent, into this line of argument, because I do not wish to traverse ground taken up before, and I may say at once that with a great many of the sentiments of my hon. friend, Mr. Gillies, I completely and absolutely agree. The question that we have to decide at the beginning is, what are the essentials of a sovereign government? We have had a great deal of discussion in our legislative assemblies, and a great deal of false alarm has been raised as to certain questions—the disposal of our lands, the question of our debts, the control of our railways. Now, none of these questions are in any sense essential to the sovereignty of the federal government. If the whole of our lands were alienated from the Crown, there would still be a necessity for a central government; if our railways were, like those of America, in private hands, there would still be a necessity for a central government; and so far as our loans are concerned, that will be purely a matter of policy after we have formed the federation. Now, there are two essentials to a central government. It must be a government that will concentrate upon itself the life of the people, and it must be a government which will aid our national development. It must be in all its characteristics, and as far as its chambers are concerned, and as far as their powers and privileges are concerned, a government to attract all the ablest and best minds of the community. Now, let us take the military question. We have heard from Mr. Dibbs that in these resolutions military aggression is clearly forecast. There is nothing of the kind in these resolutions.

Mr. DIBBS: The hon. member forgets the speeches of the President on other occasions!

Mr. McMILLAN: We simply say that the central government must have the nucleus of military power; that it must be in a position to draw together all the military forces of the community; and furthermore—and probably what I am about to say will not agree with the views of my hon. friend—if you give the central government absolute control of the military power—and it is of no use to burk the question at this stage of the proceedings—you must place it in a position to command the whole of the volunteer forces of these colonies. It must not be for this colony or that to say, "Here is the point of danger," or, "There is the point of danger. We want our troops in our territory," or, "We want them there." If this is to be a union of a national character the moment the public safety is jeopardised all provincialisms must be thrown away, every man must consider himself an Australian, and the central military power must be in a position to send every able-bodied man throughout the whole of these colonies to one particular point. There are many other things which it would be necessary for the central government to do, but they have been nearly all touched upon by previous speakers. One matter has been referred to, and it has been said by some people in our own parliament that it is a spirit of militarism that is at the bottom of this movement. I deny it, and I believe that when this question comes before the people of these colonies as a distinct issue it will be the idea of national life, the idea of social development, the idea that we are one people, that will be uppermost in the minds of all Australasia. There is one matter to which it would be well to refer at this particular point—that is, the question of Western Australia. I believe that

there are a great many difficulties connected with Western Australia, and I have been very careful to think out in my own mind all the pros and cons connected with that new community entering into our union. But when I consider two great points—first the question of national defence—and when I recollect that that colony has an enormous coast-line, scarcely inhabited, that her territory includes one-third, at least, of this continent—I can see nothing in the question of national defence except what will be to her advantage in the federation of these colonies. If the national spirit, which, I think, should permeate this movement, is embodied in this constitution, then every other colony would spend her last shilling and her last man in defence of the coast of Western Australia. Then, again, with regard to the question of credit, although I have the figures here, I do not exactly know at what rate Western Australia borrows; but I am perfectly certain that when we become a federated Australia the credit of Western Australia, as one of the group, will be absolutely the same as that of the whole of Australia, which will be an enormous advantage to her in the future.

Mr. J. FORREST: It is the same now!

Mr. McMILLAN: I am glad to hear that; but does she borrow at the rate of 3½ per cent.?

Mr. J. FORREST: We borrow at 4 per cent., and our securities stand at £108 3s. 6d.

Mr. McMILLAN: There is another question which, to a certain extent, I think is connected with my contention in favour of a strong central government. There is in the centre of this great continent, which you may call Central Australia, a large area of land that adjoins three or four colonies. From its peculiar position, from the smallness of its rainfall, it will have to be dealt with in the future separately from the other portions of Australia. It is not likely with an enterprising people such as we have in these colonies, with every obstacle going down before the race to which we belong, that we shall allow the arid wastes of the centre of this continent to remain as they are for many years to come. There is no doubt that a system of conservation of water and irrigation must be introduced into that great tract, and if that is done at all it must be done by a united Australia. Consequently, there should be some machinery in the central government by which the country in the centre of this continent may be dealt with differently from other parts of the continent. Now I come to the question of intercolonial free-trade. Here, again, I see from my notes that the hon. member, Mr. Dibbs, speaks on behalf of New South Wales. Some hon. members have said, and said rightly, that you cannot touch the intercolonial tariffs until you make a general tariff for the colonies. Their reason, as far as I could judge from their speeches, was that they could not possibly give up their revenue before they knew what they were to get in place of it. But there is another reason which will strike the mind of any financial man. It is absolutely impossible, in the nature of things, to have intercolonial free-trade without a uniform tariff, because each colony has its coast-line, and by means of ships by sea you could intercept and defeat entirely your intercolonial free-trade. Consequently, a uniform tariff for the whole of the colonies must precede intercolonial free-trade. There has been a certain amount of discussion with regard to this intercolonial trade, and when we come to think of the antagonism between Victoria and South Australia, when we remember all that Queensland has done in the last few years in the same unneighbourly direction, it is almost incredible that the whole of this vast machinery has been set up for less than £500,000 per annum. Some of the figures here are interesting. I find that one of the greatest offenders—I do not know whether it arises from a preponderance of the Scotch element in its midst—is Victoria. Let us take the figures for the colonies. New South Wales receives £112,901 from intercolonial duties, and she pays away £157,000. The colony of Queensland receives from intercolonial duties £76,000, and she pays away £97,000.

Mr. DONALDSON: For what year are these returns?

Mr. McMILLAN: The returns are for 1889.

An HON. MEMBER: How are these payments made?

Mr. McMILLAN: Each colony that I have named receives from and pays to the other colonies in taxes the amounts I have stated. This is the debit and credit of the intercolonial intercourse in trade. We find that our friends in Victoria collect £230,000, and they only pay away £59,000. We find in the colony of New Zealand that they pay away £140,000 while they collect £18,000. Now, when you consider the debit and credit of the accounts, the sum of money for which the whole of these antagonisms between the colonies are created may be reduced to about £250,000. That is a very good comment on this question of free-trade and protection between the colonies. Hon. members will understand that I am not now going into the general question; but I am simply pointing out that while these duties are of small account to the respective colonies, they have created a system of irritation and retaliation which has sometimes almost bordered on a civil war.

Mr. McILWRAITH: The irritation is entirely here!

Mr. McMILLAN: I think in this connection it is only right that I should say openly and fairly that I am quite willing, personally, to leave it to the federal parliament to decide as to the tariff of the future. I am willing to allow that at a certain time in my political experience I had other views; but it seems to me that if we are to enter into a union such as that I have forecast, we must enter into it without jealousies and without suspicions, and we must trust to the great federal government of the future to deal with the tariff question. But I believe that a certain time should elapse before that tariff is approached, and for the reason, that up to the present we have all been looking upon our respective tariffs and upon the question of free-trade and protection solely from a local aspect. But when we come to adopt a tariff for the whole of Australia it will be necessary that a certain interval shall elapse, so that our minds may become accustomed to consider the question from a comprehensive view of the interests of a united Australia. And then, whatever the future may be, I venture to think that when Queensland has to come into a common tariff, when Victoria has to come into a common tariff—when a country like Victoria, practically without coal or iron, has to join in a common tariff with New South Wales, which has almost every mineral known in the world—such colonies will then find that their views of a tariff will alter exceedingly. They will find that the tariff which might have suited the localisms of the past will not suit the union of the future.

Sir JOHN BRAY: Don't frighten them now!

Mr. McMILLAN: I, therefore, say in this Convention—and it is my only reason for using the argument—that an interval should elapse, so that the minds of the people of the colonies, judging from the extreme localism that has been exhibited, should have time to view the question from a larger, broader, and more comprehensive aspect. That is my hope for the future, and that is the reason why I most unflinchingly believe that we should leave the federal parliament of the future to decide the tariff of the union. The hon. member, Sir Thomas McIlwraith, certainly threw the greatest bomb-shell into our midst. If the quintessence of difficulties could have been boiled down into the space of about twenty minutes, my hon. friend would have managed to boil them down in that space. Without having any reference to this debate, I should like to remind him of one fact, namely, that the dislocation of the finances of this colony might possibly be more affected by a protective tariff, such as he said New South

Wales must come to, if, as we understand economically, a protective tariff continually decreases. Of course it is not necessary for me to refer to the remarkable statement of my hon. friend, Mr. Dibbs. That hon. gentleman said that this Convention must lay down the basis of a tariff before it comes to any conclusion.

Mr. DIBBS: The principles which should guide the new government!

Mr. McMILLAN: I should like to point out one thing in regard to the tariff, and with regard to that dislocation of the finances to which the hon. member, Sir Thomas McIlwraith, has referred. I have before me a table which shows that at the present time we are borrowing all round at the rate of 4·15 per cent. The loans outstanding at the present date are in amount over £181,000,000, and the interest payable is £7,545,000. If the whole of these loans were converted, as they will be in time, into 3½ per cent. loans, there will be a saving, taking the debt, even if it did not increase, at the present rate, of £1,180,000.

Mr. PLAYFORD: What amount would you have to pay the present bondholders to get the loans converted into 3½ per cents. ?

Mr. McMILLAN: The existing loans at 4 per cent. and 5 per cent. are running out, and we shall never convert at above 3½ per cent. in the future.

Mr. BAKER: Each colony can do that by itself!

Mr. McMILLAN: Exactly; but I am only saying that if the finances are to receive such a terrible dislocation from the loss of the £500,000, and other things, the tendency, on the other hand, will be to an immense saving in the future; and I believe that federated Australia will yet be able to borrow at the rate of 3 per cent. There is another question which enters intimately into the consideration of finance, and that is, the question of the cost of the central government. For the benefit of hon. members, I have had tables carefully prepared with regard to the general revenue and expenditure of the central government. It is here proposed to give the whole of the customs of the colonies to the central government, and that, of course, is necessary to the sovereign character of the central government and the control of the coasts. I find that the total revenue from customs duties, in the whole of the colonies, is £8,641,000, and by the most careful calculation that we can make, the total expenditure of the central government would be £2,240,000—that is to say, merely 12s. per head in federated Australia for all the advantages of central government; and we would be able to return to the different colonies, as a surplus, £6,401,000. I remarked just now, that if our debts were reduced to 3½ per cent., the amount at which we are borrowing at present, that would save £1,180,000, and if, in a federated Australia, we reduced the rate of interest to 3 per cent., then we should save by that process alone nearly the whole of the £2,240,000 required for the purposes of central government. Of course there will be another way of saving through the central government. All the fortifications will have to be taken over at a fair valuation, and colonies such as Victoria, which, I believe, has paid for nearly all its fortifications out of revenue—I think I am correct in that—will, of course, have returned to them a substantial sum, which will reduce their debt. I now come to a question on which I shall dwell very shortly—the question of the senate and the house of representatives. I do not agree with hon. members who say that the senate should be looked upon purely as a chamber for the protection of state rights.

Sir JOHN BRAY: No one said it was to be purely for that purpose!

Mr. McMILLAN: I consider that one of its essential functions will be the protection of state rights; but at the same time it will certainly have all the elements of a second chamber—a chamber of great stability, a chamber which will attract to itself all the best elements, all the elements which have proved a success in other spheres of public life, whether in the local legislatures or in the house of representatives. That chamber, from its position as a second chamber, and as a check, will be one of the greatest bulwarks of the liberties of the people. As regards the question of money bills, I give in my adhesion simply to the confining of the initiation of money bills to the lower house. I believe that in every other respect the upper house must have co-ordinate power. If we are to have a house that will attract to itself all the ability of the country—if the men who have had years of experience in the legislatures of the different colonies, and perhaps in the house of representatives, are to be attracted to a house where the weight of their experience and their matured faculties must be felt, these men must go into a co-ordinate assembly, and they must feel that their position is one of the blue ribbons of the political life of the country. I think, if that is the character of our upper house, as I believe it will be, we shall be able to trust to the wisdom and the patriotism and the well-known characteristics of our people; and no arbitrary check—no artificial means—will be required to keep it from overriding the other assembly. The more power you give then to the upper chamber the more likely it is that there will be but little friction between the houses, and that they will do their duty as patriots to their common country. Now, with regard to the question of veto, I can see that, unless we have some rather elaborate machinery, there will be great difficulty between the senate and the house of representatives in dealing with money bills. I take it for granted, as was done by the hon. member, Mr. Gillies, that all questions of ordinary appropriation for which revenue is available will, of course, be decided almost entirely by the house of representatives; but there may be this difficulty: A loan which it is desired to float may be initiated in the representative assembly, it may be for £30,000,000; the upper house may think that that is £10,000,000 too much, and there must be some machinery by which they can intimate their opinion. Instead of the bill being thrown with indignity under the table in the assembly, the upper house should be able to say, "We do not think you should have £30,000,000; but we are quite willing to grant you £20,000,000." It seems to me that the only mode of settling differences in case of a deadlock is the system of conferences which have had such happy results in the United States. In them men get away from the influence of party feeling and are in a position analogous to that which we occupy at the present time. They would be more likely to come together in a spirit of amity, and the common desire would be to do what was best for the country. Consequently, I think some system of committee for dealing with financial affairs between the two houses should be brought into existence where necessary, in order to prevent deadlocks in these matters, so that the upper house, without showing any indignity to the lower house, can say exactly what they mean. I believe that if our house of representatives is properly formed; if it has a longer tenure of existence than that house has in America—and the shortness of existence there is, I think, one of the great defects of the American system—if it becomes a real house of representatives, with proper powers, and if its machinery is such as to attract to it the best men of the country, you will find that no antagonism will exist between it and the upper house on these matters, which cannot easily be adjusted. As regards a penal dissolution of the upper house, that is a most extreme proposition. The upper house, if it is to have any characteristic, should have the characteristic of stability. It is to be the house which, at the time of the greatest danger to the whole nation, when, perhaps, an enemy is at her very gates, instead of being open to penal dissolution

must be in such a position that two-thirds of its members will stand secure with all the experience and wisdom of acknowledged and trained politicians. But, in order to understand the American system, we must clearly understand the position of affairs when that system was brought into existence, and here I come into direct and absolute conflict with the hon. member, Mr. Dibbs. That hon. member finds fault with the insertion of the words "under the Crown" in the resolutions. But I tell my hon. friend, if he is not willing to accept federation under the Crown, he has no right to be here.

Mr. DIBBS: The hon. member said that before!

Mr. McMILLAN: I said in the early part of the proceedings that I did not believe that my hon. friend thought that. I believe he will come in with our results at the end just as amicably as anybody. "Under the Crown" makes all the difference between the condition of affairs here now and the condition of affairs when the United States were federated. There they had their president and their two houses, and the system was what is called, in commercial language, "check upon check." The states were suspicious of the central government, Congress was suspicious of its president, and the whole system was an elaborate system of suspicion and check. But we have no need for any extreme caution of that kind. We have a system of responsible government, and we have at the head of it a representative of her Majesty. Long may we have her representative among us. I do not agree with what my hon. friend, Sir George Grey, said on this point. It seems to me that this makes the whole difference of the system—it goes to the very root of the system. We have now a governor, whether he be able or not, who is above party feeling. He never ceases to exist. Ministers come and go, but there remains an absolute link of communication from the people right up to the head of the Government. And who in this country wishes to be better than the Prime Minister of federated Australia? Who cares to be the Governor of federated Australia when the Prime Minister is the first man in power in the country? His position will be the blue ribbon of the highest possible ambition, and the difficulties which met the American people, arising out of the conditions of political life at the time which were 100 years behind our present development—they having to make a man either a despot or a nonentity—for every president has been one or the other—do not exist with us. As the hon. member, Mr. Gillies, said, under our form of government we have every possible freedom. And if it suits the genius of our people and the conditions under which we live, why should we look forward to another system, full of inexplicable difficulties and dangers which nobody can foretell? Now, with regard to the position of responsible ministers. I do not see why these resolutions should say that the ministers must be responsible to the lower house. Our Constitution says nothing of the kind. Ministers cannot hold power a day after they have lost the confidence of the people; and by our machinery, having our executive in the two houses of parliament—and I trust that the senate will have some members of the executive among them—we feel the breath of the people as we feel the wind of heaven. Twenty-four hours need only elapse before the feeling of the people is known, and in spite of those gentlemen who wish to bring about the political millennium, I hope that there will always be an opposition, sturdy, critical, and independent, so that the ministry may always feel the breath of the people, and be turned out as soon as they cease to represent the people. Now, with regard to the rights of the colonies, and more particularly of the smaller colonies, I think that in the consideration of the details of the constitution we ought to consider the smaller states more than the larger states. I believe that in all political matters the best men will rise to the top, and in the administration of a country with various classes of offices, such as law, public works, defence, and others open, there will require to be such a diversity as well as such an extent of talent that there can be no fear that the smaller states will be snuffed out if they send capable men to the central legislature of the country. I shall not attempt to enter into matters which lie more in the province of the legal members of this Convention. I do not want to delay for one moment unnecessarily this debate. I trust, in the remarks I have made with regard to the necessity for a strong central government, I have given no offence to those gentlemen who have taken an opposite view. In coming here, I am happy to say that I have been gratified to meet, as I have met, the picked men of Australasia. I have come away from the party spirit of our own Parliament, not to a body going to criticise minutely every point of its deliberations as against each other, but to a body that are actuated by one feeling, and that is a desire to make a constitution which will stand the test of time. I wish to point out that we are now making this constitution at a period of our existence when there is no hostile or disturbing element in our midst. Why, gentlemen, could you, as far as matters of locomotion are concerned, have assembled here ten years ago in this Chamber, with the prime ministers of the various colonies, and other ministers of state performing important functions—could you have done that ten years ago; would it have been deemed possible ten years ago? If my hon. friend, Sir Thomas McIlwraith, wants to go up to the social troubles of Queensland, we can send him up in twenty-four hours by an express train. Are we to ignore the possibilities of the future? Are we to ignore this fact: that now, at a time when there is a chance of laying truly the foundations of Australian union, every year brings us nearer, by processes of locomotion, to each other? Our eager friends in Western Australia want a railway through; and I believe that will be one of the first great undertakings of the Australian federation. Year by year we get nearer to one another, and year by year the question of Perth, Adelaide, Melbourne, and so on, will become less and less in the distance of the future. What I want to impress upon hon. members of the Convention is this: that now, when there are no hostile elements, when protection, which is calculated to call forth retaliation and to engender hostility among the different colonies, is now to be cut off completely amongst ourselves—I want to see a constitution created of such a character as will annihilate, not the localisms, but the nationalities of the different states. I want to see a central government, which will prove of immense service in welding together the different elements of the people of this country. I want to see a central government, which will deal with the black question in North Queensland, and with the great territories of Western Australia, as far as by influence and by common consent they can be dealt with. We should do now what is possible in that direction. If we accentuate our differences, and crystallise them under the constitution, we may never be able to undo. Do not let us feel, when the great future comes, that those who look back upon our early efforts, that those who knew we had this great opportunity before us, will be able to say, "Patriotic and able as these men were, anxious as they were to take action in these great affairs, they did not see with sufficient clearness the great future destinies of Australasia. They stopped short in the very essential element of national union; and, by a wretched travesty of a constitution they actually crystallised those differences which are now the great bane of these communities." I believe we shall do nothing of the kind. It is only with the view of raising my voice and trying to evoke in this Convention a spirit which will permeate our more utilitarian efforts, that I have risen to speak on this occasio"

and I trust, sir, that, inexperienced though I am as a politician, still, being ambitious as an Australian patriot, the few words to which I have given utterance this morning may contribute to the national union.

Mr. HACKETT: My hon. friend, Mr. McMillan, has claimed the indulgence of the Convention as a young politician. I feel, sir, that my claim to the same privilege comes with double force, for not only am I a young politician in my adopted colony of Western Australia, but that colony itself is amongst the youngest, is the very youngest, of the Australian group of free states. In that connection, sir, perhaps you will allow me to emphasise the remarks of the hon. members, Sir James Lee-Steere and Mr. John Forrest, in expressing our gratification at being able to be present on an equality with the other states of Australia in this Convention. I should like to take exception to something which the hon. member, Mr. Wrixon, said in regard to that matter, when, with an air which grated a little, although, no doubt, it was wholly unintentional on his part, he spoke of Western Australia as claiming some extreme privileges, under the impression, perhaps, that as she was the youngest child of Australia, she was to be treated as the pet of the continent. None of us can forget that though our majority dates back only a few months, in reality we are the oldest child of the parent state of New South Wales; that sitting here on an equality with the other states we feel we are sitting among our younger sisters; and if there were any danger of our forgetting the duties that we owe to maternity, the hospitality, the extreme and gracious kindness we have received at the hands of the parent state, will make it ineffaceable from our minds. We have had the extreme disadvantage, as the hon. member, Sir James Lee-Steere, has already put it, of arriving late in this debate. The speech to which most of the other speeches have been replies, more or less, whether comments of censure or comments of approval, has been that of the hon. member, Sir Samuel Griffith. We were unable to hear that speech, and we were also unable to hear a speech which, I believe, produced as great an effect on the minds of those who heard it as it did on the minds of those who read it—the speech of the hon. member, Mr. Barton. But I would point out that our arriving late—and I hope I may be forgiven for making this passing reference to the matter—is in itself an emphatic argument in favour of the movement we are here to advocate. Travelling night and day, with most unusual expedition, we took over a week to reach Sydney from our city of Perth. Had we that communication which I believe is only a matter of time, we could have shortened that distance by less than one-half. I take it that if federation is to be anything more than a name, one of its main objects will be, not only to strengthen the political bonds which unite us but also to abridge the physical barriers which keep us apart. No doubt it is well to talk of a union of hearts—I hope we have that in Australia already; but I have been taught to consider that an alliance of that kind, if it is to be binding and indefeasible, should be a lawful marriage—should be not only a union of hearts but a union of hands. I hope it will not be taken amiss when I say that we feel that we cannot be actually a part of the great Australian dominion, standing, with all the representatives of the other colonies on perfectly equal rights, until some better means of communication are established than the tempestuous waters of 1,000 miles of sea. It is not my intention to follow my hon. friend, Mr. McMillan, through his speech; on the contrary, I am sure I express the regret of the representatives of my own colony, and no doubt also the regret of the great majority of hon. members of the Convention, that those figures with which he favoured us were not presented before the members of this assembly at an earlier period in the debate. He sketched in the most cursory manner questions, and gave us tables of figures which would require hours to consider adequately. Even his remark about the £2,000,000 which it would be necessary to present to the central government, if it is adequately to do its duty, was imperfect and obscure. What did the hon. member, Mr. McMillan, mean by those £2,000,000? What is the money to pay for—for what things is it required? Apparently, the hon. member contemplates the central government taking over the debts of the states.

Mr. McMILLAN: No. I left details to the Committee!

Mr. HACKETT: This more than ever accentuates the difficulty in which I believe the hon. member has placed the Convention by alluding in this slight fashion to matters which should have been presented at an earlier opportunity. But one word in reference to that debt. In the case of all the other colonies it is a simple matter. You can estimate your debt; you can put it down in pounds, shillings, and pence. It is my intention this morning to deal chiefly with the general question, because I feel that these questions of detail are only introducing division and leading to discursiveness when they are brought in in this fashion; but when we go into the question of debt it will be easy to point out that in the case of Western Australia there is a factor which makes it practically impossible to estimate the share which she should claim. You have got your debts. As I say, they are cash debts. But how will you deal with our land grant railways? We have handed or are handing over something like 7,000,000 acres to two large companies for the construction of these railways. On what terms is the debt of Western Australia to be calculated? I allude to this merely to justify the course that I propose to take—namely, to revert to the earlier questions which were placed before us by the speeches of the hon. and learned member, Sir Samuel Griffith, and others, and simply to deal, in the first place, with the fiscal question, and, afterwards, with the position of the senate. I think that I may congratulate you, sir—if you will allow me to do so in common with every hon. member who has spoken latterly—on the progress that has been made on this question. Practically the great bulk of the resolutions which you were good enough to draw up for this Convention have been agreed to. The differences are few and small, and it is a remarkable fact that, as the debate has proceeded, those differences have dropped off one by one. If I may so put it, the pace was too hot for them; they could not maintain a pace that was forced by a determination for a federation, if possibly it could be had; and the result now is that the real issues at stake are narrowed down to two or three—no doubt of vital importance—and the course which has been pursued in the past affords the greatest hope that they will be narrowed down still further, and finally brought to a vanishing point before this Convention gets out of Committee. I should like to say one word with regard to the customs question. I believe, as the hon. member, Mr. Wrixon, has said, that the more we have looked at this matter—the more boldly we have faced it—the less formidable it has become. It is true that there is something of the semblance of a "lion in the path," and for two or three days that obnoxious beast has been lashing his tail about, and has been roaring not a little terribly; and to judge by the direction from which its cries proceeded, I should say that the lion was couched somewhere in the direction of that doorway; but we have ceased to fear him. The more the matter is examined the more it appears certain that we can meet on a common ground, and the proposal, the compromise which has been generally, though not formally, accepted—namely, that a certain period should be fixed during which the tariffs of the different colonies should be allowed to run before, by common consent, they are to expire—should be satisfactory to all. It certainly

will be satisfactory, I believe, to my own colony. Speaking as a free-trader, I regret that intercolonial free-trade could not be established at once; but as that is out of the question, the next best thing that we can do with this lion in the path, if we cannot order its instant execution, is to stand patiently by until the time comes when it will perish of its own accord. With regard to the contribution to the federal government, if that tariff is to run for five, seven, or ten years—the period makes very little difference, it is nothing in the life of a nation—I apprehend that nothing could be easier than to insist upon each colony contributing its quota, be it only 5 or 10 per cent., towards the general expenses; for I do not apprehend that the national government will at the outset require either a very costly outfit, or a large sum of money to enable it to undertake its work, and to carry it out with efficiency. But let us hear as little as possible, if I may venture to say so, of guarantees. There was a tendency on many sides to insist that before this colony or that colony, or this delegate or that delegate should give in his adhesion, certain claims and privileges should be considered as vested and guaranteed. Happily these guarantees are, most of them, disposed of now; but at one time they appeared to threaten federation itself. We were to be guaranteed out of federation. All these questions of minor details will, I believe, be settled; and let me say that nothing is more irritating to a man of moderation, and, I may add, to a man of common-sense, than to see details raising themselves in the form of principles, and insignificant matters rising and threatening to bar the way. We shall get rid of the customs question, and as to those other questions—of the capital, of the army, of separation, of the republic, of the Murray—why these are not "lions in the path," they are not even good honest beasts—they are merely red herrings dragged across the trail. When the time comes to dispose of them they will be disposed of with satisfaction to all, and certainly without danger to the interests of federation. But behind them there lies the crucial question as to what powers the federal body, or, rather, the central factor in the federal body, is to possess. To us of Western Australia, and, I believe, to all the smaller states, this question of the senate and the powers that are to be vested in it is all-important. It is the one on which we must stand or fall; we cannot possibly give way. There is not one of us who would dare to tell his constituents in Western Australia that he had yielded an ace on this point; and I am most happy to see that, with the exception of my friends from Victoria, who seem determined to stay out in the cold, there is now a practical concensus of agreement by members of the Convention as to the powers of the senate. The senate is the hinge of federation. If we were asked to express in a single sentence what this Convention has met to determine, it might be put thus: to decide on the powers, the composition, and the tenure of the senate. Hon. members have spoken as if the question were one of a second house, that we were looking about for a second house. There is no doubt, as the hon. member, Mr. McMillan, has said, that a senate of the description which he so eloquently sketched—one representing the states fully and endowed with co-ordinate powers—would perform in an excellent manner the duties demanded from a chamber of revision and review, but that is not its basis. It is to form the federal house as distinguished from what I call the population house. That is the foundation on which we are determined to build it. It is that it should be the federal chamber representing the states, that it should be the depository of state rights or state interests, that it should be their trusted guardian, as it will their visible and I hope enduring emblem. It has been claimed by one or two hon. members—happily they are in a very small minority—that we should apply the conditions of the provincial governments to the conditions of the national government. The hon. members, Mr. Gillies and Mr. Wrixon, and other hon. gentlemen from Victoria, were loud in the expression of that claim. All these hon. gentlemen have had much experience in politics; most of them have had much experience, if not in constitution making, in constitution mending. Therefore, I am forced to believe when they come before the Convention with this astounding proposition, that we are to apply the conditions of provincial government to the federal government—a proposition as astounding, it seems to me, if it is not supported by adequate proof, as the other one, that we should apply the conditions of municipal government to provincial governments, that they have some precedent in their minds—some case of a federal government on which they rely, and by which they can test their claim. I go to the Senate of Canada, and I ask, is this power of amendment refused to them? Nothing of the kind. I go to the upper house in Switzerland, and I ask, is this power refused there? I find nothing of the kind. I go to the most perfect system of federation which ancient or modern history has seen, that of the United States of America, and I ask, what is the rule there? Not only is it not withdrawn, but it is enforced with all the validity of a statutory direction which cannot be altered except by an immense majority, both of population and of states. Therefore, sir, those hon. members stand by themselves in trying to force on the federal government a form which men, and very wise men, have expressly refused to insert in kindred constitutions, and they give us no reason whatever, excepting a series of arguments, which, however valuable on the hustings in Victoria, I venture to say, have not only no validity but no relevancy to the question at issue here. We all aim at a united Australia; but a united Australia may be of several kinds. There may be a mere unity—a unity such as existed in the American states under the articles of confederation, and which broke down of its own weight; a unity such as existed in Canada before the passing of the British North America Act. That system may be called the confederated one. Then there is a union—a union of a federal character, true union, true federation. And finally—and I believe it is upon this kind of a united Australia that the delegates from Victoria have chiefly fixed their eyes—there is a unification. That system may be called the imperial system. Perhaps I may go one step further, and call it the responsible government system. It is the system which prevails in England, and I hope the Convention will pardon me just for one moment in remarking that that unification, if they give it wings, will fly they know not whither. Look at its course in the United Kingdom. There was a time, not so very long ago, when there were three branches of Parliament—Crown, Lords, and Commons. The two houses seized the power of the Crown, and made it, so far as legislation is concerned, a nullity, except the very small privilege which the Crown has of requiring ministers to submit their measures to it in the first instance. Then they went a step further. Having won the victory over the Crown, the Commons and the Lords joined issue, and another stage in unification was reached. The Lords practically disappeared, and the Commons mostly in legislation and wholly in finance reign supreme. We go one step further, and we find that, having defeated the Crown and the Lords, it is now insisted that the executive government shall form simply one of the departments of the House of Commons; they treat the executive body in every sense as the committee hardly of both houses, but mainly of the first house, and in every sense responsible to the first house. And within the last year or two we see the House of Commons, that all-devouring monster, going a step further, and claiming—at all events, with regard to some of the lesser courts of

law—that it shall constitute itself a court of appeal, and insisting that question after question shall be brought up from those courts of law, and decided according to the orders of the House of Commons, given to one of its executive ministers, the Home Secretary. That is the course of unification, and that is largely the course which will be seen in full sway under the federation which I hope is about to burst upon us if the members from Victoria have their way, which I earnestly trust they will not. To my astonishment, I heard an appeal made in favour of this system of government, to the ancient Constitution of England. I can see the goddess who takes down the facts of history shaking her head mournfully as more than one delegate from Victoria insisted on the statement. If those hon. gentlemen will examine the facts of history, they will find this most remarkable state of affairs: that the difference between the English Constitution of the present moment and the English Constitution of the time of the elder, or even the younger, Pitt, is vastly greater, vastly more sweeping, vastly more essential, than the difference between the American Constitution of to-day and the Constitution which existed in England at the time that the American colonies seceded from Great Britain. Making allowance for the inevitable difference between the republican and monarchical form of government, we see the capital difference between the America and England of to-day—the distinct separation of the functions of the legislature, the executive, and the judiciary—flourishing at the point of utmost vigour in England just before the time of the secession of the American colonies. In fact, the American Constitution was itself a designed and deliberate copy of that state of affairs which it was believed—which the greatest thinkers of the day believed—existed in the English Constitution. And yet we see the long distance which the English Constitution has travelled from that day. I allude to this fact just to enforce this argument: that the most dangerous point about this proposal to ingraft the present system of England upon our federal constitution, is, that it seeks to fix the changeable, and to make the unalterable the alterable. The beauty, the virtue of the English system in its plasticity, its elasticity. Generation after generation introduces some novel feature, and its working conditions again change, as they are changing in England now, and we see the House of Commons absolutely suggesting a condition of things by which its usurpation of rights and privileges has brought itself into such a position that it makes, I do not say good government impossible, but it is going very near to making all government impossible. Does anyone suppose for a moment that the genius of the English people, probably the greatest political genius which has ever existed, will rest satisfied with such a state of things, that they will not in a quiet, orderly, constitutional way discover a constitutional gate by which they may escape from their difficulties? And that is exactly what, if we accept the bare words of these resolutions, against which Sir Samuel Griffith protested, will happen with regard to the federal constitution. He would be a bold man who would prophesy that in ten years' time the British Constitution will be what it now is; and he would still be a bolder man who would prophesy that that other illustration which is being vaunted, with, I am happy to say, decreasing confidence—he would be a bolder man who would declare that the Canadian Constitution will be found exactly in its present shape in the course of a dozen years. I do not wish to flog a dead horse. Canada is almost out of court. How could it be otherwise? Her constitution has not been in existence a quarter of a century; it has stood no stress or strain. It was begun—the words are strong—in bribery, and it is continued by subsidies. What is the state of affairs there at the present moment? We find one of the colonies of the North American groupe absolutely declining from the first to join the Dominion, and now more determined than ever not to do so. It is freely asserted that in another colony—Nova Scotia—there is a majority ready at any moment to separate from the Dominion; while, most ominous of all, within the last few days an election in the Dominion has been determined, in which the question, in a thinly-veiled form, was put before the constituencies—annexation with the United States or not? It was called commercial reciprocity; perhaps the better phrase would be commercial annexation. But I believe that every man who voted on that occasion, or, at all events, most men, had one of two issues in their minds—either commercial or political annexation. We do not wish to reproduce that state of things in this colony. We wish to build up a federation—as described in the introductory paragraph to these resolutions—established on an enduring foundation. We wish to secure the attachment of all parties; and, if that be so, there is only one way in which to do it, and that is for the states to feel that their rights are properly guarded, and that they are confided to a body of which they will know, first, that it has a desire to guard them; and secondly, that it has that which it will not have if these resolutions be carried in their entirety, the power to do so. Mr. Deakin asked what were state rights, and I think he claims that he has not been answered yet. Perhaps hon. members do not think it necessary to answer him. At all events it seems to me—if I may be pardoned for my presumption in saying so—that an answer was ready, and that that answer ought to have come from Mr. Deakin himself. I will endeavour to extract it. Mr. Deakin has for many years, with capacity and integrity unsurpassed in these colonies, borne a large share in administering the government of Victoria. He has discharged with efficiency the duties of one of the most important executive offices of that government; and no man knows better than he does—and, did occasion arise, no one would be better able to declare, expound, and defend them—what are the rights, privileges, and prerogatives of the province, colony—whatever you choose to call it—or state of Victoria. It is now proposed that Victoria shall surrender a portion of those rights with which Mr. Deakin is so familiar to the federal government. What, then, will be her state rights? It is the simplest thing in the world to determine. Victoria will have all her present rights, privileges, and prerogatives, minus the limited, definite, and specified quantity which is surrendered to the federal government for the purpose of allowing it to carry on its own business.

Mr. DEAKIN: Hear, hear!

Mr. HACKETT: I have the declaration I wanted. What is the main function of the senate of the federal government? Is it not this: to cement these isolated communities together, to make a dismembered Australia into a single nation, to convert the popular will—perhaps I could not put it more shortly or more emphatically than in those words—to convert the popular will into the federal will—to allow the popular body all the power to which it is entitled—to allow it, in the first and in the last resort, to give full voice to the wishes of the populace, but, at the same time, to take care before that voice issues forth as the voice of Australia that it shall be clothed with all the rights and duties of the federal will? Without a strong, capable senate, this will be impossible; and I venture to say if we were to do anything to weaken the power of the senate, if we were to take even the extreme step of granting responsible government in its present form—that is, the responsible government which, as applied to a federation, is distinctly not proved a success in Canada, and which, as applied in the United Kingdom, has distinctly proved a failure, and which has forced a large part of that kingdom into a cry, irresistible as I think it will be found, for something nearly approaching separa-

tion—if that is the responsible government which it is proposed to graft upon our new federation, there will be one of two alternatives—either responsible government will kill federation, or federation in the form in which we shall, I hope, be prepared to accept it, will kill responsible government. One word with regard to the phrase "responsible government." I join most heartily with various members who have spoken in wishing that the phrase could be abolished—in fact, it must be abolished. Responsible government is a phrase which I would defy any one in this assembly to define. It is a phrase unknown to the British Constitution. It finds no place in our colonial constitutions, nor does it find any place in the instructions issued from Downing-street to its servants—the governors and heads of the executives of these colonies. It is unknown except as a newspaper phrase, or an oratorical expression. I will go further, and say this: that if the words "responsible government" were adopted in our constitution, and the question of their meaning were referred to a bench of the ablest judges that could be found, they would end by declaring themselves utterly unable to define or to declare their meaning. There can be no doubt, I believe, but that the phrase will disappear, and that of itself is a great matter, because it will leave the federal constitution free to develop itself in whatever direction it may see fit within certain defined bounds and principles. I am afraid I have occupied the time of the convention much too long. I will bring my remarks to a conclusion by expressing the earnest wish—and perhaps it may be thought that the delegates from Western Australia are a little half-hearted in this matter; but it is because they have rights to guard, and because, as my friend, the Premier of that colony, has put it, the matter has not been adequately considered there—the earnest hope that, having travelled so far, having found our points of agreements so many, and our points of disagreement growing less and less, we shall persevere to the end—that we shall bring this matter to a successful consummation. I can assure this convention, if terms fair to Western Australia are granted, that all this diffidence which may be exhibited, and necessarily exhibited by us, will vanish, and there will be no more loyal or determined member of the federation than Western Australia. It will be a reproach to us of no common kind if we cannot succeed in effecting this federation; and, on the other hand, it will be an equally notable and glorious triumph if we do succeed. For, what is our position? It is that we meet here under no menace from foreign aggression, not under the pressure of discord at home; not in a time of weakening powers and failing resources; not, certainly—in spite of certain ominous whispers heard from different parts of the house—with a view to separation from that motherland to which we owe our existence. But with tranquillity at home and abroad, in the day of a magnificent prosperity, and recognising that the duties of motherhood can be best met by recognising the claims of brotherhood, we come, because we believe union and goodwill are better than envy and division, because we are prepared to sacrifice the jealousies between state and state, all pettiness of aim and interest, and to dedicate for the future—a long future, I hope—to the perpetual service of the united commonwealth of Australia the energies, the wisdom, the virtues, and the long experience of her sons.

Mr. MOORE: I desire to make a few observations on the question of federation of the colonies of Australasia; and as a humble unit of this convention I feel the great responsibility that rests upon myself and upon all of us. The questions submitted to us are of a very momentous character, and therefore we should approach them with all the deliberation possible. As time presses, instead of generalising, I intend to confine my remarks specifically to the points which you have submitted to us in your resolutions. The first point is:

> That the powers and privileges and territorial rights of the several existing colonies shall remain intact, except in respect to such surrenders as may be agreed upon as necessary and incidental to the power and authority of the National Federal Government.

I believe we are all agreed upon allowing the territorial rights of the several colonies to remain as they are. I do not think any of us came here for the purpose of disrupting any existing rights with regard to the territorial boundaries of the colonies of Australia; but the larger question which we have to consider is, the necessary power and authority to be given to the national government, and, at the same time, the preservation of the autonomy of the various states. These questions should run side by side with other questions of great importance. I shall deal with them more fully when I come to consider the character of the constitution which we are about to adopt. I now come to resolution No. 2:

> That the trade and intercourse between the federated colonies, whether by means of land carriage or coastal navigation, shall be absolutely free.

I think we shall generally agree with that resolution; but I do not think one member has addressed himself to the meaning and effect of these words "coastal navigation." Under the principle of protection which obtains in America, protection exists not only with respect to manufactures, but also with respect to coastal navigation. It is extended to all American bottoms employed in the coastal trade. For instance, a vessel loading at New York for London can discharge her cargo in London and reload for any English port, Calcutta, Melbourne, Sydney, or anywhere else, and can carry on an English and colonial trade as long as it suits her. But an English vessel, loading in London for New York, after discharging cargo at New York, must go back to England, France, or some other country—she cannot reload for any United States port. I do not say that it is necessary for us to establish that condition of things at the present time; but this principle is so closely allied to the doctrine of protection that it may be desirable to take powers to deal with it; and that is why I have adverted to the subject. Of course, at present our coastal navigation is absolutely free, and it may be the best policy for Australasia to keep it so; still, as we are taking upon ourselves national powers, this question, being a national one, should receive our consideration. A great difficulty occurred on this very question between the United States and Canada, when Lord Elgin was governor-general. He saw that the American ships were in the habit of swooping down on the whole of the Canadian ports, returning with cargoes to the United States, while the Canadian vessels could only touch at one United States port, they could not reload for another, but were obliged to return to Canada. He brought the matter before the Washington Government, but they pooh-poohed it. They said, "This is a national question. You are only Governor-General of Canada, and you can have nothing to say about it." The result was that Lord Elgin and his ministers recommended Parliament to impose taxes on vessels belonging to the United States passing through the Welland Canal from the lakes to the St. Lawrence River, thus almost prohibiting United States vessels from getting to the ocean from the lakes. The people of the United States were thus paid off in their own coin, so that they were obliged to grant reciprocity with respect to Canadian vessels; but they would not concede that reciprocity to English vessels. I mention this matter as one that should be taken into consideration—as to whether or not we should ask power from the British Government to deal with a question of this kind. I now come to the 3rd resolution:

That the power and authority to impose customs duties shall be exclusively lodged in the federal government and parliament, subject to such disposal of the revenues thence derived as shall be agreed upon.

I believe this is a very important proposition, and one which will receive general sanction from the Convention. I believe that if we impose customs duties exclusively through the federal parliament we shall necessarily have a uniform tariff, and I believe it is agreed upon all hands that we should have a uniform tariff throughout Australasia. It is strange that the little colony that I partially represent has been in the van on this question, and has taken the first step in this direction with the assistance of the colony of New Zealand. For many years an agitation has been carried on in favour of intercolonial reciprocity; and I recollect that you, sir, in the conference of 1880-81, adverted to the question, and desired to carry out some principle of the kind throughout Australasia. The colony of Tasmania, in conjunction with New Zealand, induced the British Government to introduce a bill into the British Parliament, giving the colonies of Australasia the right to enter into intercolonial trade relations. I regret that, although the Act is still on the imperial statute-book, but very little good resulted from it, and that the colonies did not take the initiative in endeavouring to establish a customs zollverein, or something of that kind, in order to bring about intercolonial free-trade. But still matters have been going on evolving and developing themselves until we have come to the larger phase of the question, which we are now considering. Before I leave this point I might refer to another matter which I do not think has been considered here, and that is the power to differentiate the duties in favour of Great Britain and her possessions. I think this question was first brought prominently forward by the Melbourne Chamber of Commerce, which considered that this power should be given to the colonies if they thought it desirable to exercise it. In creating a new constitution it is necessary that we should consider not what is required at the present moment, but what may be required in the future working of our national life, and I have brought these matters before the Convention in order that if it is thought desirable they may be embodied in the constitution. I now come to that part of the resolution which proposes

that the military and naval defence of Australia shall be intrusted to federal forces, under one command.

I feel that this is a question pretty easy of solution. There is no doubt that the command of the federal forces should be vested in the governor-general of the federated dominion. The whole of the forces should, of course, be under the federal government. That was the question, raised in the report of General Edwards, which primarily brought about the present movement in favour of federation. I do not believe in the maintenance of a large standing army. I do not think there is any necessity for such a thing in Australasia. A proper organisation of the forces already existing, with a possible increase as emergency may require, the chief command being given to an experienced military officer, is all we shall require. As far as the navy is concerned, I think we are better served by the present arrangements than we could be in any other way. It is not contemplated, I think, to establish a federal navy. If it were so proposed, it would be found that the taxation required to maintain a federal navy would necessarily be very heavy; therefore, I think that if Great Britain extends her protection to us in the way she does at present, the colonies paying a certain proportion of the cost, that is all that will be required in Australasia for many years to come. The resolution then goes on to say:

Subject to these and other necessary provisions, this Convention approves of the framing of a federal constitution.

This brings us to one of the most important points of all—the federal constitution, which the resolution says shall consist of a senate and a house of representatives. There is no doubt in the world that that is an outline for a federal constitution—a senate and a house of representatives, presided over by a governor-general, and consisting of an equal number of members. That, of course is the American principle. In America, the senate is composed of two members elected by each state. It has occurred to me that if we adopt the American principle in the election of members of the senate, we should have a number that would be divisible by three, for the reason that in sending representatives to this Convention we have had some difficulty in the different legislatures in electing seven delegates. The lower house has claimed the right to elect five of the delegates, and to this the upper house has demurred. Now, if we have six or nine members, and the lower house elects four or six, as the case may be, and the upper chamber elects two, we shall do away with any friction between the two branches of the legislature in electing members to the senate. In looking at the work of responsible government in connection with an institution of this kind, it strikes me very forcibly that the working of responsible government on the English principle is incompatible with state rights. In England you have one unified and indivisible interest, and there the application of the principle of responsible government may be carried to its fullest extent, because you have not to deal with the interests of a number of federated states. But in our federated government the great question will be to preserve the individuality of the different states or provinces, and in forming the constitution we must be very careful that this object is clearly kept in view—that is to say, in establishing a federal government, we must draw a clear and distinct line constitutionally between the powers of the federal government and the powers of the state governments. In the United States the people have never parted with their sovereignty. There, in any amendment of the constitution, the question is first of all submitted to the people by convention, and the people have in no case parted with their sovereignty either to the senate or to the house of representatives. The initiatory is with the people, and so it should be in our case. As far as the senate is concerned, I think it should be made as far as possible amenable to the people. I do not care if you make the senate amenable to the people by way of dissolution, only do not divest it of all power. In the machinery required, financially and otherwise, for the working of a federal government, you must necessarily leave considerable power with the senate. The English system of government involves party government, and a delegate from Victoria said yesterday that finance was government, and government was finance. If finance is government and government is finance, then it will be seen at once that we vest the whole of the power in the house of representatives if we take from the senate the function of dealing with questions of finance. In large questions nearly the whole power must be necessarily vested in the house of representatives. Therefore, I believe that the senate should have the power of veto in detail—that the senate should have the power of objecting to any financial measure which it thinks is not in the interests of the country. In the case of the different legislatures, as at present constituted, finance is everything—finance is the sheet-anchor of the whole system; finance is the sheet-anchor of the existence of ministries; by it they live, move, and have their being. We know that in these colonies all ministries are made and unmade on questions of finance. Try and apply the same principle to a federal government, and what will be the result? The same result will follow, and the two colonies which have the absolute control of finance, could

place the other colonies which enter the union in such a position that I am sure they would never have entered it at all if they had known beforehand what would happen. I feel certain that we are going in the right lines if in the construction of the constitution we reserve to the senate the power of dealing with questions of finance as far as the power of veto is concerned, but not with regard to initiation. While the house of representatives has the power of initiating all questions of finance, there can be no danger, I think, to the larger colonies. I hope that we can agree to a system that will work harmoniously. It is my desire to do all I can to help to bring about federation, and I hope that we shall not split upon this rock, but that we shall agree to some compromise that will be accepted on all sides. I might, however, say a few more words with regard to the senate. I was very much struck with the eloquence and the ability displayed by my hon. friend, Mr. Gillies, in dealing with the question of the senate. He wished to do what? He wished to construct the senate of gentlemen possessing superhuman attributes. They were to be perfect in every way; they were not to possess any of the frailties of human nature; they were to have a perfect immunity from the defects which trouble other people; but he would not intrust them with power over money; he would not allow them to deal with the question of finance. They were to do everything but deal with questions of finance. We should try as much as possible to bring before our minds the nature of a federal constitution, and the difference between a senate and the House of Lords, or the upper chambers of these colonies. There is no analogy between the two bodies. In the latter bodies the interests of a single community are dealt with, while in the former the diversified interests of a number of colonies must be protected; and I am sure that unless the senate has some power, the colonies will have no guarantee of the inviolability of their rights, which is one of the things upon which the colonies, before entering upon the consideration of a constitution, ought to insist. I now leave this question, and come to the question of tariff. I think that the question of free-trade or protection might very well be left to the federal parliament. For many years it has been my opinion that protection would be the policy of Australasia. I have for years seen that we are gravitating in that direction, and there is no doubt that where you find democracy in the ascendant, you always find the question of protection more or less associated with it. In my mind there is no doubt but that protection will be the policy of Australasia—that we shall have free-trade between the colonies, and protection against the outside world. I know that you, sir, are the apostle of free-trade, and no doubt you deserve credit for the admirable way in which you have advocated the principle of free-trade; and that principle would be right enough if you had the same condition of things existing throughout the various countries with which you traded. But the question is too large to go into at the present time, and I shall not say anything more about it. Another question that has been brought before us is the position of the federal capital; but I think that that is also a question which may be left to the federal government for determination. The same question gave rise to a great deal of trouble in Canada. They had at one time an itinerating capital. When I was living there it was Kingston; then Toronto became the capital, and finally Montreal; but when they wished to move the Federal Parliament from the last named city, so violent was the feeling against the proposition that the Houses of Parliament were burnt down. The matter was then left to the British authorities to decide, and a spot was selected at a little fishing village called Bytown, now known as Ottawa, on the Rideau Canal. There is no doubt at all of the wisdom of that selection. The town is far away from the boundary line of the United States, at a point where all the lines of communication connecting it with the various places throughout the Dominion could be preserved in case of war, and, as I have said, the selection was a very happy one, and reflected great credit upon those who made it. I have just been reading about the growth of Canada since the federation, and I intended to show the results which have followed federation there. I have made a note of the development of trade there, and it will show the desirableness of federation. The inter-provincial trade between the eastern provinces is $55,000,000, which is equal to sixteen times the trade done in the first year of the confederation, and twenty-seven times the trade done in the year previous to it. They have now 14,000 miles of railway, including the railway between the Pacific and the Atlantic, representing a capital of $727,000,000, and 2,400 miles of inland navigation, the various connections of which have cost $30,000,000. These great works could not have been carried out if the provinces had remained isolated, and I feel sure that from the federation of Australia similar results will accrue. I therefore heartily support the resolutions, and will render every assistance in my power to carry out the objects for which we are met here; and my prayer is that the future generations of these colonies may say of united Australasia, as Tennyson said of England:

> A land of settled government,
> A land of just and old renown,
> Where freedom broadens slowly down
> From precedent to precedent.

Mr. CUTHBERT: I think it right to congratulate the members of the Federal Conference which met about twelve months ago in Melbourne on the successful result which attended their efforts on that occasion. The very able manner in which the question of federation was debated by them was an education in itself to the whole of the colonies; and the result of their labours was summed up in a series of resolutions which commended themselves to the people of the whole of Australia. At the very outset, the first resolution, after recognising the services of the Federal Council, declares "that the seven years which have elapsed since 1883 have developed the national life of Australia in population, in wealth, in the discovery of resources, and in self-governing capacity, to an extent which justifies the higher act, at all times contemplated, of the union of these colonies under the Crown, and under one legislative and executive government, on principles just to all the colonies." That was followed by a resolution which imposed as a duty upon the members of that conference the taking of such steps as they might think necessary for the purpose of inducing their respective parliaments to send delegates to a national convention for one purpose—for the purpose of framing a constitution. "Empowered to consider and report upon an adequate scheme for a federal constitution" were the words of the resolution. Now, sir, those gentlemen loyally discharged their duty. They were all, apparently, of one mind that the resolutions were fitly, aptly, and properly prepared; and they ventured to submit them to their respective colonies; and by the parliaments of those colonies they have been indorsed. The result is, that those parliaments have settled for us the question as to whether it is desirable that a union of the colonies should take place or not. That question is answered, I think, in the affirmative without any mistake; the action of each colony in sending men from each parliament, selected without consideration of parties from both houses of the legislature. Accordingly a mission has been intrusted to us. We have been delegated to discharge the great, important, and delicate task of framing a constitution, making it as perfect as we can in all its proportions, but, above all, just to all the colonies. That is a task which is approached by all members in a spirit of compromise; and I think that

before we close our proceedings we shall have the satisfaction of knowing that the work we have undertaken will be fairly and properly accomplished, and that that work is in no degree inferior to the great undertaking of those eminent men who, in the autumn of 1864, assembled in Quebec, and brought about the union of the North American provinces. Passing from that, I deal with the resolutions which you, Mr. President, have submitted in your usual calm, lucid, and dignified style. You have invited us to frankly, freely, and fully discuss the principles embodied in these resolutions. The different speakers who have addressed themselves to this question have not dealt generally with the whole subject of federation; but they have confined themselves, and I think properly so, to the principles embodied in the resolutions. Looking at the 1st resolution, I think, having heard what I have heard since I came over to this favoured colony of yours, that there is a section of the community who think that the delegates from Victoria and Queensland have some sinister object in view; who think that they are actuated by an improper desire to filch from the parent state a portion of its territorial rights. I think that these gentlemen who entertain such an opinion have done us great injustice. Such an idea, I know, was never contemplated. I speak on behalf of the Victorian delegates, and I may say that I speak on behalf of the delegates of all the colonies, when I say that such an idea never entered into their heads; and if it did, the language in which the resolutions is couched would unmistakably show to those who read that none of the privileges, or powers, or territorial rights of the several colonies would be interfered with. It is provided that they are to remain intact, unless each particular state in order to accomplish the great federal object which we all have so much at heart, sees its way to surrender some part or portion of the privileges, powers, and rights which it has hitherto enjoyed. I am very pleased that that resolution stands first, because those who entertain the opinion to which I have referred will have their minds completely disabused if they rely on the assurance of the delegates now assembled here. The 2nd resolution, which affirms that we shall have free-trade and intercourse throughout the length and breadth of the Australian continent, is merely a repetition of the oft-expressed desire of numbers of the people of this colony—indeed, of all who desire the welfare and the advantage of Australia—that there should be free-trade among the colonies; but I gather, from the debates that have taken place, that there will follow in its train protection against the outer world. I think that the one is a corollary of the other. I think that it must follow as the night the day, that if we have free-trade among ourselves, we must have protection against the outer world. Unless we have that, how are we to meet our engagements? It is proposed here to hand over to the federal parliament the right to impose custom duties; but, before I come to that, I might say that it seems to me most strange that in a vast continent like that of Australia—equal almost to the whole of Europe, where there are no great natural barriers, but where the whole of the continent is divided among five colonies, rich in resources, with fertile land, with great mineral wealth, with an enterprising and active population, surrounded by all the necessaries of life, and who ought, with the perfect freedom that they enjoy under their different constitutions, to be the best and the most contented people in the world—people sprung from the same race, and owing allegiance to one Sovereign—it is, I say, strange that those who are all sprung from one common stock should raise artificial barriers between themselves, which, I consider, are a blot upon their legislation, and a blot upon the civilisation of the nineteenth century: barriers which have been erected by themselves in order to prevent that free-trade which ought to exist between a kindred people speaking the same language. These barriers, these customs duties, these hostile tariffs, what do they amount to after all? They are only calculated to irritate and to annoy, to create ill-feeling, and, probably, in the not very remote future, retaliation; and if federation is not brought about, and these colonies become powerful, we know not what might happen in the not distant future. Suppose that some discordant element, some cause of umbrage arose between the people of the respective colonies, we know not but what we might be plunged into civil war. It is open to us at the present time to avert such a calamity, and the sooner these barriers of our own creation are removed the greater the satisfaction that will be felt throughout the Australian continent. But I know very well that these barriers cannot be removed until federation is accomplished—until it becomes a living reality. I assume that all the delegates here are of one mind, and that they see the necessity of organising and bringing together all the powers of their intellect, in order to carry out the mission intrusted to them, which is to frame a proper constitution. Assuming a federal parliament to be constituted, we must provide it with a proper source of revenue, in order that it may carry out its engagements and fulfil the duties which will devolve upon it in relation to the several subjects which may be specially intrusted to its care, control, and jurisdiction; and it seems to me that the very best way to accomplish the end in view will be to allow the federal authority to impose customs duties. The colonies derive a great portion of their income at the present time from customs duties. There were some figures placed on this table this morning for the first time, though I confess that when the hon. member, Mr. McMillan, referred to them I could not clearly grasp the whole subject, and I question whether any hon. member in the House was able to do so; but it occurred to me that, putting it in round figures, we might say that the customs duties amounted to some £8,000,000, or a little more, for the whole of the colonies; and that it would be necessary to spend something like £2,000,000 in order that the federal parliament might meet its engagements. It may be said, "Surely this is a very heavy expenditure." But it must be borne in mind that the respective colonies will be relieved from the expenditure which is now necessarily entailed upon them in connection with various subjects, such as defence and the other different matters referred to in the list submitted by the Premier of Victoria. I therefore agree with those who entertain strong views in favour of protection—like my hon. friend, Colonel Smith, who is an out-and-out protectionist, and who very carefully guards the interests of the constituency which he has represented for so many years, and who, I think, has properly said that unless federation be on the lines of protection it would be useless to ask the co-operation of the colony of which he is one of the representatives. As to the material guarantees which have been spoken of, I think that when we come to close quarters in Committee—for up to this time we have been only skirmishing—the difficulties will disappear one after the other, and that this, which was supposed to be the "lion in the path," will very soon disappear. Now I come to deal with the military and naval defence of Australia, which it is proposed shall be intrusted to federal forces under one command. I cordially approve of that proposition, which has met with general acceptance all round—and why? Because we know that the colonies recognise that the duty of protecting their own shores devolves upon them—that they have erected fortifications, and that many of the colonies have an efficient permanent corps of artillerymen which has been strengthened by the volunteers who have come forward in the cause of their

country to give their services as militiamen. But we are aware that there is a weakness all through the design. We are aware that if any portion of the Australian continent were attacked, while a friendly and brotherly feeling would dictate that we ought to go to the rescue of the place attacked by a hostile foe, we have no power whatever to order our troops out of our own colony, to go and concentrate their forces with the others. And though we received reports from different naval and military commanders as to the state of our forces and their efficiency—as to their courage, that was undoubted—we were not satisfied merely with reports from our own officers; we wanted an independent authority of eminence to give us his candid opinion of the action we had taken in our endeavour to form an efficient military and naval force. Accordingly, the colonies united, as they have done on several occasions, always leading towards unity, and applied to the Imperial Government to send an officer to report on our forces. General Edwards then came here, and furnished us with his report, to the details of which I will not refer. But he pointed out, unmistakably, where our weakness lay. I think it was his report which induced you, Mr. President, to communicate with the premiers of the other colonies, the result being the conference in Melbourne to which I have already referred. Some hon. gentlemen may think that by placing the whole of our forces under one command we want to raise a large military force which will saddle the country with expenses that may be deemed unnecessary. But, as I understand the resolution, it has no such meaning. The federal parliament will look closely into the question of the finances. They will see that it will be expected by all the colonies that due economy shall be observed in the administration of the funds intrusted to them, and that it will be expected that out of the £8,000,000 of revenue handed over to them at least £6,000,000 will be available for redistribution among the colonies; and the colonies will look with a very observant eye upon all that is done by the federal parliament, because they will be interested parties, and they will know that in order to meet the engagements into which they have entered it will be necessary for them to husband their resources in every way. In my opinion, the placing of the naval and military forces under one command will not be attended with much additional expense. We want no large standing army here. There is no necessity for it. If we protect our ports as we are doing, and having men, money, and the munitions of war, having men in our artillery forces as well skilled and competent as any to be found in her Majesty's service, and in addition to that, having powerful and efficient guns of the latest type, we feel that the obligation devolves upon us to have a force sufficient to protect us against invasion. Will hon. members permit me just to make one quotation from a work by a most eminent man, highly skilled in the art of warfare? Major Clarke, writing on the navy, sets forth the advantages which the colonies reap from remaining part of the empire. He summarises them as follows:—

Their commerce,—

That is, the commerce of the colonies,—

which is their very life, has received, and will receive the protection of the greatest naval power of the world.

2. The necessary standard of the local defences of their ports is reduced to a minimum.

3. They require to be able to resist a cruiser raid, since a hostile fleet cannot reach them in force, except on condition of defeating and destroying strong British squadrons.

These are the words of one who speaks with authority, and who points out exactly the danger we are in. As long as England is mistress of the seas, as long as we are a dependency of England, we may rely on her support, and so long we may depend upon it no foreign power, however strong, can set foot on these shores. Since Major Clark wrote on this subject we must not lose sight of the fact that we have taken a new departure, and that we recognise that our commerce is the very life of our colonies. We have recognised this, that it is unfair that the mother country should be saddled with the whole expense of defending our commerce on the high seas; and therefore, I am proud to say, as the result of a conference which took place in London, and to which we sent delegates, that for the first time, I think, in English history the colonies have entered into a partnership by which they are enabled to have the advantage of the support of what may be termed an Australian squadron. Under the British flag we may rest in security, leaving it to the squadron in this part of her Majesty's dominions to protect our commerce, and taking upon ourselves the duty of defending our shores. I have spoken, so far, briefly, because I think that at this late period of the debate I should be trespassing too much on the time and attention of hon. members were I to go through the whole of the subjects connected with federation. I have confined myself in the few remarks I have made to the principles contained in the four resolutions; but I cannot conceal from myself that there yet remains one vital and important subject to be touched upon—one that has occupied more attention than all the others put together. With regard to the amendments which may be submitted in Committee, they will not involve much difficulty, and I think the proceedings in Committee will be comparatively short, as the principles embodied are generally acceptable. I did not anticipate when the debate commenced that its great interest would centre, not on the constitution of the houses of parliament, but on the duties, and the privileges, and the rights to be conferred upon one of the two houses. Whether that house is to be called the second chamber, the senate, or the council of the states, is immaterial. To the very able speeches delivered on this subject I listened with great attention. The Premier of South Australia advocated the cause of the house of representatives, contending that as all power springs from the people, as I admit it does, the house of representatives must have the control of the purse, and that all measures relating to money matters, and the imposition of duties, must originate in that house. I am perfectly in accord with him as far as the origination of such bills goes. I think that usage has determined, if nothing else has, that they must originate in the house of assembly. I shall not discuss the question why, if the two houses are perfectly equal, those bills should not originate in the second chamber. Suffice it for me to say that I follow on the lines of parliamentary usage, and I say, "By all means give to the house of representatives the power which the people's house has been in the habit of claiming, and which is fair, of originating those bills." There seems to be a unanimous agreement that all the states shall be represented in the house of representatives according to their population; but when we look at the constitution of the senate, the whole order of things is to be reversed, and each state is to have an equal number of representatives in that chamber. That principle is agreed to all around. For what reason is it agreed to, except to confer upon the senate equal and co-ordinate powers with the house of representatives, not only in general legislation, but also in all measures relating to money matters. I see the Premier of Victoria sitting opposite to me, and I should like to make that hon. gentleman, above all others in the convention, a convert to my views.

Mr. MUNRO: It will take the hon. member a long time!

Mr. CUTHBERT: Because I know how much depends upon Victoria acting in hearty co-operation with the views of members of the convention. The leader of a powerful government has, perhaps without due consideration ——

Mr. MUNRO: Oh, no!

Mr. CUTHBERT: Perhaps in a moment of haste, expressed a certain view, because Victoria has a written constitution quite dissimilar from that which prevails in Tasmania and South Australia. In Tasmania the Council has claimed and exercised all along the power of dealing with money bills in the same way it deals with any other measure; and a similar right, I understand, has been claimed in South Australia.

Mr. MUNRO: With power of dissolution!

Mr. PLAYFORD: Claimed, but never exercised!

Mr. CUTHBERT: I understand it has been claimed, and the difficulty has been bridged over by a course which I hope and trust will be adopted in this chamber, namely, by compromise. Suggestions, I understand, are offered by the second chamber in South Australia for the consideration of the government or the other house. This practice keeps the two chambers in perfect touch with each other, and the difficulties that would arise from exercising the power of absolute veto are very much diminished indeed. My hon. friend, the Premier of Victoria, if I understood him aright, is prepared to give to the senate a power of veto in all matters.

Mr. MUNRO: Hear, hear!

Mr. CUTHBERT: I would ask my hon. friend what that means in the ordinary transactions of life as between man and man? If he is leaving Victoria, and he appoints me his agent, with a large and general power, to manage his affairs, to let the whole of his property, is it to be said that because I possess the large power of dealing with the whole of his properties I cannot let one of his houses?

Mr. MUNRO: If the hon. member does not get the authority, he cannot!

Mr. CUTHBERT: But I get the full and complete authority. You propose to give to the senate the complete power of veto. Why does not the greater include the less in parliament, as it does in private life? You say the senate are competent to exercise the larger power. The larger power means the power of throwing out a whole bill—of throwing the finances of the country into confusion—of causing the greatest disaster. But a remedy is about to be applied here. While you are willing to confer the larger power, why should you take away the lesser power, namely, that if in a particular bill there be one single item in which a principle of policy is involved, or where an expenditure or the imposition of a duty is disagreed with, the senate shall not have the limited power of veto?

Mr. MUNRO: Why have you not that power in your chamber?

Mr. CUTHBERT: That is not an answer to the question.

Mr. MUNRO: Oh, yes it is!

Mr. CUTHBERT: It is not, because the senate is to be constituted on a broader basis. You acknowledge that the states are equally represented, and you are willing to give to the senate the larger power, but you deny it the lesser power.

Mr. MUNRO: I would give them the same power as your chamber has!

Mr. CUTHBERT: My hon. friend says, "We are prepared to give the senate the larger power, but not the lesser power," because he has been brought up in the practice under the Constitution of Victoria. That is the sole reason.

Mr. MUNRO: Oh, no!

Mr. CUTHBERT: That is one of the reasons, and the principal reason, why the hon. gentleman is not a convert to my views.

Mr. MUNRO: Because it would be unjust!

Mr. CUTHBERT: Before I am done with the hon. gentleman, I think I shall convince him that there is nothing radically wrong in the views taken up by the representatives of the different colonies.

Mr. MUNRO: My reason is that it is unjust!

Mr. ADYE DOUGLAS: What is just?

Sir SAMUEL GRIFFITH: That is merely an epithet!

Mr. CUTHBERT: I take it, then, that, first of all, the hon. gentleman objects to give the lesser power because it is not given in the constitution of Victoria. But we do not concentrate all the wisdom of the ages in Victoria.

Mr. MUNRO: Certainly not; I only wish you did!

Sir SAMUEL GRIFFITH: The Victorians think they do!

Mr. CUTHBERT: I would put this position to the hon. member. Supposing an amendment were proposed in the constitution of Victoria, how very different indeed would be the attitude of the Legislative Council now from what it was when it merely represented a handful of people; for before the reform of the constitution it represented only 30,000 persons.

Mr. MUNRO: And was intensely conservative!

Mr. CUTHBERT: It was conservative, and it was, perhaps, on that account that the restriction of the powers of the Legislative Council was stated in express language, namely, that it might accept or reject any bill that came before it, but that it could not amend a money bill. Now, suppose it were the intention and expressed wish of 130,000 of the principal electors in the colony of Victoria that an amendment should be made in the constitution upon the lines indicated by those who have advocated that these powers should be conferred upon the senate ——

Mr. MUNRO: You would never get it!

Mr. CUTHBERT: Not get it in Victoria! The hon. member seems to forget altogether the change of circumstances. We had, I believe, only 30,000 electors before we had the reformed constitution of 1880; but I believe the Council now represents 130,000 of what may be called the very pick and flower of the population of Victoria. We have represented there both rich and poor.

Mr. MUNRO: No!

Mr. CUTHBERT: We have every careful and prudent man represented there. We have every one there who has given a hostage to society that he is likely to make a good citizen. All are represented there, and the hon. member will not deny it. It is a great power in itself that the Legislative Council now speaks and acts with the full sanction and authority of over half a million of people.

Mr. MUNRO: And it is very much less conservative than it used to be!

Mr. CUTHBERT: I am glad to hear that, because it is an indication to my mind that the hon. gentleman sees, and it would be surprising to me if it were not so, that the Legislative Council may, before long, ask for an amendment of its Constitution in this direction.

Mr. MUNRO: If you get the power here you will try it there, I know!

Mr. CUTHBERT: I think it is very likely that some means may be devised by which the wishes of the various colonies represented here may be accomplished; and I think it would follow certainly that if these powers were granted to the senate, the legislative councils of the colonies, situated similarly to the Legislative Council of Victoria, would certainly claim the same right.

Mr. MUNRO: Hear, hear!

Mr. CUTHBERT: It is the wonder of the thinking people of Victoria that in the question of finance their upper house really has no power, because, although the power of veto is all very well in its way, and is, I admit, a great power, still it must be very carefully exercised, and under very peculiar circumstances indeed. The Council must be perfectly satisfied in their own minds that the propositions laid down in the bill submitted to them are radically wrong, and that they have at their back, not only the constituents of their own chamber, but the whole people of the colony. Now, the hon.

member will see that the position taken up by those who advocate that the senate should be endowed with co-ordinate powers with the house of representatives, is not an unreasonable position, for where did this idea of giving equal representation spring from? It sprung from a precedent of 100 years, from what has taken place in America; and we find that there the system which gives co-ordinate power does not work to the detriment of the people. I think it would be wise, therefore, if, when you are giving the larger power of veto, you granted also the power of veto in detail. I admit that it is all very well for me in this chamber to speak as I am doing; but I know the difficulties which will meet the Premier of Victoria when he presents that aspect of the case to the people of Victoria. We ought, as far as we possibly can, to devise some means by which the difficulties that now separate certain sections of this chamber may be overcome. The hon. member, Mr. Gillies, in the admirable speech he delivered yesterday, pointed out that all questions of public policy involving expenditure beyond the ordinary expenditure of the year, that is, unusual expenditure, might be contained in separate bills, and sent to the upper chamber in that form.

Mr. MUNRO: Hear, hear. We all agree to that!

Mr. CUTHBERT: My impression is that that is reasonable, and I think that we may so deal with the proposal in Committee that we shall find that there is not, after all, such a great difference of opinion between us.

Mr. WRIXON: Hear, hear!

Mr. CUTHBERT: I am sanguine that some means may be devised of bridging over the difficulty, because I earnestly wish that there should be a hearty co-operation among all the Victorian delegates upon this question. Except the Premier of South Australia, they seem to stand alone upon this question. The great majority of the chamber are, as I understand the feeling, to some extent opposed to their view. My hon. friend, Mr. Deakin, in the course of his speech, said, "If one chamber is to be compelled to undergo what is known as a penal dissolution, a dissolution which is a personal penalty, an individual private penalty inflicted upon every member of the popular house—if it be called upon to undergo that trial at the pleasure of the upper chamber, let that chamber also enjoy the sweets of a similar appeal, and be bound by the same verdict." If hon. members are prepared to take that stand we might, I confess, obtain a basis on which further argument would be possible. Now, if I were proposing that the Legislative Council of Victoria should have the power of amending money bills, I would not attempt for one moment to lessen the duration of time for which the members of that body were elected. If the choice were given to me in this way, "Will you take the power of amending money bills, and in the event of a money bill being sent up to you and rejected by you in the first session, and being sent up to you and rejected by you in the second session, and it being of such vital importance to the government that they were prepared after your second refusal to take the view of the country at large upon the measure, and to ask for a dissolution, would you, the members of the upper house, be prepared to make a similar appeal?—my answer would be, "Yes; I think it would be a very proper course to pursue." If we did that, we should hear no more about deadlocks. They would be completely at an end, because after the bill had been rejected in the first session, unless there was some great and potent reason for it, it would not be sent up to the legislative council on the second occasion unless the government were determined to demand a penal dissolution. And how would that injure the council? While we have been speaking about this question, we have confined ourselves altogether to the power of the senate; we have not spoken of its constitution. I may say that the remarks of the hon. member, Mr. Deakin, were qualified by this statement: that he would like to know on what basis the senate shall be appointed. I take it that there could be few better bases of selection of the senate than that which obtained in the appointment of this distinguished assemblage. I think that question might very well be remitted to the two houses of parliament; and that in the selection of members of the senate each house should select an equal number. I know that other views are entertained. I know the hon. member, Mr. Fitzgerald, thinks that each state should be left to itself to say in what manner it shall elect members of the senate.

Mr. FITZGERALD: They claim that as a state right!

Mr. CUTHBERT: I think it is very likely that the result would be that it would be left to each parliament to appoint the senate, because I can see that if a colony were divided into eight provinces, the expenses of contesting an election would be so heavy that few men would wish to enter into such a contest: and the people would be better satisfied if the choice of the senate were made by the respective legislatures, and made in equal numbers by each house. I have put the case in this way, wishing to make a convert of the hon. member, Mr. Munro, to my view that there is nothing unreasonable in the desire entertained and expressed by several gentlemen that the senate should have co-ordinate powers with the house of representatives; but I think that in Committee we shall be all prepared to meet in a spirit of compromise, and I do trust and hope that the difficulties which at present seem to surround this very important question may disappear. One word in connection with the judiciary and as to the powers of the supreme court which shall constitute a high court of appeal for Australia. Of course if we have a federation of the colonies, we must have a supreme court and a high court of appeal. I have listened to what has been said by the late Attorney-General of Victoria, the Attorney-General of Tasmania, and the Attorney-General of Queensland. While he was careful not to express any decided opinion, I am inclined to think that the Attorney-General of Tasmania was perfectly right in one portion of the views which he presented—namely, that we ought not to interfere with the appointments made, and to be made by the states of their respective judges. Leave that altogether to the states; do not seek to deprive them of that power. But there must be a high court of appeal, and that high court should deal with questions between the states and the federation. From that court I think it would be highly desirable that there should be an appeal to the Privy Council. It is useless for us to entertain the idea that as long as we are a dependency—and I hope we shall be for a long time—the Queen will ever concede to these Australian colonies a request which was made by the North American provinces, and refused. They were as anxious as are some hon. gentlemen here, that the decision of their court of appeal should be final; but her Majesty, speaking in her own person in the Privy Council, says to all her subjects outside Great Britain and Ireland that if any one is aggrieved and seeks redress, let him come to the Privy Council. I think that it is right that that perogative and privilege should be still retained, and it would be unwise for us to ask for a thing which we know must be refused. Then it is proposed in these resolutions that we should have:

> (3.) An executive, consisting of a governor-general, and such persons as may from time to time be appointed as his advisers, such persons sitting in parliament, and whose term of office shall depend upon their possessing the confidence of the house of representatives expressed by the support of the majority.

As to the latter part of that, I think it might very well be excluded, and that we should adhere to the

usages of Parliament. I certainly like to stick to the old landmarks. I was surprised and astonished when I heard one member after another trying to sever the links that connect us with the old country. I never thought that when these propositions were to be submitted here I should hear any hon. members say that the Crown should cease to make the few appointments which now rest in its hands in these colonies. I know that in my own colony of Victoria the Governor and the Master of the Mint are the only officers appointed by the Crown. I was quite surprised when I heard hon. members say, in this Convention, that, in order to educate our young people to fill the highest offices in the state, it was necessary that we should take from our Queen that privilege which has been so long, so usefully, and properly exercised. It was also said that we ought to make our own acts of parliament, and that the right of veto should be done away with. Surely we ought not to ask for any greater powers than the Canadians possess. It is sufficient that we pass our own laws, and unless the veto is exercised by the Queen within two years, that veto is completely at an end, and in the meantime, until the veto is exercised, the measure passed by us is the law of the land. How often will the veto be exercised? Not once in a century. I had intended to cut my remarks very short, and I am sorry that I have travelled so far out of the beaten track of what I intended to say; but the subject is one of great importance, and I wished, if possible, to devise some means or see some way of getting over the difficulty which relates to the senate. I have to express my grateful thanks to hon. members who have listened so patiently to me. I have not forgotten that expression of yours, sir, in which you said that the tree of federation had been planted. I hope and trust that it is so; that its roots will sink deep into congenial soil, and that it will grow, as years advance, in strength and beauty; and that it will flourish for many years to come; that against its roots passion may beat in vain, and that under its branches the people may find shelter and protection.

Mr. ADYE DOUGLAS: I shall endeavour to carry out my intention to curtail my remarks in a different way from that adopted by the last speaker; and instead of commencing with the first of the resolutions, I shall commence with the last, which says:

> An executive, consisting of a governor-general, and such persons as may from time to time be appointed as his advisers, such persons sitting in parliament, and whose term of office shall depend upon their possessing the confidence of the house of representatives, expressed by the support of the majority.

Now, that clause has been very little dwelt upon, and I am at a loss to understand what meaning is attached to the words "from time to time be appointed as his advisers." I imagine that the executive government of the federation will be formed according to the general principles of government which have prevailed hitherto in the Australian colonies, and that the governor-general will take his advisers from which side of the house he pleases, but will take care, and in fact must find it necessary, to take them from that side of the house which is in a majority. Consequently the governor's advisers must represent the majority of the people; and in no other way that I can imagine can a government of the kind be carried on. The words "responsible government" have been questioned in this Convention. Now, a term may in course of time acquire a meaning which it did not have when first used, and "responsible government," as I understand the expression as used here, means that the executive shall represent the majority of the house of representatives. The governor, nevertheless, may choose his advisers from either side of the house; but he is certain, as I said before, to select them from amongst those who represent the majority of the people in the popular chamber. By no other means can I imagine that representative government could be carried out. But here the words used are, "as shall be appointed." Appointed by whom? It can only be by the governor-general, because I suppose no one here entertains the idea that the governor-general should be the appointee of the people at large, or of the federal parliament, or any portion of that parliament. The governor-general must be the representative of the Queen by direct appointment from her Majesty, and that being the case, the government will be carried on in federated Australia in the way usually adopted now in the different colonies. That appears to me to be the only way in which we can get along in this matter. The last speaker dwelt at length—though he did not enlighten us much—on the constitution of the senate. The discussion that has taken place on this subject has, I think, clearly shown that the view taken by the majority of the Convention is that the senate must have the same power of dealing with finance as that exercised by the house of representatives, and if the senate has power to deal with finance it must have power to deal with the details of finance, or some particular mode must be invented by which it shall be able to deal with all questions of finance, except the estimates for the year. If some system of that kind is put before us, I thing we shall have no great difficulty in coming to a determination on the point. This morning, one of the representatives of New South Wales placed before us certain figures; but I confess I was not able to follow that hon. gentleman; and, like the last speaker, when he finished his statement I was in a greater fog than when he commenced. There is no doubt that it would take a considerable time for the hon. gentleman to instruct us successfully up to the point to which he desired us to go. I did not gather whether the hon. gentleman meant that the whole of the customs were to be taken over by the federal government, as well as all the public works of the different colonies, or whether each colony was to manage its own affairs as hitherto, without reference to the federal government. In the resolutions before us the word "customs" is used, and no reference is made to excise. In the American Constitution the word "excise" is introduced as well as the word "customs." I do not know, sir, whether it is intended by you to include excise under the word "customs." Excise is carried out in a variety of ways in the several colonies, and in many of them constitutes a very large proportion of the public revenue. I presume that the word "customs," as used in the resolutions placed before the Convention, simply applies to the importation of articles into one colony from another, or from a foreign state. In reference to what is termed "free-trade with the colonies," something has struck me as most extraordinary in regard to this subject. Now, what does free-trade with the colonies mean? Up to the present time free-trade with the colonies is the thing we have been trying to keep out. Free-trade with foreign countries we do not seem to care about. Victoria has erected a barrier against all productions except her own, and has taxed, not only the raw material, but also the manufactured article; and a similar policy has been pursued by nearly all the other colonies. It is the intention that this state of things should be reversed, and that the imports of the different colonies shall be free as between each other? We have heard a good deal about loyalty in this Convention. Almost every member has spoken of his loyalty. Loyalty, however, does not seem to be extended to the mother country with regard to her imports, and she is to be treated by these colonies as a foreign country. It is to be hoped that when such a proposal goes before the home Government some objection will be taken to it. I could understand that in dealing with foreign nations we should put duties upon their goods, and I should expect that we ourselves should be treated by them in the same way;

but when the mother country takes all our productions without imposing the slighest duty it seems to me not a very generous proposal that we should raise a barrier against the productions of the mother country and treat her as a foreign nation. That is very loyal indeed; in fact, I am astonished at the loyalty of this Convention. I am not going to inflict upon the Convention my opinions with respect to loyalty; but when I hear that we are to be deprived of the Governor appointed by the Queen, that we are to abolish the power of veto, and that we are not to treat with the mother country upon fair and equal terms as regards fiscal matters, I am inclined to ask what hon. gentlemen think about their loyalty, and to say that their loyalty is a sham, and nothing else. How was I treated the other day? When walking down Circular Quay, I happened to see some goods that were imported, and some man said to me, "That is the effect of free-trade." I said, "I am a free-trader"; to which he replied, "You ought to be shot down, and I would shoot you down if I had the opportunity. I am a protectionist." Is that the sort of conduct we are to receive here because we have freedom of speech and freedom of opinion? Are free-traders to be crushed down because——

Mr. GORDON: It was a joke!

Mr. ADYE DOUGLAS. It was not a joke as far as I was concerned, for the person was very nearly doing what he threatened—not shooting me down, but striking me down.

Mr. GORDON: Absurd!

Mr. ADYE DOUGLAS: I hear hon. members talk about the House of Commons, and all that sort of thing. Now, many years ago I was in England, and there was a case pending from the colony of Tasmania—Hampton *versus* Fenton—in which the colony had asserted certain rights, and an appeal went home to the Privy Council. Upon that occasion, when one of the Tasmanian counsel was arguing that the Parliament of Tasmania had certain inherent powers, the judge, either Sir Knight Bruce or Baron Pollock, said, "Show me your powers, Sir Frederick Thesiger. You are confined within the four corners of your Constitution Act." The learned counsel had been trying to compare the powers of the Parliament of Tasmania with those of the House of Commons. But who knows, as the judge asked, what the powers of the House of Commons are? It is only the good sense of the House of Commons that keeps them within any expression. We know that the whole power of the English Constitution rests on what the House of Commons may choose to interpret as the constitution.

Colonel SMITH: Hear, hear, it is an unwritten law!

Mr. ADYE DOUGLAS: Just what they say is the constitution, is the constitution. We know that the English Constitution was a very different thing a few years ago from what it is now. The House of Lords is virtually gone, the power of the Queen is gone, and everything vests in the House of Commons.

Mr. FITZGERALD: The press has come up since!

Mr. ADYE DOUGLAS: We shall have to carve out our own laws; and we shall have to take other constitutions as a guide up to a certain point; but when I look round and see the men who are assembled here, I can have no doubt that there is a sufficient amount of ability present to build up a constitution which will tend to the greatness of the Australian colonies, and which will show the mother country that, although Australia has been only a century in existence, we are fast approaching the time when we shall be able to protect ourselves. But, with many of those who have spoken before me, I hope that that day is far off. I am, however, quite sure that the tendency of all our institutions, and of everything connected with us, is of a democratic character, and that sooner or later we must arrive at a democracy. But as long as we are subjects of the Queen, and hold our present position towards the mother country, I trust that the government of these colonies will be vested in a governor-general, appointed by the home authorities, and that our local governors will also, as far as possible, be appointed in the same way. I have only given my ideas in this way as a representative of a small section of the Australian people; but I come from an old colony, and I believe that in many respects we have carried out British institutions in their integrity. In the colony of Tasmania we have found it exceedingly advisable and beneficial that the Legislative Council should have the power of amending bills in any way that they think proper. If a large measure, containing several small items to which the senate objects has to be rejected in its entirety, the effect will be to make the upper house a nonenity, because the house of representatives would only have to put an item of expenditure into a measure to practically deprive the other house of all power with respect to it. I, therefore, trust that the federal senate will have due power, not only to exercise a veto, but also to amend bills; provided always that some other method, which would get over the difficulty in a proper manner, is not devised to bridge it over. I shall not detain the House longer. I think we have had from hon. members as fine oratorical displays, and as good a statement of the laws of Australia and of the mother country, as one could get anywhere, and I feel proud that in my latter days I have had the honor of attending such an assembly. In my younger days, when I first came to these colonies, how different things were! When I see such an assembly as this, I picture to my fancy what will be the result in another fifty years. What a change will there be in Sydney and Melbourne, and our other cities! As education extends, I think we may be proud of our adopted country, and consider ourselves as a united people, and members of the federal government of Australia.

Mr. ABBOTT: In addressing myself to these very important resolutions, it is not my intention to tread upon the ground which has been already occupied by hon. members in the very remarkable and able speeches which we have heard. It appears to me that on the present occasion we are like a family who are making marriage arrangements for their daughters, and it is the desire of every delegate, as the parent representing the daughter, to make the very best terms on behalf of the colony from which he comes. I think it is our bounden interest, in speaking for our colonies, to speak with no uncertain voice in reference to what is proposed to be done. There are those outside this Assembly, and in this colony, who are opposed to federation, and who have been raising up arguments against it, but those arguments are not based on fact, or on a true interpretation of these resolutions; and when I address myself to these particular people, I shall do so more for the purpose of explaining the matter with regard to our own colony than for the purpose of giving any information or of leading to any conclusion with regard to the proposals now before us. What struck me as the most remarkable of the speeches to which we have listened were those coming from the gentlemen representing Victoria, a colony which has had protection for twenty-five years, and the people of which maintain, as protectionists always maintain, that if they are given protection they will be able to build up their own industries, and to defy the world to compete with them. Now, I claim that I am a protectionist, and I have always argued that we cannot have protection in New South Wales unless on the basis of federation. Victoria has had protection now for twenty-five years. She has had a market in every one of the Australian colonies, and she has become the great manufacturing centre of the whole of Australia; and is it not totally

opposed to protectionist principles for her delegates to say, "If you want federation, you must give us a guarantee that you will maintain the manufactures which for twenty-five years we have been building up"? If that is the result of protection for twenty-five years it almost makes me think that I have gone on the wrong path; but I feel that I have not gone on the wrong path, and I believe that if New South Wales is to have a protective policy at all, it can only get it by federation. I claim that New South Wales has a greater variety of raw material and of minerals of all kinds than any of the other colonies in the Australian group, and that if we had free-trade within the boundaries of the Australian colonies, with protection against the world, it would not take us twenty-five years to draw from Victoria to Newcastle and elsewhere most of her large manufactures. I believe that honestly. The hon. member, Mr. Deakin, has told us that his colony must have some guarantees for the industries which they have taken twenty-five years to build up. But what would be the use of her protective institutions, if the ports of New South Wales and of a few of the other colonies where they now get admission, were closed against them; and what would be the use of protection to New South Wales to-morrow if she had to build up her industries at the expense of her own people? Victoria did not do that. Victoria built up her industries at the expense of her Australian neighbours. Take my own electorate, away up the river Darling. If I go up there what do I find? Do I find any New South Wales machinery there? Most certainly not; I find Victorian machinery. Well, under federation, we shall be able to compete with Victoria on equal terms. I do not care that Victoria has had twenty-five years start of us. With our resources, with our coal-fields, we shall be able to fight Victoria, not only in her own markets, but in the markets of Australia; and for that reason I maintain that we must federate to get those markets. There is no use in building up protection within a small colony like this. We want larger fields, and we want to live in brotherly love with our neighbours in Victoria, and elsewhere in Australia. We want no guarantees here. Although my hon. friend, Mr. Dibbs, says it is not, undoubtedly the policy of this country, as voiced at the polls, is free-trade. If it were not so, the President would not be in the position he occupies at the present time.

Mr. DIBBS: The hon. gentleman knows it was not!

Mr. ABBOTT: I know that there is a majority on the right of the Speaker in favour of free-trade. That is all I know.

Mr. DIBBS: You know that it was "more popery than fiscal!"

Mr. ABBOTT: I know the result of the elections gave the free-traders a majority. If it were not so they could not have carried on their policy. That being so, why should not the hon. member, Mr. McMillan, come here and say to Victoria, "You must give us a guarantee for five or ten years that free-trade will not be interfered with in New South Wales?" What is the use of asking for federation on those terms? To ask for mutual guarantees to allow interests to remain as they are, and yet to federate for the common interest! The idea is, to my mind, an absurdity. It is a fortunate thing for this country that we have had this Convention, meeting in the way in which it has met, whether the results are likely to be beneficial at the present time or not. It is a fortunate thing for Australia that so many public men meet on one common platform, and have the opportunity of mingling with one another, of discussing publicly the affairs of Australia, and privately, perhaps, local affairs. I think, Mr. President, when this Convention concludes, whether its results come to anything or not, we shall have laid down a history in connection with this great Australian movement, which I hope will come to a safe and sound conclusion. I hope that we shall find that your efforts, and those of the hon. member, Mr. Gillies, will not be ineffective, but that good results will come from our deliberations. I was very much surprised to find my hon. friend, Mr. Dibbs, point out that before anything could be done we must settle the fiscal policy. How can we settle the fiscal policy! How can each of the colonies agree upon a common tariff? It would be absolutely impossible for them to agree upon a common tariff at the present time if they all agreed to go for a policy of protection. But some of them will not do that. Therefore, I maintain that it is only by one Australian parliament that a common tariff can be formed; and I do not think it is wise to try to keep out or assume that we must keep out of this federation until we can agree upon a common tariff.

Mr. DIBBS: The hon. gentleman asks us to go in for a free-trade tariff!

Mr. ABBOTT: Not until we provide the other tariff. I do not think that has ever been proposed. It has been proposed that our tariffs shall remain as they are until the federal parliament shall pass a tariff for Australia. Excepting one speaker, I do not think any one has advocated any other proposal than that the tariffs shall remain as they are until the federal parliament shall pass a tariff for Australia. I do not see how it could be otherwise. As I said before, how could there be a common tariff, with the diversity of interests of each of the colonies! The federal tariff must be built up by the federal parliament, and the existing tariffs must be allowed to remain until that state of things comes about. The hon. member said that in speaking in that way, he was speaking the voice of New South Wales. Well, I hope for the sake of the party with which the hon. member is connected, that he is speaking for New South Wales. It will show a change of policy, at all events, from that which was voiced at the last general election, and that the colony of New South Wales is prepared for this change of tariff, which I am quite sure will be brought about by a federal parliament. I have heard a good deal of criticism with regard to the Federal Council. Many people thought New South Wales acted unwisely in not entering into that body, Victoria, again, is responsible for that.

HON. MEMBERS: No, no!

Mr. ABBOTT; I say, with a knowledge perhaps not possessed by most people in this country, that Victoria is responsible for New South Wales not being, at the present time, represented in the Federal Council. I remember well, for I was in the government at the time, and the hon. member, Mr. Dibbs, will bear me out, that just about that time the Melbourne Cup was run for, and members ran away to it, with the result that when the division took place the government were in a minority, and so the Federal Council had to do, from that day to this, without the colony of New South Wales. What has surprised me most of all are these dark hints about a republican form of government. They came from my hon. friend, Mr. Dibbs. I cannot for the life of me see what fault he, and gentlemen holding his views, have to find with the existing state of things.

Mr. DIBBS: I find no fault!

Mr. ABBOTT: Could they, under any form of republican government, have greater liberty than they have at the present time? Could they improve the existing state of things on behalf of the people of any one of these colonies if they had the most republican form of government in the world? Have these gentlemen any of those complaints to make which were made by the celebrated fifty-six men who signed the Declaration of Independence? As an historical fact it is interesting to refer to that,

and to see what the complaints of those people were, who were crying out for a change of government.

The history of the present king of Great Britain—

say these patriots in their Declaration of Independence—

is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over these states. To prove this, let facts be submitted to a candid world.

He has refused his assent to laws the most wholesome and necessary for the public good.

Has that ever been the case since we have had responsible government? Have we ever had such a complaint to make? I admit that the Government of England at times have hesitated to pass some measures; but when they have been brought into uniformity with the laws of the empire the hesitation has ceased, and the measures have been assented to. Take our own Divorce Bill, which has been referred to. It was passed by this legislature, and the assent of the Queen was refused on the recommendation of the home government; but immediately afterwards a divorce law which was passed by the colony of Victoria, and which was brought into conformity with the suggestions of the Secretary of State, who was advised by the Crown law officers of England, was assented to. And so it will be, and has ever been, with regard to measures sent home to England. Where they do not interfere with imperial rights or the laws of the empire, they have been assented to. Another objection:

He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operation till his assent should be obtained, and when so suspended he has utterly neglected to attend to them.

We have no such complaints as those. We do not find the governors of these colonies assuming the position of arbitrary monarchs. We find these men, whether they are chosen from the liberal ranks of England or from the conservative ranks, all conforming to the democratic rules of government which are found in these Australian colonies. Most certainly these gentlemen, when they come out here, seem to realise the fact that it is their duty to administer the laws in accordance with the feelings of the people over whom they have been placed. I might go on enumerating page after page of the reasons which caused the American states to separate from Great Britain; but I am not going to weary hon. members with details, and I only refer to the matter for the purpose of entering my most solemn protest against this notion of republicanism which is growing up, I am sorry to say, amongst a thoughtless class in this community. I did not expect my hon. friend, Mr. Dibbs, in any way to encourage that, and I am quite sure that he will not encourage it.

Mr. DIBBS: The hon. member is misrepresenting what I said; that is all!

Mr. ABBOTT: In what way? If the hon. member says that I am misrepresenting him, I am open to be corrected, and will not misrepresent him.

Mr. DIBBS: The hon. member is only creating a bogey for the purpose of knocking it down; that is what he is doing!

Mr. ABBOTT: The hon. member, I think, tried to create some bogeys for the purpose of knocking them down. The hon. member told us that he was going to throw some bomb-shells into this meeting.

Mr. MUNRO: Without any gunpowder!

Mr. ABBOTT: The hon. member did throw the bomb-shells; but he forgot to attach to them the fuse necessary to cause them to explode. With regard to the defences, it has been asserted that we desire to establish a standing army. You, Mr. President, are largely responsible for the resolutions, and anyone who could charge you with a desire to create a standing army in these Australian colonies must be absolutely blind to history, for I believe that you were one of those who, so far back as 1859, submitted resolutions to our own Legislative Assembly, which were absolutely opposed to any standing army being kept in New South Wales. Under the most republican government in the world, do they not keep a standing army in America, not only to quell their internal disturbances, but also to prevent any aggression from outside? That there is any danger of a standing army in a country like this, where the people are the masters of the rulers for the time being, I in no way fear. The people at the polls themselves will settle that matter, and although there may be a military spirit growing up amongst our younger men, I think that it is a volunteer spirit, and not a standing army spirit. The first resolution clearly points out that we are not to interfere with territorial rights; but what I want to be clear about in this colony of New South Wales is that this expression means that there is to be no interference with our Crown lands. I know, and every member of the Convention knows as well as I do, that it is not intended that the Crown lands of any one of the colonies shall be interfered with by the federal parliament; yet, this is a bogey that has been raised up outside to frighten the people of this colony into opposition to the proposed federation. In this country—at all events outside the city, the people are most concerned about the settlement of our Crown lands—the occupation and the acquisition of them—and nothing in this world, to my mind, could more prejudice the proposal for federation than to assert that our Crown lands are to be taken away from us and given to those colonies which have no Crown lands at all. I say it was never intended by any of those who initiated this Convention that such a state of things should be carried out, and, speaking on behalf of this colony, I say that it is a state of things that would not be tolerated for one moment. I hope there will be no misunderstanding outside. Our Crown lands are to be our own, and the Crown lands of the other colonies will, I take it, be their own. What surprised me—talking of Crown lands—was the utterance of the hon. member, Sir James Lee-Steere, that if the government of Western Australia hands her customs duties over to the federal government then she would not have anything with which to pay her debt or the interest on that debt. Now, Western Australia has the largest territory in the whole of the Australian colonies, and I presume that Western Australia is not going to allow that territory to remain as it is at the present time. I presume that Western Australia expects to lease or sell that land, and to construct her public works out of the proceeds of it. I am sure that the colonies on the eastern seaboard hope that that will be one of the results of the responsible government which has been so recently granted to Western Australia. What is the use of their lands, what is the use of their trying to carry out public works, if they cannot at the same time get a population to settle upon their lands? In this colony we have a public debt of about £46,000,000; we have railways which are valued at £45,000,000, or nearly £14,000,000 more than they cost. Now, people tell us, "You are going to hand these over to the colonies which have not got railways." I have not heard any colony make any such proposal. I hope that when the time comes the main trunk line will be a federal railway, and that the rest of our railways will be worked by the colonies themselves. I should like to see the colonies brought into intercourse with one another by one line of railway of one uniform gauge. Let it be a federal highway from one colony to another, and, if necessary, supported by the federal government. But that is a matter with which we shall have to deal hereafter. Now, the borrowing powers of Australia must under a federal government be wonderfully improved in the old country. We have had rather sad rebuffs lately; but that has been a warning against excessive borrowing, not to the particular colony which

was rebuffed, but to the whole of the Australian colonies. In this colony we are fortunate in the assets that we hold. We have besides our railways, and one of the best securities in the Australian colonies, namely, £13,000,000 due to us from the conditional purchasers. That is why I wish to impress on the conditional purchasers—who are the mainstay, and are every day becoming more and more the mainstay, of this country—that they are not to be interfered with by any federal government, but will be able to work out their own course in this country. These men would be alarmed if they thought their holdings were to be regulated by laws passed by people in Victoria or South Australia, who knew nothing of the conditions of land in this country—they would be alarmed to think that such a state of things would exist; but I think that they will be perfectly satisfied when they find that they are to control the administration of their own lands. There are many matters which have been dealt with to which I will not now refer at this late stage. When we get into Committee, I hope that each of us will be able to do our duty to our country, and in doing that duty will also serve the interests of the colonies which we represent, and will be able at the same time to build up a strong federal government which will command the respect of the world, and be a credit to those who have initiated the movement. My present impression is in favour of the state rights. Of giving to the states equal representation and equal power with regard to money bills; and whatever we do with regard to money bills we shall have to make the matter so clear that there can be no misunderstanding hereafter. Whether we determine that they shall not have the power or that they shall have the power, it ought to be determined in such clear language that there can be no mistake and no confusion. I can well understand these Victorian gentlemen, who have had to fight their Legislative Council, being alarmed at the notion of a second chamber having any powers in these matters; but I hope that we shall be able to build up in this country a government which, as I said before, will be a lasting blessing to the people, and will realise the words of Wentworth—who looks down upon us this evening from the picture above—when it was supposed that a great inland river was discovered in this colony in 1817. Mr. Oxley, the Surveyor-General, reported to Governor Macquarie that a great inland river had been found in the colony, and Wentworth, writing on that occasion and anticipating the results from the discovery of such a great inland river, said:

> What a cheering prospect for the philanthropist to behold what is now one vast and mournful wilderness, becoming the smiling seat of industry and the social arts; to see its hills and dales covered with bleating flocks, lowing herds, and waving corn; to hear the joyful notes of the shepherd, and the enlivening cries of the husbandman, instead of the appalling yell of the savage, and the plaintive howl of the warrigal; and to witness a country, which nature seems to have designed as her masterpiece, at length fulfilling the gracious intentions of its all-bounteous author, by administering to the happiness of millions. What a proud sight for the Briton to view his country pouring forth her teeming millions to people new hives; to see her forming in the most remote parts of the earth new establishments which may, hereafter, rival her old; and to behold thousands who perish from want, within her immediate limits, procuring an easy and comfortable subsistence in those which are more remote, and instead of weakening her power and diminishing her resources, effectually contributing to the augmentation of both, and forming monuments which may descend to the latest posterity, indestructible records of her greatness and glory.

I am quite sure that every member of the Convention will agree with me when I express the hope that the result of our work will be to realise the hopes of that great patriot, William Charles Wentworth.

Mr. SUTTOR: An old proverb says that homely youths have homely wits. I look on myself as a homely youth, and it is my misfortune never in my life to have passed the boundaries of New South Wales, except occasionally to visit Victoria. I have had great pleasure in making those visits, and not only pleasure, but also a good deal of profit. I have always found the Victorians very able dealers, and willing to meet New South Wales people in a cordial spirit as long as they could make anything out of them. During the time this debate has been going on much diversity of opinion has been apparent. Between the hon. member, Mr. Barton, on the one hand, and the hon. member Mr. Deakin, on the other, I sometimes think it almost impossible to arrive at any satisfactory conclusion. One of those gentlemen seems to be at the north and the other at the south pole of our discussion. As far as the debate has gone, it has been an education to myself, and I hope the end of it will be, supposing it results in anything—and I trust that something great will result from it—but putting the worst construction on it, this gathering will, at all events, have bound the whole of the colonies together in a bond of unity as far as our statesmen are concerned. Through having been brought together to discuss this great question now we shall understand each other better in the future. We shall feel it our duty to go hand in hand and shoulder to shoulder into the great future that awaits this country; but in doing that we must not have Mr. Dibbs going around with his bomb-shells, as I am afraid they may have an effect contrary to that which we hope will result from federation. I should like to have dealt with the question of the guarantees which the Victorian delegates asked for; but that has been well done by Mr. Abbott, who wondered why people who have had twenty-five years of protection, having had duties on foreign products of 10 per cent., 20 per cent., then 25 per cent., and *ad valorem* duties as high as 30 per cent., should require any guarantees. It appears to me, when we consider what has been done in Victoria, that those gentlemen who ask for guarantees for this kind of thing to be continued longer, must have begun to feel the evil of their ways, and are inclined to cry "*peccavi*."

Mr. DIBBS: Don't forget that New South Wales has duties equal to 90 per cent. *ad valorem* in the form of specific duties!

Mr. SUTTOR: At all events we, freetraders of New South Wales, do not ask for any guarantee. We are content to leave matters to the good sense and justice of the whole Australasian colonies whose representatives are met together in this Convention. I must confess that my hon. friend, Sir Thomas McIlwraith, rather alarmed me, and I venture to hope that his prognostications will not be fulfilled. He says:

> We must proceed on the supposition that there will be free-trade among the colonies, and protection against the world. I believe the opinion of the colonies in general is that this would be a good national Australasian policy, and one in which I thoroughly believe.

I hope not. I have nothing to say in reference to the first one or two of the resolutions before us, because I believe that the Convention will deal with them in Committee in a spirit that will be just and right to the various colonies. I should like to say a few words with regard to the 1st and 2nd paragraphs in the latter part of the resolutions. There is to be

> a parliament, to consist of a senate and a house of representatives, the former consisting of an equal number of members from each province, to be elected ——

In this colony we have a legislative council which is a nominee body, and I believe, sir, that you can claim to have nominated the greater number of the gentlemen now constituting that body, and no one can say that you have ever misused your power in making nominations. In 1886, when Mr. Heydon moved a resolution in the Assembly asking that a sum of money should be placed on the estimates for the payment of members, you, Mr. President, made a speech in which,

as it appeared to me, you very properly laid down what is the constitution of our Legislative Council. In regard to that question you said:

> We are not the parliament of the country. This thing cannot be done without the consent of another and co-ordinate branch of the legislature. . . . I do not admit any such ground of distinction as that between the two houses. For so long as we have two houses of parliament, and so long as they form a part of the legislature of the country, it matters not how they are constituted—they ought to be treated alike; and if the members of the Assembly are entitled to payment, the members of the Council are equally entitled to payment. I have cause to fear that the reason why this motion was introduced in this form is that the sum necessary for the object shall be placed upon the estimates and voted in the ordinary way and embodied in the Appropriation Bill so as to give the Council no choice but to pass the Appropriation Act or to throw it out. Now, I will not consent to any such attempt as that to coerce the members of the Council. I will not consent to any such attempt as that to get behind the spirit of the law of the Constitution. If we are to change the Constitution, if we are to pay members of parliament, I say it must be embodied in a bill—but it is not so in this case—introduced in the regular way; it must go to the other House, be adopted there, and that House must have the fullest opportunity of considering, amending, or defeating the measure. And there is no other means by which it can be fairly and properly done.

What I deduce from that is, that if it is thought that such very large powers as these shall be exercised by a nominee council in a colony like this, the upper house of a federal parliament ought to have similar powers vested in it. When we get into Committee I shall be glad to listen to arguments in a different direction. There is one matter which I ought to mention, and that is, that the speech to which I have referred was delivered on the 1st April. Whether that had anything to do with the tenor of the speech I cannot say. It has been hinted that lay members ought not to discuss the question of the judiciary. If I understand that speech of yours, sir, and the policy it lays down, these colonies will be under a governor-general. I suppose the governor-general would, to a very large extent, have the power of the Sovereign, and he might be authorised to act as he is advised in regard to the decisions of the court of appeal. The only diffidence I feel in the matter is as to whether there is sufficient good material in the colonies to establish a court of that kind. In the old country where a court of that sort is established it is composed of men of great legal attainment, retired judges, all the chief justices, and other high legal luminaries. I think we ought to pause before we make up our minds to prevent any Australian from appealing to that which has always been held to be the highest court in the empire. The 3rd resolution of the second series has reference to the executive. I am not quite sure that it is necessary to insist on the retention of the words "such persons sitting in Parliament." The practice, as I understand the theory of the Constitution of England, is that the Sovereign may summon to his councils any subject whatever. Our constitutional practice, of course, is very much against that ideal, for of late years it has been considered absolutely necessary that gentlemen who have been elected to a place in Parliament shall be the only ones who ought to form a government. If we make it imperative that the members of the federal executive shall sit in Parliament, I think one thing will have to be done, and that is, to abolish the practice of compelling the members of a government who have accepted offices of profit under the Crown to go back to their constituences for re-election. It seems to me that it would be inconsistent with the provision that they must sit in Parliament to send them back to their constituents to be re-elected. I have no more to say, except to express a sincere hope that the efforts of the Convention may be for the great good of Australia, and that we shall be able before we part to formulate a system which shall be acceptable to the whole of the Australian colonies.

Mr. DONALDSON: I fully recognise that it is very difficult at this late stage of the debate for any delegate to speak without using, to some extent, the same language as previous speakers have used. The path that we have to tread upon is so limited and so narrow, as far as the resolutions are concerned, that it is really a difficult matter for late speakers in the debate to avoid taking advantage, as it were, of the speeches of previous speakers. I believe there is a general desire to close the debate this evening; and on that account I shall speak as briefly as possible in the hope that I may not preclude others from speaking. I understand that although the various parliaments have affirmed the principle of the federation of Australia, their delegates have full powers, or rather they should direct all their thoughts to criticising the proposals that may be submitted to us from time to time. It is not at all likely that we have come from our respective colonies with ideas and resolutions cut and dried. We have assembled here, I believe, with the intention of receiving information from each other, and of trying to draw up a constitution on such grounds as will prove acceptable not only to this convention but to all the colonies. When we look around and see the various resources of the different colonies, and their various interests, it is a most difficult task to frame such resolutions as will meet with the approval of all, and not interfere with any of their interests. Were I to confine myself to the resolutions on the business-paper, I fear that there would not be a great deal more for me to say. But the hon. member, Mr. Abbott, who spoke only a short time ago, has certainly introduced new matter into the debate, and, therefore, I think I shall be only acting fairly in making some reference to the new subjects which he discussed. One refers to the lands of the colonies and the other to the railways. On the subject of the lands I am thoroughly in accord with the hon. member, because I believe it would be an impossibility for the federal parliment to draw up such laws as would be suitable to all parts of Australia. The different parliaments, of course, must have the control of the public lands, because a local parliament, understanding the resources of the colony, the requirements of the people, the soil and its conditions, will be far more able to draw up fair and equitable laws such as will have the effect of settling people on the land than could possibly be done by the federal parliament. It is no doubt also one of the state rights which will occupy a most prominent part perhaps in future discussions. It is also a state right which the people of the respective colonies will take great care to preserve in future, and prevent from being infringed either by the federal parliament, or by any of its neighbours. The question of the railways is, I believe, a debatable question. I have not yet arrived at the conclusion that it is the wisest course for each colony to retain its own railways. Of course I have not very definitely made up my mind on this point, nor do I wish in any way to take a very strong view of the situation. At the same time, it has been clear to me for a long while that a system of competition has existed to secure trade that does not legitimately belong to a colony, and that differential rates have been imposed on the railways to secure trade for particular ports. This, I contend, has been a wrong course to pursue entirely. It has been attended with this result: that while the taxpayers of a colony have had to meet the losses on those particular railways, the benefits have been almost entirely for the few persons interested at the ports or the people sending from the other end. This system should, I think, be remedied. Under the federal system we should have a uniform rate, and the goods from the various parts of the colonies would go to and fro, as intended, geographically. That, I maintain, is the proper course to pursue. Why should people residing over the border of another colony have differential rates made in their

favour in order that the trade shall be brought to a port that does not belong to that colony? A rebate of as much as 25 per cent. has been allowed in many instances to my knowledge, and greater rates have been allowed in other places than those immediately in my mind at the present moment. This system has, I know, caused a great deal of the jealousy and ill-feeling which exists between some colonies, because it has raised the feeling that trade which properly belongs to certain ports has been filched from them by levying very low or, what may be called, differential rates on the railways. I know it has caused much heart-burning in the colonies where it is done, because the people generally do not feel that they are being fairly treated when their goods, for only half the distance, are charged a great deal more than the goods of persons living double the distance away. This question, as I said before, is very debatable, and will, I dare say, at a later stage, when the whole of the resolutions have been dealt with, receive very full consideration indeed. I know that there are very great difficulties to be met in dealing with the question, and I merely touch upon it now for the purpose of directing attention to it. I hope, at all events, that the evil will be remedied, because we do not want to see one colony running against another and endeavouring to secure trade that does not legitimately belong to it, and utilising its railways for that purpose. There may be certain objections to the whole of the railways being handed over to the federal government. It is a system of which we have had no experience up to the present time. It cannot obtain in America, because there no railways belong to the state; the whole of the railways in that country belong to private companies. Even there, however, it has been found necessary within the last few years to pass an inter-state railways act, preventing the various companies from charging differential rates which might operate to the injury of particular states through which the railways run. I will say no more just now upon that point. Another question, which is said to have been the lion in the path—although I do not concur in that view—relate to the form of government. We have heard many able speeches in this Convention, and none, I think, have been more able than that delivered by Mr. Gillies yesterday, with regard to the limitation of the powers of the senate. When the hon. member, Mr. Gillies, was speaking, my mind was carried back to the events of many years ago, when the hon. member had an experience in another country—I will not call it a state—which, I believe, has led him to form the views he now holds—and perhaps those of some of his colleagues in the Convention—as to the unwisdom, if I may so call it—of giving to the senate the powers contended for by Sir Samuel Griffith, with whom, I may say at once, that I heartily concur. Nearly all the other speakers—except those from Victoria—I refer now to members of its Legislative Assembly—have been in favour of a senate with almost unlimited powers. I have always held the opinion, Mr. President, that where, as in the case of America, the two houses have co-ordinate powers in other respects, it is a perfect farce to restrict the power of the senate in dealing with money bills. If both houses are elected by the people, although one may be elected indirectly and the other directly, why should we prohibit the senate from dealing in detail with measures which, all must admit, are of the greatest importance to any country? If you take away from the senate the power of dealing with the finances, you practically emasculate it. I do not wish to see a senate having powers such as are claimed for some upper houses—merely those of a recording or advising chamber. I would give them greater powers than that, more particularly in the case of a federal government, in which all the colonies are not equally represented in the lower house. Take the position of two of these colonies returning two-thirds of the total number of members to the house of representatives. Is it to be expected for a moment that the weaker colonies would come under a constitution containing such a provision? They would prefer to remain in their present position, knowing exactly what their powers were, instead of trusting them to people who might exercise them to their detriment. If you give to the senate the powers for which some hon. members have most ably contended, then none of the colonies would have the fear which would otherwise exist in their minds.

Mr. MUNRO: The two colonies would have to bear two-thirds of the taxation!

Mr. DONALDSON: That depends upon what the taxation would be. I am not now considering the question of the taxation which might be imposed. I could name some classes of taxation which would operate in the other direction. But the senate would be quite able to see if any injustice were being done to any particular class or colony for which they were legislating. Is it to be supposed for a moment that all the weaker colonies with the larger colonies coming between them, would always work in harmony to the detriment of the larger ones? I do not believe for a moment that any hon. member holding opinions contrary to my own would for a moment entertain the idea of having the larger colonies more strongly represented and permitting of a possible abuse of power. With regard to responsible government, it has been said more than once, and by very able men, that it is now on its trial. It has not succeeded to the extent that many of its framers expected. I can give no better instance than that afforded by some of the governments in these colonies. How uncertain they are; how unsafe in their position. Do we not see them changing time after time? The parliament of one of these colonies, I believe, changed its ministry three times in three years—perhaps more frequently than that.

Mr. GILLIES: Why did the hon. member compliment Western Australia upon its anxiety to obtain responsible government?

Mr. DONALDSON: Because I considered that form of government was a great deal better than that then existing in the colony. I should like to go a step further, and to place that colony in a still more favoured position, if another form which commended itself to me could be suggested. The hon. member, Mr. Gillies, yesterday said there must be reason on both sides, and that but for the existence of that reason there could be no legislation at all. Immediately after the hon. member made that statement his arguments tended quite in the other direction. The hon. member claimed that this reason might exist on the part of the house of representatives; but he was dead against its existence in the senate. I followed the hon. member's arguments very closely, and I consider that upon this point he was, at all events, inconsistent. I should like to make further reference to some portions of the speech he delivered yesterday—a speech which I admit was a very able one, although it contained a great deal of matter with which I do not agree. Indeed, I doubt whether the hon. member agreed with it himself. I believe I should be the last man in this chamber to say anything offensive to a fellow-member, and as the words I have just used appear somewhat strong, I beg to withdraw them. The views the hon. member expressed yesterday were, at all events, inconsistent with a great many of the views to which he has given expression during his public career. I know a great deal of his opinions, and no one could have been more consistent than the hon. member has been. In fact his consistency has led him to change his constituency more than once. But he has ably and firmly held to his opinions, and they have not been altogether in accord with the opinions to which he gave utterance yesterday.

Another representative of Victoria asked for guarantees as to the tariff. He desired that some guarantee should be given that the federal parliament should not be able to deal with any alterations of the tariff for a given number of years, and, further, that if any reductions were made in the duties they should be gradual. I was rather surprised to hear a request of that nature coming from Victoria. If any such claim had been made at all, I think it should have come from South Australia or Queensland.

Mr. MUNRO: It is coming from Queensland yet!

Mr. DONALDSON: No, I think not; although I have objections to the tariff, which I may presently point out. The hon. member, Mr. McMillan stated this morning that the total customs duties collected in the Australian colonies amounted to something over £8,000,000 per annum. We must take into consideration also the large amount—we have no reliable information as to what it really is, but it is probably £500,000 — which is collected upon goods passing overland from one colony to the other. If this were taken away we should have to increase the duties on goods imported from other countries to make up the usual amount of revenue from that source. What further guarantee can Mr. Deakin require? We cannot do with less customs duties than the amount stated by the hon. member, Mr. McMillan, this morning, and we believe that they will probably have to be increased, particularly if the statement of Mr. McMillan be correct, that we shall require to spend something over £2,000,000 upon the management of the federal government. I am sorry that the hon. gentleman did not give full information as to the way in which he arrived at the conclusion that such an amount would be required. However, I will assume that his statement is correct, and that the federal expenditure will amount to £2,000,000. Therefore, a considerable amount will have to be made up by each of the colonies, because none of them at the present time have a surplus. It is evident that the extra amount required will have to be made up from extra customs duties.

Sir SAMUEL GRIFFITH: Some expenses will be saved to the different colonies!

Mr. DONALDSON: No doubt that will be the case, but it will not amount to much.

Mr. MCMILLAN: There will be the interest of the debt incurred for defence!

Mr. DONALDSON: If time permitted, I would go into the question of the interest on the public debt; but assuming that the hon. member, Mr. McMillan, was right, it is clear that a very large extra sum will have to be made up by means of taxation through the customs. When that is added to the amount already received from customs, that will mean a very large measure of protection to the whole of Australia. The hon. member, Mr. Deakin, said later on, that the people of Victoria were not afraid, that they were quite willing to enter into any competition. Competition with whom? Competition with other colonies which have not had time to establish their industries. For twenty-five years manufactures have been established in Victoria, and they now produce to such an extent that they wish to have the other ports of Australia thrown open to them. By that means they would have a very large field for their manufactures, and they certainly would have almost a monopoly over some portions of Australia, where local manufacturers could not compete against them. We know that large manufacturing establishments are able to produce at a much lower price than are small manufacturers. For that reason, what hope would there be for the manufacturers of Queensland in competing against those of Victoria? Not the slightest. In fact, Victoria or New South Wales, as the case may be, with their great populations and great demand for manufactured goods, would be able to maintain the industries already established, and to extend them, certainly to the detriment of the other colonies. Whilst I am as anxious as any man can possibly be to have the Australian colonies federated, it must be done on such a basis that at all events justice will be done to all. If Queensland or South Australia lose through this system, they must have some *quid pro quo*. What that is to be is not for me to say at present, but it will have to be determined during the sittings of this Convention. We shall have to consider what concessions can be given to compensate for the losses which will be incurred. I do not speak for the manufacturers of Queensland alone. I am sure that the merchants will also be subjected to very great competition if we establish intercolonial free-trade. The farmers will be subjected to the greatest amount of competition. The coal-miners of Queensland will also suffer severely. These people have not to fear the competition of other parts of the world. The competition they have to fear is purely intercolonial. I can quite understand that when the question of a federal constitution is submitted to people whose interests are affected in this way, they will look cautiously at the matter and say, "What are we going to receive," just as the man in the play says, "Where do I come in?" Then, again, with regard to the collection of these duties. We will assume that the amount received at present is £8,000,000. £2,000,000 would have to be deducted for the federal government, and the balance of £6,000,000 would have to be distributed amongst the various colonies. Of course the collections are not made per head of population. They are made upon the consumption of the goods coming to various ports. But when it comes to the distribution of the money, how can that be done? In my humble opinion there is no practicable way out of the difficulty except to distribute the money per head of population.

Mr. MUNRO: Hear, hear!

Mr. DONALDSON: Now, even with the high duties paid in Victoria at the present time, Victoria does not contribute taxation within £1 per head of the amount of taxation paid in Queensland.

Mr. MUNRO: We pay more than £3 per head!

Mr. DONALDSON: The amount contributed by Queensland is nearly £4 10s. per head. The exact figures are as follows:—Victoria, £3 7s. 11d. per head; Queensland, £4 7s. 4d. per head; while Western Australia pays £4 10s. 6d. per head. New South Wales pays the lowest amount per head, that is £2 8s. 6d.; but she derives a very large amount of revenue from land sales.

Mr. MUNRO: According to these figures Queensland has more protection than Victoria!

Mr. DONALDSON: Victoria has extensive manufactures of her own which supply the local market, and consequently there is not so much revenue derived through the customs as in the other colonies where so much manufacturing is not carried on.

Mr. FYSH: Raw material also comes in free in Victoria!

Mr. DONALDSON: Certainly that is the case, and consequently a large amount of revenue is not derived from the customs.

Mr. MUNRO: But all that would be altered by the federal tariff!

Mr. DONALDSON: We shall have to alter a great deal. I may say that the figures which I have quoted represent the revenue derived from taxation, and not from customs duties only. If I could give the figures separately, it would put Victoria in a still more unfavourable position in the argument, because there is a large amount of direct taxation received there which does not appear separately in the return from which I am quoting. Then there is also the amount derived from the land-tax.

Mr. MUNRO: That only amounts to £130,000!

Mr. DONALDSON: The taxation per head received in South Australia amounts to £2 4s. 3d.; in Tasmania, £2 16s. 10d.; in New Zealand, £3 8s. I venture to say that Queensland and Western Australia contribute a great deal more per head to customs revenue than any other colony, because they have a larger number of men in those colonies in proportion to women and children than in the older colonies; and when the distribution takes place under the federal government it will have to be based upon the total population of the colonies. Now, under such a system as that, Victoria would only contribute to the general fund £2 per head, and it would receive, when the funds were distributed, £3 per head, whereas Queensland, which would contribute £4 10s. per head, would only receive back £3 per head. I only give these as supposititious figures; but still I am sure that the principle of distribution would not act fairly. I agree with the hon. member, Mr. Wrixon, that committees should be appointed by the Convention to go into these various questions, so that we might be able to obtain exact information. I did hope that some such information would be placed before the Convention. While Mr. Coghlan has placed before us a very able report, it is only brought up to 1889. I should have liked to see the figures brought up to the 30th June last, and that information could certainly have been obtained in some of the colonies. In collecting the customs duties, and in distributing the unexpended portion, there would be no control on the part of the local parliaments. It is an unknown amount that would be given back to them, and then all the colonies will have to impose additional taxation in order to enable them to restore their balances. Of course I do not raise this question for the purpose of placing an insuperable barrier in the way of federation. I merely bring it forward for the purpose of discussion, so that difficulties which are always met with in a matter of this kind may be removed. I am sure that reasonable men will be able to get round such difficulties as these, and to get round them with moderation. I find that I have gone far beyond the limits I expected when I rose to speak; but I can assure the Convention that I yield to no man in a desire as an Australian to see these colonies brought into one great harmonious whole, to see created an Australian national spirit. I am sure we can accomplish this. We only want to pull together, and try to forget any little selfish interests that may lie behind our views; and if we do this I am confident we shall be able to accomplish that which I am sure we all desire—the federation of Australia.

The PRESIDENT: I understand that no other delegate intends to address the Convention. If any gentleman has such an intention it will be convenient in furthering the good order of business to make that intimation at once. If it is not made I shall conclude that there is no such intention. In that case I would suggest this course of procedure from this point. I purpose myself treating these resolutions, as nearly as I can, in the same manner as I should treat the second reading of a bill; and I think I shall conform to the spirit of parliamentary usage by taking that course. I therefore, having submitted them, will reply, assuming that that privilege is granted to me, and then move that the Convention resolve itself into Committee to consider the resolutions in detail. I think that will fulfil my intimations when I submitted them, and I think it will be found the most convenient course, and the one in spirit most in accordance with parliamentary usage. Understanding that that course is assented to, I would now ask some hon. member who does not intend to speak to move the adjournment of the debate, in order to give way to my reply in the morning; I can hardly suppose that that hon. gentlemen would expect me to reply now. If the adjournment of the debate is carried, I shall, to-morrow morning, ask the Vice-President, Sir Samuel Griffith to take the chair, and from my place on the floor I shall offer such remarks as I deem necessary.

Motion (by Mr. MACDONALD-PATERSON) agreed to:

That the debate be now adjourned until to-morrow.

Convention adjourned at 4·56 p.m.

FRIDAY, 13 MARCH, 1891.

Chairman of Committees—Address—Federal Constitution (eighth day's debate).

The VICE-PRESIDENT took the chair at 11 a.m.

CHAIRMAN OF COMMITTEES.

Mr. MUNRO: In order to facilitate business, I desire the consent of the Convention to move, without notice:

That Joseph Palmer Abbott, Esquire, M.P., be appointed Chairman of Committees.

Motion, with concurrence, put and agreed to.

ADDRESS.

The VICE-PRESIDENT: The President has received a telegram from the United Benefit Friendly Societies Council, Broken Hill, which the secretary will read.

Telegram read by the secretary, as follows:—

Broken Hill.

To the President of the Federal Convention.

Accept congratulations of United Benefit Friendly Societies Council on federation movement.

JNO. PEDLER, President.

FEDERAL CONSTITUTION.

EIGHTH DAY'S DEBATE.

Debate resumed on resolutions proposed by Sir Henry Parkes (*vide* page 11).

Sir HENRY PARKES, in reply: In my first words, if I may venture without offending the sense of self-respect, I would offer my most unqualified congratulations to the distinguished men, some of whom have come from so great a distance to attend this Convention. I think I may fairly congratulate hon. gentlemen on the close adherence to purpose, the lucid statement, the absence of all collateral issues, and the sense of public duty which have characterised the speeches in this debate up to the present time. If there is any exception to that high rule of debate I know that what I have to say this morning will have nothing to do with it. I shall brush it away as I would a cobweb or any other offensive substance which obscured the light. We are not assembled here to bandy words about the site of the federal city; we are not here to prescribe a federal tariff; and we might just as well speak of determining the organisation of the federal army or of fixing its headquarters. We are here for one single object, which has been defined at every stage throughout our proceedings, and that object is to lend our assistance one to another, as best we may, to frame a scheme for the constitution of a federal government. I think that is the only object to which we can properly give our attention, and it gratifies me beyond measure that there has been such a consistent adherence to the consideration of it. I think the seven delegates from the youngest colony deserve our special attention. They have travelled a journey which would have deterred most persons from entering upon it even a score of years ago, and

they came here at the earliest opportunity to assist us. I also think that the prime minister of that young colony, the Hon. John Forrest, deserves our special congratulations on the frank, manly speech he made to us, and the broad spirit of sympathy with our object which inspired that speech; and, I think, if I might go on without making some invidious distinction, that there are several other hon. gentlemen who specially have contributed valuable assistance to us in the debate which has taken place, a debate, I venture to say, which in its lofty character and its fruitful contribution to the end we have in view, must be gratifying as well as satisfying to every mind amongst us. Now, I am not going to travel far in a direction such as that I have ventured upon; but I will endeavour to deal with the object we have in view, in the light of the very instructive debate which we have so far had upon the subject. I was very sorry to hear one or two of the Western Australian delegates express a kind of reserved intention that their colony might not enter into this federation. I think something might be said for the sacrifices that must be made by the larger colonies as well as by the smaller; and I think it is right, after what has been advanced on the part of others, that I should endeavour, in the fewest possible words, to state my view of the position which the colony of New South Wales occupies in this Convention, and in the prospect of the work which we are anxious to join in consummating. If by any chance, and I do not disguise from myself that there is that chance, the disaster should fall upon us of coming to no agreement, I, for one, feel that New South Wales can afford to stand alone as well as any colony of the group. Our position is this: At the close of last year we had a population of 1,170,000 souls, and, what is of much more importance, the elements of that population were of that character that our progressive increase is assured against that of any of the other colonies. For example, the percentage of our increase during the last twenty years was 30·15, as against the next highest, that of Victoria, 22·61. We then have a population which has proved itself full of resource, and which has the element of increase in a higher degree than that of any population of any other colony of this group. Last year we had a revenue of £9,063,397. In point of private wealth, probably the most subtle and the most convincing test of all of a nation's happiness, we stood ahead of all the colonies, and ahead of the civilised world. What I mean, so that there shall be no mistake, is that if the private wealth, which is considerably over £400,000,000, were distributed over every unit of the population, it would give us, if every person, including the person who has not £5 or 5s., had an equal distribution of this wealth, a higher degree of private wealth than that possessed by any other Australian colony, and a much higher degree of private wealth for the units of the population than that possessed by any nation in the wide world. Our private wealth would give to each inhabitant the sum of £366. Now, the next colony—that of Victoria—does not nearly approach that sum. If we go to the great nations of the world—and I will take three of them—the private wealth of the United Kingdom only gives £249 per inhabitant; the private wealth of France only gives £218 for every inhabitant; the private wealth of the United States only gives £240 for every inhabitant. Then we have still unalienated, and not even in the process of alienation, land amounting to 152,282,034 acres, and with that boundless wealth, which I state is the result of our civilised society, we have our vast mineral wealth, combining illimitable coal-mines, and illimitable mines of iron, and we have our other great resources, which I have not time to dwell upon, and, to crown all, we have only the responsibility of 700 miles of coast out of 8,500 miles. So that, if we do not come to any agreement, and we have each to pursue the path of separate nationhood, we have no fear of holding our own. I think it is quite right that I should state this much as to the position of New South Wales, because circumstances may arise which will render it impossible for New South Wales to enter into this federation. I, for one, as I have testified, am full of zeal for this federation; but I must remember that that there are sacrifices which, if they cannot be made by a small population, certainly cannot be made by a large population. We cannot consent to be tied or linked inseparably to any body of states which manifest a selfish desire not to deal in an equitable and just spirit with the whole federation. Having said this much, and said it, I hope, in no mincing terms, I trust I shall not be misunderstood as lacking in any degree in zeal to bring about this federation; but, for it to be entered upon—and it cannot be entered upon except with the free consent of the free people of these colonies—for it to be entered upon with any prospect of success, the people of the large colonies as well as the small must be secured in their unalienable rights. Now, I am tempted, at the risk of possibly being accused of performing an unnecessary task, to ask what really is government? Government, I apprehend, on any just, honest, not to say any philosophical basis, is a contrivance which is found necessary in a community of men to protect their rights, and property, and their liberty, to enforce their laws, and to suppress crime; and whatever form this government assumes, the true principle is to call upon the people for whom this government is necessary, in the form of taxation, for just such sacrifices as may be necessary to support it. I am one of those who hold it to be a fundamental wrong to impose burdens upon a free people for any purpose whatever than the purpose of sustaining necessary institutions under a settled government; and in that case the taxes should be raised in the manner most consistent with liberty, the manner which will least interfere with the free actions of the citizens, and the manner which will be least oppressive as a pecuniary burden. Now, in these colonies we have, to all intents and purposes, the institutions of government as perfect as in any part of the world. I do not admit that the government of England is more perfect than ours, or that it works more to the advantage of the people. I certainly do not admit that the government of the American states is more perfect than ours, or that it works more to the advantage of the people, of that great commonwealth; and, certainly, I cannot admit that the government of any European state is more perfect than ours. If, then, we wanted merely government, we have it in a form corresponding with that with which we have grown up from the cradle, which we have learned to venerate, and which has worked efficiently and well for the good of every section of our population. Why, then, it may be asked by some, but not by many, I should think, do we seek to create another government? I shall endeavour in a few words to answer the question I put. We seek to create another government, because we have arrived at a time when we have found by many telling circumstances that these separate governments, however efficient and satisfactory they may be in working out the internal affairs of the respective colonies, are not adequate for the larger duties which now devolve upon us as an Australian people. I will endeavour to point out how it is that these governments cannot work out the destiny of Australia from the point at which she has arrived by her own enterprise, her own foresight, her own industry, and her own never-failing energies. There are a number of things which no one of the separate governments can by any possibility do, and those things are amongst the highest objects of government. The separate governments cannot by any possibility efficiently conduct the defence of these Australian colonies. It is no use for me to attempt to argue this subject, because I apprehend

that gentlemen around me will readily admit it. The ground has been gone over frequently. It has been gone over by men possessing an intimate knowledge of the subject, and a very forcible and lucid power in explaining that knowledge; but I may be pardoned the assertion that it is simply impossible for the defence of these colonies to be conducted in the future on any other than a federal basis. This brings me to the question of whether forces for the military defence of this country are necessary. Those who have watched my course in public life must know, everybody must know, that I am one of those who think that no single unit of the human family should be employed as a soldier unless it is necessary so to employ him, especially in a new country, where nature has to be subjugated, where the path of industry lies open on every hand, inviting every able-bodied man; the worst use we can make of a man is to employ him as a soldier; and anybody who supposes that I have held any other doctrine at any period of my life must be woefully mistaken. At the time of the Crimean war I was amongst the very first men in all Australia who hailed the volunteer movement, I was amongst the very first who expressed accord with it. It is more than thirty years—I think fully thirty-four years—since I carried in the legislature of this country a series of resolutions in favour of the country being defended by her own sons, and now I hold those views as I did in my youth. But I have learnt that it is a delusion and a dream to suppose that because this queen land of Australia lies surrounded by peaceful seas we are not likely to suffer aggression. I do not need history to teach me, a fair knowledge of human nature teaches me, that at a time of war there will be plenty of wolves to find out that some lamb or other has muddled the stream—plenty of persons to pick a quarrel with the most inoffensive of states. Beyond all that, I do not think that we are ever likely to suffer from any of the forms of warfare such as have been known to our forefathers. But I think it is more than likely, more than probable, that forms of aggression will appear in these seas which are entirely new to the world, and I have not forgotten that it was a saying of one of the profoundest thinkers on human affairs that probably ever lived—the first Napoleon—that if the Chinese nation ever learnt European arts, the art of ship-building and the art of navigation—they would be strong enough to conquer the world. I am not one of those who are frightened or in any way induced to forsake the path to which my judgment directs me by being told that this is a visionary dream. I firmly believe that that marvellous nation is awakening to all the realities of modern civilisation. We have evidence abundant on all hands that the Chinese nation and other Asiatic nations—especially the Chinese—are awakening to all the powers which their immense population gives them in the art of war, in the art of acquisition, and all the other arts known to European civilisation, and it seems to me—and, non-professional man as I am, I venture to throw it out—that if we suffer in this direction at any time, it will not be by the bombardment of one of our rich cities—it will not be by an attack upon our sea-borne commerce—it will not be by any attempt to lay us under a ransom to protect our property and our lives, but it will be by stealthily, so far as movements of this kind can be made stealthily effecting a lodgment in some thinly-peopled portion of the country, where it would take immense loss of life and immense loss of wealth to dislodge the invader. I think that the new form of warfare from which we may suffer is almost certain to take that form, and I venture to say that the progress of events during the next few years will convince many that I am not suggesting this form without good reason for believing in its valid probability. I therefore think that in this question of defence alone it will be well for the smaller colonies to consider how much they have at stake. With our great wealth, with our great population, with more of the elements of a nation than any other colony, except our sister Victoria, we have only 700 miles of coast to defend; but that is not the case with the larger colonies; and that they are liable to have to secure their defence, I think, must be self-evident to any one who will calmly think on the subject. In connection with this question of defence I may as well hint at what most of the delegates must know, that amongst the powerful parties in the mother country—and the feeling in this particular respect, is spreading from that party to others—there is a very strong conviction that the money of the heavily taxed citizens of the United Kingdom ought not to be expended in the defence of Australian citizens who are so much better able to defend themselves. That forms an article of the political faith of one section of the political life of England, that no portion of the revenue contributed by the poor struggling people of England should be expended in supporting the defence of these distant colonies. How far that feeling may come into play in future it is not for me, nor is it for any one else here, to foresee; but it is not likely to disappear from the region of English politics. It is not likely to grow weaker, but it is likely to grow more powerful. I asked and tried to answer the question just now, what really is the very nature of government, its essential conditions and its essential functions? it is an organism, as I have tried to explain, for protecting each individual citizen in the undisturbed possession of his property, in the undisturbed possession of his liberty, and from my point of view the expense of that government ought to be defrayed in the easiest manner and only to the extent which is necessary for that purpose, and that taxation is unjustifiable for any other purpose whatever. But we are met here to try to frame a government suitable for the altered conditions of all Australia—a federal government which should possess the confidence of all, would be likely to work for the benefit of all, and which would be powerful enough to efficiently do the work which lies to its hand. If I am asked what there is for a federal government to do, I will endeavour to answer the question. They have to undertake the defence of Australia, which I contend cannot be conducted by the separate states. They have to construct an Australian tariff which if we federate cannot be touched by the separate states. They have to conduct the intercommunication of the colonies. I do not mean by this that in every instance, or perhaps in any instance they are to take over the railways; but they must regulate the railways, and probably construct one or more great arteries for the purpose of improving and establishing proper intercolonial intercourse. Beyond that they have to undertake on behalf of Australia the intercourse with other parts of the world. They would have a power, a wide-spread influence, which no one of the colonies could ever hope to have, or even to approach, and they would have to take in charge the privileges and the rights and the manifold interests of Australia in connection with the ocean that surrounds Australia, which, again, no one colony can do anything to promote. They would have to carry out all the efforts to effect all the higher ends of nationality, and if I may quote the expression, a very happy expression, used by the hon. member, Mr. Fitzgerald, the other afternoon, they would have to protect the colonies, one from another, which would be no light portion of the duties of a federal government. Now, this constitution which we are called upon to endeavour to frame, can never be framed unless its merits commend it to the acceptation of the free peoples of these colonies. It is of no use losing sight of that fact. One of the delegates from Western Australia said that they could never face the people of

that country if they did not take special steps to safeguard the interests of that colony. How does he suppose we could face the 1,250,000 free men and women of New South Wales if we did not take the necessary steps to safeguard their interests and liberties? We ought never to lose sight of the fact that in every instance nothing can be done in the arduous work we are trying to do unless the merits of the work we perform are so self-evident that we can secure the support of the free people we represent. I, for one, am not prepared for any transcript of American institutions. I, for one, utterly disbelieve that we can do better than to adhere to the broad lines of the British Constitution. And when I have heard gentlemen arguing on some supposed likeness between the senate we seek to create and the senate of the United States, I have been amazed. The two bodies—the body that is in existence, I will say that august body, the senate of the United States, and the body we are seeking to create—are essentially different bodies for different purposes. The senate of the United States is really the great executive power of America. It is a body possessing such powers that I doubt, so far as I have listened to this debate, if they are fully known—certainly they are not fully known to me—to many of the gentlemen who have spoken on the subject. I am tempted, though somewhat reluctantly, to give my own experience of the senate of the United States. In the year 1882 I went to America. I was at that time Prime Minister of New South Wales, and I held commissions from the Government of Victoria, the Government of Queensland, and the Government of New Zealand to try to negotiate with the authorities at Washington, first for a reduction of the duties on imported wool, and secondly, for a subsidy towards the trans-Pacific mail service. I was at Washington several days, and I had intercourse with the Secretary of State, with that very able man the permanent under-Secretary of State, Mr. Bancroft Davis, with the President, and with a large number of members of Congress. I make this intimation as a preface to what I once witnessed, in order to give you, as it were, a cameo of my personal knowledge of the working of the senate of the United States. I was introduced to Mr. Senator Ferry, the Chairman of the Committee of the Senate on Post Offices. I believe hon. members know that the whole business of the United States Senate is conducted by committees. For instance, if a message arrives from the President, it is at once referred, without debate, to the committee sitting upon that subject, say on finance, and it is not until that committee reports that the senate takes into discussion even the President's message. Well, I was in one of the rather sumptuous ante-rooms of the Capitol, in conversation with Mr. Senator Ferry. After I had left the gallery of the senate, which was crowded with visitors, including a large number of ladies, and while I was in conversation with Mr. Ferry, a messenger came to him, a bell rang, he had to leave me, and at once go into the senate chamber; every man and woman were at once ejected from the galleries, the doors were closed and locked, and the senate sat in perfect secrecy. The most important business of the senate of the United States is conducted in absolute secrecy, with the press excluded, visitors excluded, and the doors closed and locked. Under the circumstances I have explained I witnessed this operation on one of these occasions. Now, we have a gentleman engaged in the parliamentary life of this colony who a few years ago asserted in his place in Parliament that if the free-traders attempted to hold a meeting with closed doors, his friends would smash the doors open, and about a week ago he stated, in an address to his constituents, that if this Convention had decided to sit with closed doors the people would have smashed the doors open. Well, this great body, this august body in the United States, transacts its material business, its most important business—the business which is so important that they will not allow the public to see how it is done—with closed doors, in absolute secrecy, and the citizens of the United States have never yet, as far as I know, attempted to smash the doors open. We do not want a body like that. I think this Convention is not disposed to create a body of that character, and with those powers, nor are we about to create a senate to perform executive duties. We seek under this name "senate," which however unsatisfactory it may be stands in the place of a better, and no better has been suggested—we seek to create as lofty, as dignified, an upper chamber as we can, and we seek to create it as nearly on the British model as we can. But we find that we cannot do that literally. Our house of peers, I need not say, has grown up through many epochs of revolution, of trial, of popular change, until it has assumed the present very influential form which it now occupies in the Constitution of England. We cannot create a body like that, and we must have resort to some device or other to supply those elements of moral and just conservatism, which I, for one, admit a senate ought to possess. Remember, the words I used are, "Those elements of moral and just conservatism." I mean those elements arising from experience, from matured judgment, from public probity, from steadfastness of purpose, and from the trust which is reposed in certain individuals by the growth of time, and I know of no other kind of conservatism in a community like ours. I am tempted to read, if hon. gentlemen will pardon me, a short passage from Mr. Gladstone on the English Constitution. Mr. Gladstone of late years has taken up a position which has called into existence very acute, and in some instances fierce, antagonisms to his course in public life. But I am not referring to Mr. Gladstone as a party leader. I am not seeking to use his authority as that of a party leader; but I use his authority as that of a man who has been close upon sixty years in the House of Commons—for it is close upon sixty years now, if not quite sixty years, since he took his seat for the first time as member for Newark. Forty years ago, the most acute judge of human nature at the time, the Chevalier Bunsen, described Mr. Gladstone as the most intellectual man in all Europe. I think I might say even now, with all the fierce antagonisms which his later conduct has awakened, both sides of the political life of England are proud of his figure amongst them. Well, Mr. Gladstone has described what the English Constitution is:

> More, it must be admitted, than any other, it leaves open doors which lead into blind alleys, for it presumes more boldly than any other the good sense and the good faith of those who work it.

The success of any constitution framed by man, the success of every constitution, call it what you may, must depend upon the good sense, self-restraint, and good faith of those who work it. He goes on:

> If, unhappily, these personages meet together on the great arena of a nation's fortunes, as jockeys meet upon a racecourse, each to urge to the uttermost, as against the others, the power of the animal he rides; or as counsel in a court, each to procure the victory for his client, without respect to any other interest or right, then this boasted constitution of ours is neither more nor less than a heap of absurdities.

How true it is! The British Constitution has worked more successfully, than has any other in the world, and its whole working depends upon the aptitude of the patriotic men who have taken a leading part in working it. Let them belong to whatever party, in every age, they have exhibited a higher sense of the interests of the nation to which they belong, and of the importance of good government, than of any party conflict.

> The undoubted competency of each reaches even to the paralysis or destruction of the rest.

The writer then proceeds to give instances of how, notwithstanding its admitted power, the constitution might work all kinds of absurdities.

> The House of Commons is entitled to refuse every shilling of the supplies. That House, and also the House of Lords, is entitled to refuse its assent to every bill presented to it. The Crown is entitled to make 1,000 peers to-day, and as many to-morrow. It may dissolve all and every parliament before it proceeds to business; may pardon the most atrocious crimes; may declare war against all the world; may conclude treaties involving unlimited responsibilities, and even vast expenditure, without the consent—nay, without the knowledge of Parliament. And this not merely in support or in development, but in reversal of policy already known to, and sanctioned by the nation.

Then, again, he says:

> But the assumption is that the depositories—

I invite the attention of the delegates to these words.

> that the depositories of power will all respect one another, will evince a consciousness that they are working in a common interest for a common end, that they will be possessed together with not less than an average intelligence, of not less than an average sense of equity and of the public interests and rights. When these reasonable expectations fail, then it must be admitted the British Constitution will be in danger.

Now, in our work we shall necessarily have to impose definitions, limits, and restrictions; but they ought to be of such a nature that the body itself, when once fairly launched on the sea of life, will be enabled to respond to the wish of the people, to respond to the pressure of its own necessities, and so afterwards mould to a fitting shape its own constitution. If, in framing a constitution, we attempt to bind it from expansion—if we attempt to lay restrictions upon its development—we shall make, I fear, a fatal mistake. Now, I will ask whether I am correct in having gathered from this great and dignified debate the following as the main difficult points to be solved? I have not attempted to review the several speeches, but I have noted the salient arguments, and especially the new features that have turned up in the course of each speech, and I gather that the rigid difficulties consist of the following:—First, security for the smaller colonies. I fully admit—and even in these resolutions have endeavoured to indicate that my wish was willing to resolve itself into action—I am ready to admit, I say, that the smaller colonies deserve special consideration. First, then, security for the smaller colonies; second, the equality of the two houses; third, the ministry to represent all the colonies; fourth, the ministry to be responsible to both houses. So far as I can recollect, I think these are the salient and knotty points which have been evolved in this discussion—if there be any other, perhaps some delegate will inform me of it. Now, as I have already said, consideration cannot be given to the smaller colonies, I apprehend, without due regard being paid to the interests of the larger colonies. If the smaller colonies have their rights, if they have any special claim to special consideration, at least the larger colonies have the great right not to be placed in any position in which a mere cabal between the weaker colonies might place them in a minority. That certainly ought not to be permitted, so far as foresight can guard against it. Now, with regard to the power of the two houses to treat money bills, or, as I prefer to call them, bills for imposing taxation and for making special appropriations—with regard to the question of both houses having an equal power to deal with these bills as they think fit, I cannot disguise from myself the fact that if that be provided for it will lead to very great trouble and mischief. I cannot disguise from myself that it may lead to jars that may burst asunder the federation. I cannot disguise from myself that it is not in accordance with the chief principle that has been won for us by ages of struggle by the best spirits among our ancestors in the mother country. It is a new-fangled proposition, entirely un-English, and utterly opposed to the development of constitutional government. Why, sir, the whole struggle in England has been to wrest from irresponsible power the right to deal with taxation and the revenues of the country. For the last hundred years, and especially throughout the benificent reign of the present Sovereign, the whole tendency of parliamentary life has been to wrest from those who have no responsibility, and to lodge with those who have direct responsibility, these great powers. And it seems to me like attempting to roll back the sun, and to shut out the light which the great developments of the present century have afforded us, to speak of entrusting to two legislative chambers powers which it has been found absolutely necessary to confine to one. Then there is the specious notion that the ministry must necessarily represent the different colonies.

Mr. FYSH: No point was made of it!

Mr. GILLIES: Certainly; by several speakers!

Sir THOMAS MCILWRAITH: Nobody made a point of it!

Sir HENRY PARKES: I am willing to defer to my hon. friend in almost everything; but, perhaps, he will allow me to judge how far it was made a point, and how far it was not. The point I meant is the contention that ministers should be so selected, and, as I understand it, that provision should be made by law, that they should be taken from each of the colonies. That is utterly inconsistent with parliamentary government as we know it. Now, what has been the course in later times, in the best times of English history, in the formation of a ministry? The Queen, or in a colony, the Queen's representative, sends for a person to form a ministry. Whom does she send for? The Sovereign sends for the person who, by his standing in political life, by his experience, by his character, by the degree in which he is trusted by his political friends, and by his proved capacity, is most likely to secure a body of capable men to serve the Crown. He having accepted this task is absolutely free to make what choice he likes, and naturally he chooses the men whom experience has taught him are most likely to assist him in a capable administration of affairs. If he were compelled to take three, four, or five colleagues of whom he had no knowledge, I can only say that no man of high spirit and clear discernment of his duties would accept the office. It would be impossible. How could the administration of affairs be conducted under our form of government unless it was conducted by men who each in the other had the completest confidence? I am quite sure that no single man amongst the high minded men who are the leaders of the English nation would undertake the formation of a ministry subject to any restriction of that kind imposed by law, usage, or otherwise. It would be simply impracticable. Then, as to the government being responsible to both houses, suppose this state of things arose: that the senate passed a resolution of want of confidence, and suppose the house of representatives met it by a vote of confidence, how then is that government to be responsible? I think that the more we depart from the broad lines of the English Constitution, developed as it has been during the reign of the present Sovereign, the more certain we are to fall into sloughs of despond—into many dangers. With regard to the construction of this senate, it is proposed, even in these resolutions, to give to the colony of Western Australia, with its 45,000 people, the same representation that is given to New South Wales with its 1,200,000. Surely that is a vast concession, and that is given entirely in order to harmonise those incongruities which are admitted, which are admitted with sympathy, but which must exist until the progress of time, and the progress of the colony, may emancipate that

particular colony from that region of incongruity. I should not object to meeting the smaller colonies, especially Western Australia, by giving her for a time larger representation in the house of representatives; but that must be limited. There must be a time when her growth will render it unnecessary. But prepared as I am, as far as I can, to make some anomaly in the constitution we are about to construct, merely to meet the case of Western Australia—anxious as I am, and anxious as I believe my colleagues all are, to have the young colony amongst us—if she cannot see her way to join us without calling on us to make sacrifices inconsistent with our clear duty, unhappy as it may be felt, it would be best for her to wait for a time to enter the federation. But I trust we shall not come to that. I trust some concession may be made quite consistent with our adherence to the principles which ought to pervade our work by which she can join us. I am aware that outside these walls, at any rate, there is a feeling that we ought to wait; that the time has not yet come. I can only repeat what I have said in other places, and what I have uniformly said, that if we are not ripe for federation now it is incumbent upon those who tell us so to name the hour and day when we shall be ripe. If we miss this particular opportunity, every year that rolls over us will make the difficulties greater; if we miss this opportunity, every experience that is before us will abundantly prove that we have not risen to a just sense of the magnitude of our duties. These difficulties which our separate existence have imposed will go on increasing. They can only have one crop of fruit; they can only produce antipathy, disunion, aggression, reprisal, widespread discontent, and, if they are suffered to go on, civil war. That is a prospect which no man of just mind can contemplate —that these colonies, sprung from the same stock, possessing the same great inheritance of equal laws and all the riches of science which have been achieved and stored up for us in the mother country—that we, side by side, instead of living in brotherhood and amity, should live in constant irritation and hostility. Either we must join hands, or we must hold out our hands in defiance of each other. In the very nature of things, we cannot be divided and be one. In the very nature of things, we cannot submit to causes of irritation, causes of infliction, causes of dissatisfaction, causes of exasperation, and still live in brotherhood. It is only by joining hands in good faith as the people of one kindred; it is only by giving and taking, by entertaining compromise as far as compromise can be entertained without deadly injury to principle—it is only by doing that we can hope to found this union. If the gentlemen around me are actuated by an earnest desire to effect this union it will be effected. If we unfortunately miss this great occasion and leave the work undone, it will be done in a few years hence, not many years, and it will be done by younger hands, who will gain the great credit of having effected this bond of union, which will be in itself, if rightly effected, of more value than any other achievement in the history of this continent. I would ask hon. gentlemen when we go into Committee not to dwell much upon these resolutions. They are not worth it. They were submitted, as gentlemen will recollect, in order to raise that most instructive debate which we have listened to. They have answered their purpose, and that debate, I venture to predict, will form a notable passage in the history of Australia; and whatever becomes of the present immediate movement, this debate will have effect upon the cause of federation until it is consummated. But I would suggest that the wisest practical course for us to take will be as soon as possible to agree upon what may be called the vital provisions of this bill—that is, the provision as to the construction of the federal parliament, the provision as to the construction of the federal executive, the provision as to the representation of the smaller states, and such other provisions as involve the rigid difficulties between the different delegates. If we can once agree to these provisions it appears to me that a committee of such men as we have amongst us could frame a machinery to give harmonious effect to them in four-and-twenty hours, and our work would be done. But I would suggest as a practical aim that we try in open convention to agree upon those which I will call the vital provisions of this bill. I have no time—and I do not think it is very fitting that I should indulge in anything of the sort—I have no time to talk of this question of republicanism which has been so ungraciously launched amongst us. I want to know where, in all history, you will find any instance where a people have revolted and chosen a new form of government when they were contented with the old form?

Mr. MUNRO: And had no grievance!

Sir HENRY PARKES: The very parent of the erection of new governments is some cause of grievance, which everybody feels. We feel none so far as the home Government is concerned. And have we such encouraging examples in the republican forms of government in different parts of the world that we should be seduced from that of our own, which has stood the shocks of revolution and the social earthquakes of the last fifty years and never been shaken? Why, so beloved is our Sovereign in that great offshoot of the English nation, the United States, that I venture to say if Queen Victoria, by any possibility, could visit the United States, she would receive a grander and more enthusiastic reception than ever was awarded to man or woman before. I venture to say that amongst the potentates of the world, including their own President, there is none more widely respected, more widely revered by all the best minds of the great American Commonwealth than the beloved Queen under whom we live. I go further than that. I contend that the woman who sits on the English throne, stripped of all her royal robes and all her royal pendants, is no common woman in the administration of affairs; that she has disclosed a genius for government, a close attention to business, and a keen foresight which has never been equalled by any monarch known to history; and that she has, above all things, disclosed an amazing insight in her dealings with every constitutional difficulty that has arisen. Beyond this, if we even dwell for a moment on the expenses of monarchy, they are nothing to the waste of wealth in every presidential election in the United States. The wealth withdrawn from the ordinary channels of trade and commerce, and withdrawn from private fortune in every great contention for the presidential chair, far exceeds any extravagance that may be supposed to exist in supporting the monarchy of England. But I hold this as a principle in human affairs, that no well-regulated mind, no mind that rises to the exigencies of any occasion when that occasion presents itself, will ever anticipate what is in the far future. If a time should come when it would be necessary to sever the connection with the mother country it will come, as it came in America, in spite of the loyalty, in spite of the good feeling of the chief men of the time. It will not come to meet the wild ravings of some person who may call out "Republicanism," without the slightest knowledge of what he is talking about. Sufficient for the day is the government thereof. We have a government of which we ought to be proud, and it is neither the part of loyalty, nor is it yet the part of commonsense to be anticipating something which may come in the dim future when all our attention is occupied —necessarily occupied—with that which we possess, and that with which we are satisfied. I would ask the hon. gentlemen, who have, at such great sacrifices, come here, to endeavour to take the course which shall be as free as possible from all collateral issues. This

is no time for glowing periods; it is no time for rhetorical flights; but it is a time for hard and steady work in trying to do what we are called here to do, and I would ask hon. members to do their utmost, by a calm self-suppression, by a close attention to the object which has brought us here, by mutual respect, mutual forbearance, and a disposition to compromise where compromise is possible, to assist each other in bringing about this great work; and I would say that if we seize the occasion and succeed in doing the work we shall have, not now so vividly as hereafter, the blessings of this and succeeding generations on what we have accomplished. I now beg to move:

That the Convention resolve itself into Committee of the Whole to consider the resolutions in detail.

Question resolved in the affirmative.

In Committee:

Mr. McMILLAN: I think it will meet the general convenience of hon. members, and it will be most in keeping with their anticipation of the course of business, if we simply go into Committee *pro formâ*, and then adjourn until Monday.

Mr. DIBBS: More waste of time!

Mr. DEAKIN: I trust that there will be no such delay as must occur if the suggestion of the hon. member, Mr. McMillan, is accepted. To a certain extent it is worthy of support, that is to say, if it were proposed that the Convention should rise now until half-past 2, in order that in the meantime we might have the opportunity of considering and preparing any amendments which it might be thought necessary to make on these resolutions. Their discussion will certainly employ some days. So much time has been occupied, though well occupied, already, in preliminary discussion that the sooner we really grasp the difficulties before us the sooner we shall have some tangible result.

Mr. McMILLAN: My reason for moving the motion was to get the opinion of hon. delegates on the subject. Some are of opinion that we should adjourn until Monday; but if it is the desire of the majority that we should not do so, I will withdraw the motion.

Mr. GILLIES: Following the advice of my hon. colleague, Mr. Deakin, I would suggest, sir, that you should intimate that you will leave the chair now until 2 o'clock. We shall then have the opportunity of a little conversation, and if it should be thought desirable when we meet again to adopt the motion of the hon member, Mr. McMillan, we could adopt it. I think that before any motion of the kind is put before the Committee, it will be well if we have a little conversation among ourselves.

Sir JOHN BRAY: I should like the hon. member, Sir Henry Parkes—because it seems to me that it would facilitate business—to postpone the consideration of the objects of federation until after we have considered the framing of a federal constitution. I understood from his speech that it was our first duty to consider the framing of a constitution, and as the objects, of course, are not very fully set out in the resolutions, it may be desirable to postpone their consideration. I simply ask the hon. member for information.

Sir HENRY PARKES: I do not admit that the objects are set out at all. The word "provisions" in the resolutions ought to be "conditions." I wrote it "conditions," but how it was printed "provisions" I do not exactly know. I only indicate these things as conditions which must exist—not as the objects of a federal government, but as the conditions that must be established as necessary to its existence—a wide difference, as the hon. member will see. Then it must be borne in mind that I do not offer these resolutions except as indicative of the mind of the delegates, not as binding on any one. For that reason, I have in my address just now suggested that they should be got rid of as soon as possible, so that we may get into real work; but I think there is sufficient in them to indicate whether, for example, we want a parliament or a congress.

Mr. MACROSSAN: I think the suggestion thrown out by the hon. member, Mr. Deakin, might very well be accepted. There is a good deal to be said on this resolution before it is put to the Committee, and I shall be quite prepared to go on and say something at 2 o'clock if you will accept the suggestion.

Sir HENRY PARKES: I am quite prepared to do so!

Preamble postponed.

(1.) That the powers and privileges and territorial rights of the several existing colonies shall remain intact, except in respect to such surrenders as may be agreed upon as necessary and incidental to the power and authority of the National Federal Government.

Mr. MACROSSAN: I think that if we agree to this resolution without discussion, we shall agree to far more than we intend to agree to. I presume that when we have discussed these resolutions one by one, and amended them in whatever form we choose, instructions will be given to a committee to found a bill which will be our Constitution Act upon the resolutions as agreed to. Therefore, I think we shall be acting a little to hastily if we allow a resolution of this kind to pass without full and fair discussion. The resolution provides that the powers and privileges and territorial rights of the several existing colonies shall remain intact—that is, that the federal constitution shall guarantee the present powers and privileges of the legislatures as they exist at present. I do not quite agree with that. Some of the legislatures have powers and privileges which will be rather inconsistent with the working of a federal constitution. For instance, take the colony of Queensland, which I am here to represent. It has a nominee upper house. One of the privileges of that upper house is that its constitution cannot be altered unless with the consent of two-thirds of its members, and also two-thirds of the members of the Assembly. I do not think we should guarantee that in the Constitution Act. I believe that one of the first things which the different legislatures will do after a federal constitution is adopted will be to change their present constitutions, so as to put all their upper houses on a more liberal basis, and bring them into thorough accord with the opinions of the people in the same way as are the senates of the different states of America. Hon. gentlemen know that the senates of the different states are elected on a universal sufferage franchise. The only difference between the elections of senators and representatives of the different states, is that the electorate for the senate is upon a broader basis—that is, it is a larger electorate. Every state senate is elected by universal sufferage.

Colonel SMITH: For one year!

Mr. MACROSSAN: No; for different periods—some for two, three, and four years. There are not two alike as to the period; but they are all alike as to the electoral franchise. I believe, as I said, that one of the first acts which our different legislatures—especially the legislature of Queensland, which has a nominee house, and probably the legislature of this colony also—will be, to become more in accord with the Federal Constitution Act itself. Therefore, if we guarantee this privilege which our nominee house possesses, we shall actually have to break the federal compact. Before we can admit the legislature of that colony into the federal compact, we must amend it, and I have no doubt that there will be some great difficulty in the way of amending our Constitution Act after we have adopted it. I anticipate that it will not be so easy of amendment as many hon. members would wish it to be. I myself would not wish it to be too easy of amendment. I think that some of our present constitutions are too easily

amended. Then, as to the words "the territorial rights of the several existing colonies shall remain intact," of course that means that the boundaries, as they exist at present, are to be guaranteed to the several colonies without any alteration whatever. I believed when I saw this that this was put in to allay a certain suspicion which existed in the minds of the people of New South Wales, that some of its neighbours had an insidious intention to deprive it of territory. I do not think that any such intention has ever existed, and certainly under a federal constitution, with free-trade between the different colonies, there will be no inducement for any colony to desire any extension of its territory at the expense of its neighbour. I am quite certain that Queensland never has had any such intention. But this will preclude the people of an integral portion of the colony, who think that it is time for it to assume the character of an independent state, from assuming it without, as I said before, breaking the federal compact. Instead of guaranteeing the territorial rights as they exist at present, it would be much better if we adopt a clause which is in the Federal Constitution of America, namely, article 4, section 3, which provides:

> New states may be admitted by the Congress into this union; but no new state shall be formed or erected within the jurisdiction of any other state, nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned, as well as of the Congress.

I think that that would be a sufficient guarantee against any attempt to take away the territory belonging to any state. When the legislature of the state is consulted, and gives its consent, I think then it should be allowed; and if a clause of that description is put into the federal constitution bill, there will be no necessity afterwards to alter the bill, but to carefully carry out the provisions of that law. A similar clause also exists in the Constitution Act of Canada, what is called the North American Constitution Act of 1867. Therefore I think that we should amend this resolution or reject it entirely, with the understanding that the framers of the constitution act will bear in mind that clause which I have just read, and also bear in mind that the present powers and privileges of the different legislatures should not be guaranteed to them as they exist at present. Then we come to the words, "except in respect to such surrenders as may be agreed upon." What surrenders have we agreed upon? Have we agreed at present to make any surrender?

Mr. DEAKIN: Hereafter agreed upon!

Mr. MACROSSAN: Passing this over without discussing it, hon. members will see at once it is absurd, for we must first agree as to what surrenders we are going to make to the federal authority, before we can make it a working authority. I do not know what is the meaning of those words.

Sir SAMUEL GRIFFITH: Now agreed upon—agreed upon in the constitution!

Mr. MACROSSAN: We have to give instructions to the framers of the Constitution Act. The framers of the Constitution Act will not know what to put into it unless they get instructions from us—unless they get some idea of what our intentions are. Therefore, I say we ought to agree first of all on what we are going to surrender to the federal authority. When that is done, the rest will be plain sailing so far as this clause is concerned.

Mr. GILLIES: May I be permitted to ask the hon. member, are we to understand that he desires to say that the powers of the local legislatures are to be interfered with by the Federal Constitution Act?

Mr. MACROSSAN: I do not say any such thing; but I say that the powers of the present constitutions, as they exist, should not be guaranteed in the federal compact.

Mr. GILLIES: I believe that there is no hon. member of this Convention who has any idea of interfering in any way with the constitutions of the various legislatures in the various colonies; in fact, I always understood that what this meant was that their powers were to remain as they are now—powers to change or to retain their constitutions as they now are—but that the federal constitution shall contain no clause whatever that will in the slightest degree interfere with the rights, powers, and privileges of the local legislatures, whatever they are.

Sir GEORGE GREY: Here stands one hon. member who says that he believes that the new federal constitution ought to interfere with the powers of the states, and that we ought to frame a truly federal constitution, suited alike to the states and to the general government. That is the very essence of every Constitution Act. If the hon. member will refer to the various Constitution Acts he will find that the constitutions of all the states are settled by them, and the constitution of the general government likewise. There is a peculiar necessity for doing that here. I believe that there is no single state in Australasia which has framed its own constitution, or which has even been fully heard as to the way in which its constitution was to be formed.

Mr. PLAYFORD: Yes—South Australia!

Mr. MUNRO: We amended them all!

Mr. GILLIES: They drafted them originally!

Sir GEORGE GREY: How can there be any fair amendment in those states in which there are nominated upper houses—in which any measure originated in the lower house for that purpose has to obtain the sanction of the upper house? Hon. gentlemen will see that there is no freedom whatever under a constitution of that kind. I believe that the very essence of a federal constitution should be such as was given to New Zealand—that is, that we should recommend that there should be an elected head of the colony—call him lieutenant-governor, superintendent, or whatever you please—and that there should be two elective houses—an elected upper house and an elected lower house—and that we should say nothing more than that, and let that body meet and let them frame the constitution for the colony—that is, in its minor details. In New Zealand some provinces had responsible governments, others adopted the plan of the United States; slight differences in their government and various forms of government were allowed as the people pleased to choose, and that produced most perfect satisfaction. Naturally, I feel a desire that the constitution should be such that New Zealand might come into the federation, possibly—that a loop-hole should be left—when the whole question is thoroughly understood; and I say that New Zealand should, if it did come under such a constitution, know that it could get rid of its nominated upper house.

Mr. PLAYFORD: What has that to do with it?

Sir GEORGE GREY: All I ask is that we should leave a fair opportunity to the people to choose their form of government in what is really a form of local self-government of the highest kind. If they are allowed to choose their form of government, I maintain that they will establish as perfect a form of local self-government in every instance as could possibly be obtained, and this clause which enacts that all these states or provinces are to keep the same form of government which they have now, is, in the case of those which are under a nominated upper house, to decree that they, perhaps, for a century shall go on without getting rid of that nominee upper house. You cannot believe that a nominee body is likely to destroy itself. That would be their only hope of getting rid of a nominated legislature. If, as the New Zealand Constitution was formed—if, as the Canadian Constitution was formed—you began at the beginning—that is, with states—and gave states a perfectly free form of government, such as would instil into the minds of the people right notions regarding legislation, and leave them to carefully

watch everything done by the persons they themselves have sent to the legislature, you would educate the whole class of men in the country, and would attach them to their government through a sense of self-interest. They would become fond of the constitution under which they live; they would study its details, and I say you would raise a nation to the highest possible degree to which men could attain. That worked well in New Zealand for twenty years, and I think a fair trial should be given to it here. I do believe in my heart that if this great assembly should lend itself to impose for a long period a form of constitution on the different colonies which they can have no hope of getting rid of if they dislike it, they will neglect an opportunity of doing a great amount of good, they will throw away one of the greatest chances a young nation has ever had of getting at once into a position of full freedom, and I believe there is not a member of this Convention who will not live to regret that he did not obtain for his country the great advantages which it is now in his power to gain for it.

Mr. PLAYFORD: It appears to me that if we attempt to make constitutions for all the Australian colonies we shall be going outside our functions. I do not understand that we were sent here to draw constitutions for the various Australian colonies; and I can assure the hon. member, Sir George Grey, that, as far as the Constitution of South Australia is concerned, we drew it ourselves, and if we are not perfectly satisfied with it we have the power, under certain restrictions, to amend it ourselves. We do not want the assistance of this or any other body in amending our constitution, and I believe it is the same with regard to the various other colonies. With reference to the particular proposition that we are considering, I look upon it as only declaratory on our part as to what shall be the principle on which the drafting of the bill shall proceed. When we first met in Melbourne two forms of constitution were promulgated, one based on the Canadian Constitution, and the other not so based. The first idea was to have a constitution in which the powers of the local legislatures were strictly defined, and the residuum of power to rest entirely with the federal government. At that time I objected to that, and pointed out that we should most strictly define and limit the powers of the central government, and leave all other powers not so defined to the local legislatures. This is all that the proposal declares: That the draftsman shall lay down all such powers as are necessary for the proper conduct of the federal government, and not interfere in the slightest degree with any other powers of the local legislatures. We do not pretend to guarantee either that the nominee upper house shall or shall not continue. We guarantee nothing. We leave the states with the powers and privileges to alter their constitutions as they deem fit. We do not go beyond that. This is merely a declaratory clause, declaring what our intention is—that we do not intend to give the residue of power to the central authority, but to leave that in the state. That is the position we lay down here. Originally, it was not intended by Sir Henry Parkes to put that in the resolutions; but it was thought better that it should appear in the resolutions to allay any jealousy on the part of the local authorities, lest they might think that the federal government was going to grasp too much power. Under the circumstances the clause may well pass.

Sir JOHN DOWNER: What this clause provides is that the powers and privileges of the parliaments of the existing colonies shall remain intact. The powers and privileges of the states, amongst which is that of changing their constitutions if they please, are to remain as they are now, except so far as they are subtracted from by the specific powers given to the federal parliament. I cannot conceive anything more clearly expressed, or more completely misunderstood by some hon. members. As to the second part of the hon. member, Mr. Macrossan's objection as to territorial rights, I am disposed to agree with him that the matter might have been better expressed here. It would have been better if these words "territorial rights" had not been inserted at all, but that there should have been another subdivision, providing that the territory of no colony should be interfered with without the consent of the legislature of that colony.

Mr. PLAYFORD: It is understood!

Sir JOHN DOWNER: Of course; but it would have been well if it had been provided for more particularly. From statements which have appeared in the public press it seems to have been thought in New South Wales that one great object of this Convention was in some insidious way to give power to the federal government to interfere with territorial rights without consulting the particular state. Of course I believe it will be most expressly provided for in the bill; and I think that these general words simply direct attention to the matter to lay the foundation for a bill which will be based on the understanding which we all have on the subject, and which will be fairly carried out by the words as they are here. Certainly we are not here to make constitutions for the different colonies, but to preserve the constitutions of all the colonies, except so far as we think it necessary to take from their powers those which are to be expressly defined and which can be most beneficially exercised by the federal legislature.

Sir SAMUEL GRIFFITH: It is unfortunate that we should have to discuss this resolution in the absence of Sir Henry Parkes, who I regret is unable to be here. I understand the resolution as it is understood by the hon. members, Mr. Playford and Sir John Downer, and I do not share the apprehensions which the hon. member, Mr. Macrossan, feels as to the words of the resolution. I understand that what is meant is that the constitutions and powers of the states are not to be interfered with except as regards certain powers which cannot be exercised by a state parliament, and which must be given to the federal parliament, and that these are to be defined in the constitution that is to be framed. I do not see reason for any apprehension as to interference with the constitution of the states, or with territorial rights. The hon. member, Mr. Macrossan, takes a great interest, as I do, in the question which has been agitated, for the separation of Queensland, although we do not take the same view. I apprehend that if the federal parliament is to exercise the functions which it ought, it will have to determine whether there shall be separation, and on what terms the new states shall be admitted to the federal union. That is one of the necessary powers of a national federal government. I interpret the resolution in that sense. I quite agree that the Parliament of Queensland, or of any other colony affected, ought also to concur. But I am quite sure that the hon. member, Sir Henry Parkes, will be quite willing to agree to any modification of these words in order to make that more clear. I can assure my hon. friend, Mr. Macrossan, that I entirely agree with him in all he said, and holding those views, I think we are quite safe in accepting the resolution as it is framed.

Sir PATRICK JENNINGS: I must confess that I was a little surprised at the observations of my hon. friend, Mr. Macrossan. I do not think it is our province here to say that none of the states of Australia shall in any way alter their present constitutions. I do not see why, if any particular colony choose to have a nominated upper house, they should not be allowed to have it. They may go further and have only one house as far as we are concerned. The resolution is only a declaratory introduction to the subject with which we are to deal. We wish to

declare that we have no intention and no desire to interfere with the powers, the privileges, or the territorial rights of the several colonies; that they shall remain intact. The colonies framed their constitution acts, they can alter them in the way provided for therein, and I have no doubt it will be in the power of the different states to make changes in their constitutions or to remain as they are just as they choose. That will not affect the federal power in any way, and I am glad to find that there is an express desire on the part of the delegates from the other colonies to impress on the minds of the people of this colony that any suspicions of an intention to interfere with the territorial limits of New South Wales are repudiated by the whole of those delegates. What powers, what surrenders may be incidental will be, perhaps, a thing difficult to define. But they must be incidental to the necessary powers of the federal parliament.

Mr. KINGSTON: They must be defined in the long run!

Sir PATRICK JENNINGS: Perhaps this is an appropriate time to frame the definitions.

Mr. KINGSTON: No; in the constitution bill.

Sir PATRICK JENNINGS: We know that certain surrenders must be made. We are also told that the powers and privileges and territorial rights of the different colonies shall remain intact. Therefore it will be quite proper for the convention to clothe the federal parliament with all those powers and privileges which are absolutely essential to federal government. The federal power must be strong, it must be respected, it must have sufficient life, and must be worthy of the work that we want to accomplish. I am quite sure that all the powers that will be needed by the central government will be freely surrendered. I therefore am inclined to regard the resolution as an instruction to the framers of the constitution bill; and I think it should remain as it is, unless it be desired that some hint as to the nature of the surrenders should be given.

Sir GEORGE GREY: I should wish to remind the committee that we are not here to form a federal parliament, but that we are here to form a federal constitution. I felt most grateful to the Premier of South Australia for the assistance which he afforded me. The hon. member stated, and I saw a look of satisfaction on his countenance, that South Australia was allowed to draw its own constitution, and that it had not a nominated upper house. I envied him, and I felt that surely he would help other parts of Australasia to obtain so great a blessing as South Australia has obtained for herself.

Mr. PLAYFORD: I think democracy would get on just as well with a nominated upper house, and sometimes better!

Sir GEORGE GREY: The answer to that is, that I have not proposed to force any kind of council upon the states; but what I propose is this: that a state, having obtained the freedom to elect its legislature, the upper house being elected simply upon a different franchise from the representative house, that is, a franchise of the whole state—I suppose we shall grant that—it shall then be left to that free legislature to determine what form of government it will have. There would be nothing to prevent them, the people of any state, from maintaining their beloved upper house, if they thought fit. I would not shut them off from a blessing of that kind if they desired it; but when we know that this Convention has the power of giving to all Australia so great and magnificent a gift as it can bestow upon it—that is, that each state should choose its own legislature ———

Mr. MUNRO: We all have that now!

Sir GEORGE GREY: Is it freedom that we should be at the mercy of a nominated upper house, and without the consent of that nominated upper house we cannot change it into an elective one? For how many years may we have to struggle before we can get a benefit of that kind? For, remember, every federal constitution has been drawn with a distinct declaration as to the powers of the states. That is the meaning of a federal constitution. I ask you to put that into your bill, not by a few words saying that there shall be no interference whatever, and leading people to believe that perhaps all have an equal constitution, with equal rights and with equal privileges, and yet absolutely condemning several of the states to continue for a series of years to have a legislature which is not the legislature of freedom. For a nominated upper house is even worse than a house of peers. It is different in its composition, it is different in its character, and I say no state can really be free which is governed by a nominated upper house, and can make no laws which that nominated upper house does not agree to. Why should a few men possess such a power over their fellow-men as to say, "However you long for a certain law, however you wish a change to be made, no such law shall be made, no such change shall be effected"? How long are a people free when they cannot make such laws as they like without the consent of a body composed of men chosen, not because they possess any special qualifications, but simply because of ministerial friendship, or because they have supported certain views? In all other cases of framing a federal constitution the constitutions of the states have been considered, and I say it is our bounden duty to follow that example, and to give the greatest amount of freedom we can to our fellow-men. All we can justly give, all they merit or deserve, we ought to bestow upon them. To tell us that we should not come in and join this great federal body without agreeing to continue with a nominated upper house is, I think, imposing upon us a burden which we cannot be expected to undertake; and I believe it is not just to the people of any one of the colonies, when we require to make a federal constitution, not to give them the freest, the most liberal constitution that we can. There are no words in the resolution to justify us in saying that we have only to create a federal parliament. That is directly contrary to the fact. We are here to create a federal constitution, and all I ask is to give to the states the power of framing their own form of government.

Mr. KINGSTON: They have it!

Sir GEORGE GREY: How have they it? Have they it with a nominated upper house? Not at all!

Mr. CLARK: Swamp them!

Sir GEORGE GREY: We might have to struggle with them for years; every one knows that that is the case. It is our duty as statesmen to sketch out a liberal federal constitution applicable to all the states. If you intend to preserve a nominee upper house in some of the colonies, place the provision in your bill fairly; that is the proper way.

Sir PATRICK JENNINGS: It is proposed to leave things as they are!

Sir GEORGE GREY: If you want to make a federal constitution, it should be a constitution adapted to every state, and the power of alteration should be given.

Sir PATRICK JENNINGS: We have the power of alteration!

Sir GEORGE GREY: Not by the people.

Sir PATRICK JENNINGS: Yes; in each state!

Sir GEORGE GREY: Yes; but not by the people.

Sir PATRICK JENNINGS: If the people desire a nominee upper house, why should they not have it?

Sir GEORGE GREY: We must make allowance for human infirmity. Is it possible that the claims of friendship can be neglected? Is it possible that family claims can be altogether overlooked? Is it possible that the claims of colleagues who have helped one for years can be overlooked? Could not the government of the day put into a nominated

ERRATUM to face page 161.

Column 2, line 67. *Read* "MR. SUTTOR" *for* "MR. MUNRO."

legislative council an old man like myself, simply to get rid of him? We know perfectly well that it is scarcely possible to have a fairly nominated upper house. Has England ever had a fairly nominated house of peers? Have not the nominations to that chamber been made chiefly through friendship and interest? In very few cases indeed have peers been nominated on account of their great qualities.

Mr. GORDON: Mostly on account of money!

Mr. MUNRO: Nearly all are peers by birth!

Mr. DEAKIN: Birth and breweries!

Sir GEORGE GREY: Money, I admit, has been a great factor, and so it will be in the case of nominated upper houses in Australia. All that I say is that now, when we have this great, this mighty power of making a really federal constitution, why should we not go as far as the colony of New Zealand went, and give to each state the complete power to choose their own legislature? If they desire to pass a law providing for a nominated upper house, give them the power to do so. I ask you, having it in your power to give so great a gift, not to close your hand and keep it. The people of this young country are about to spring into national life, and now is the time to give them this power, to encourage them to do their duty, and to open up all the avenues of public life upon fair and just principles. We are required to frame a federal constitution for these colonies, and if hon. members determine to form only a federal parliament, let them at least have the candour to admit that they are not fulfilling their instructions, although they are doing that which they think will be for the best.

Mr. MUNRO: I confess that although I followed the last speaker as closely as I could, I do not even now understand what he wants.

Mr. FYSH: We understand what he wants; but the question is, how we are to give it!

Mr. MUNRO: As I understand the hon. member, he desires that this Convention shall give to the local governments of these colonies the same powers as were given to them by the British Parliament originally in their constitutions. If that is what the hon. gentleman means, I do not think we have the power to do so. All that we are asked to do is to draft a constitution for a federal government. I am afraid the hon. member misunderstands the real position of the constitution of these colonies. In the original constitutions of the various colonies, as far as I know—and I am certain that it was the case in Victoria—provision was made for an alteration of the constitution by the consent of a certain majority. And we have, in course of time, altered our constitution now and again, until we have the constitution we want. Very well. What more can be asked when each of the parliaments has the power within itself to frame a constitution as it thinks proper? If Victoria says, "We prefer a constitution with an elective upper chamber," and if New South Wales says, "A constitution with a nominee chamber suits us better," it is not for Victoria to say to New South Wales, "You are wrong," or *vice versa*. Each colony must be allowed independent action in that respect. The legislatures of the different colonies have done that which they thought best, and surely this body is not now to say to New South Wales and Victoria, "You have had power all along to frame your constitution; we do not believe in it, and we want to give you something new."

Mr. FITZGERALD: To force something new upon us!

Mr. MUNRO: The legislature in each colony has power in itself, some by a bare majority, and some by a two-thirds majority, without reference to the British Parliament, or any one else, to alter its constitution.

Dr. COCKBURN: How can a nominee upper house alter its constitution?

Mr. MUNRO: A nominee upper house can alter its constitution if there be a majority in favour of it.

Dr. COCKBURN: Hear, hear! If a majority of the nominees are in favour of it!

Mr. MUNRO: I venture to say that it would be much easier to get a majority in a nominee upper house than in an elective upper house in favour of the will of the government of the day.

Mr. BARTON: Six times as easy!

Sir PATRICK JENNINGS: That is what Sir Graham Berry thought!

Mr. MUNRO: He did, certainly, and I did not agree with him. Suppose the people of New South Wales are anxious to alter the constitution of the Upper House, they would have to agitate in the first instance, and if it were found that a majority were in favour of it, a nominee majority equally in favour of it would soon be forthcoming at the will of the government of the day.

Dr. COCKBURN: Suppose the number of the nominee chamber were limited?

Mr. MUNRO: I do not know of any case in which the number of members of the Legislative Council is limited.

Dr. COCKBURN: It is limited in Western Australia!

Mr. MUNRO: That is a young colony, and Western Australia, like the rest of us, will have to fight for its constitution. When it gets a proper one it will appreciate it. If in Western Australia the mistake has been made of limiting the power of the government under the constitution, the colony will have to do as we had to do—it will have to fight for its liberty as it thinks proper.

Dr. COCKBURN: Why cannot we help them?

Mr. MUNRO: We have no right to do so. Western Australia has a constitution of its own, for which the people asked.

Sir JAMES LEE-STEERE: No!

Mr. MUNRO: I myself accompanied the delegates of Western Australia when they went to London to ask for the constitution.

Sir JAMES LEE-STEERE: But they did not ask for a limited nominee upper house!

Mr. MUNRO: I know that; but Western Australia—or, at all events, its delegates—accepted it. If Western Australia wants something different from a nominee upper house, that is a different thing.

Sir JAMES LEE-STEERE: We are going to have it in six years!

Mr. MUNRO: I have not the least doubt of it.

Sir JAMES LEE-STEERE: The constitution says we shall have it!

Mr. MUNRO: We are sent here for a totally different purpose than interference with the constitution of any of the colonies. They have all had the power within a longer or shorter time to alter their constitutions as they thought proper. We are now anxious to frame a constitution for a federal parliament. If we do that, and I am afraid we shall have some trouble in doing it, we shall have done all that we have been asked to do. If we commence our work by interfering with the constitutions of the various colonies, we shall find that we have entered upon a task which is interminable, and, moreover, we should never succeed. The colonies would listen to no such thing—they would protest.

Mr. FITZGERALD: It is not our mission!

Mr. MUNRO: I would say, in reply to the hon. member, Mr. Macrossan, that the people of Queensland must have been sleeping upon their rights so far as the alteration of the constitution of their upper house is concerned. Our constitution, in the first instance, was the same as that of Queensland, and we could not alter it except by a two-thirds majority; but one of the first things our new Parliament did was to alter the law, with the result that the Constitution can now be altered at the will of a majority of both houses of Parliament.

Dr. COCKBURN: I cannot help thinking that this question may go deeper than at present it

appears to go. It may practically decide the mode in which the federal senate shall be elected. The general impression among members, so far, is that the federal senate is to be elected by the different legislatures.

HON. MEMBERS: No!

Dr. COCKBURN: If it is to be elected by the different legislatures this would go to the root of the matter. I do not think the people would say that the federal senate, which is to protect the rights of the states, should in any way be elected by nominated chambers. It has been said, "This is a question for the states themselves. Leave every state to do as it likes." I am not altogether sure about that. This may govern the whole business, for the continuance of nominated upper houses in all the colonies in which they now obtain, or in any one of them, will practically mean that the senate will have to be elected direct by the electors.

Mr. FITZGERALD: That is not a territorial right!

Dr. COCKBURN: It may be a territorial right; because the senate is to protect state rights; and I do not believe that it is wise to leave a matter of this kind in the hands of the individual colonies to deal with as they please. I do not think that those colonies which are accustomed at present to have all their legislators elected direct, would care to trust the privileges of the senate to a number of senators who would not be elected directly or indirectly by the people. If we do not make some provision to abolish all nominated upper houses, it will mean that the senators will be elected by upper houses which are not chosen by the people of the country. I would rather have the matter left in that way, so as to have the senate elected direct by the people.

Mr. BAKER: I think that some hon. members want to jump the fence before they get to it. I think the hon. member, Dr. Cockburn, is very much "too previous" in this matter. We shall not, by passing this resolution, settle the question in any way, as to how the senators are to be elected. It may be that different colonies may elect the senators in a manner different from that adopted in others. They may elect senators for different terms. We shall have to discuss that question later on, and we should get on much faster if we stuck to the resolution before the Committee.

Mr. DEAKIN: I trust that the remarks of hon. members will be accepted by the hon. member, Sir George Grey, in the spirit in which they are made. I am sure no representations from any colony would receive more consideration than those coming from New Zealand, and that no member of the Convention would be listened to with more attention and with a greater desire to make concessions, than the hon. member, Sir George Grey. The difficulty is that first of all we have no authority in our commission to enter upon the question the hon. member desires us to deal with. If we accept the argument of the hon. member, Dr. Cockburn, that inasmuch as the representation in the senate will possibly depend to some extent upon the upper houses of the colonies, we should take into consideration the constitution of those upper houses, it needs very little reflection to indicate that we must on the same grounds commence to consider the whole electoral systems of all the colonies, and having decided upon the ideally best system, then propose to alter the laws of the different colonies accordingly. But we are not sent here for that purpose. We are sent here, as the hon. member, Mr. Playford, truly said, to frame a federal constitution, and we are authorised to undertake no other task. If the hon. member, Sir George Grey, will pardon me, it seems to me that his language was capable of being misunderstood. He said that if this Convention were to neglect to take the course which he advised, we should be imposing on New Zealand a nominee house, from which it desires to be freed. Surely that is an over-statement. This Convention imposes nothing upon anybody. It interferes in no sense with the constitution of any colony, and in no sense lessens any existing power of altering the constitution of any colony. If we commenced any such thankless labour we should place ourselves in this anomalous position: that having been sent here to frame a federal constitution for the whole of Australia, we should offer it to the colonies on condition that they alter their existing constitutions. Surely that is something we are not justified in attempting. We are not entitled to impose any conditions upon the acceptance of a federal constitution. This will surely involve sufficient difficulties without our adding to them. I say this because I cordially sympathise both with the spirit and object of the remarks of the hon. member, Sir George Grey; and if I could bring myself to believe that it was within the scope of our authority to undertake the task which he proposes, I would cordially join with him.

Sir GEORGE GREY: Leave it to the law officers of the Crown!

Mr. DEAKIN: We are obliged to leave it to those who are more interested—the people of the several colonies under the constitutions which they now enjoy. I acknowledge the great difficulty to which the hon. member calls attention; that nominee houses require to be asked to abolish themselves. This is not the only desirable constitutional change. There are other directions in which reform would be equally desirable; but we are not authorised to enter into those questions. There are some reforms of burning necessity; but, however necessary they may be, however great our anxiety may be to accomplish them, we cannot enter upon them. Our task is already surrounded by difficulties. We are weighted, if not overweighted; and we simply dare not add another to the many difficulties under which we labour.

Mr. BARTON: I would point out, as has been suggested by the hon. member, Mr. Playford, that what we are asked to deal with scarcely comes within the scope of the 1st resolution. The question whether we should continue, as in this colony, with a constitution involving a nominated upper house, may be the subject of debate hereafter. It cannot, however, be said to come within the purview of the powers, privileges, and territorial rights referred to in the resolution, which are quite distinct from the matter of constitutional machinery. The constitution of the upper houses is a question of constitutional machinery, and it is not a question which the hon. member, Sir Henry Parkes, apparently endeavoured to aim at in framing this resolution. He has endeavoured to settle the question of the powers, privileges, and territorial rights of the various colonies, and the principles which should guide us in dealing with them, entirely apart from the machinery by which the federal constitution should be created. The one state of things he has put into the 1st resolution, and the other state of things into the 2nd resolution. The mode of appointing the various legislative councils is not a matter connected with the powers, privileges, and territorial rights within the meaning of this resolution at all. That is simply a matter of constitutional machinery which will come within the purview of the second set of resolutions. Therefore, I think there is a good deal of force in what has been suggested by the hon. member, Mr. Baker, that we are jumping before we come to the stile in dealing with the subject of nominated houses before we come to the second branch of the subject dealt with in these resolutions. It may be —especially when we come to consider that there will be a probability, at any rate, of the members of the senate who are to represent the various provinces being elected by the legislatures of those provinces —a very important matter for us to consider whether the legislatures of those provinces, as they are bicameral, shall not in both branches depend upon

the popular will. As the hon. member, Mr. Playford, has suggested, even although there ought to be no desire to limit the debate in any way, it may be very important for us to consider whether even then the power delegated to us by the resolutions appointing us entitles us in any way to discuss the constitutional machinery of our respective provinces. I am of opinion, with the hon. member, Mr. Playford, that it does not do so. Assuming, at any rate, that it does not give us the power to pass any resolution upon the subject, there has been a general consensus of opinion that the debate should not be limited, and I, for one, shall not be among those who would raise any objection to that being discussed when the proper time arrives. But I submit that the proper time has not arrived yet to discuss the question of nominee chambers. That rests under the second batch of the resolutions, and not under the first. It is a matter of machinery, and not a matter of the "powers and privileges, and territorial rights," within the meaning assigned to those words by the first resolution. I wish to call attention to the use of the word "surrender" in these resolutions. Does it mean a surrender of powers and privileges as well as of territorial rights; or does it refer merely to such surrender of territory as might be necessary, for instance, if we submit to our parliaments the propriety of constituting a federal capital? I quite share the regret expressed by the hon. member, Sir Samuel Griffith, that it is a very great pity that we have to discuss the meaning of these resolutions, and especially the meaning of the word "surrender," in the absence of the hon. gentleman, who has moved them. This is a word which seems to me to require considerable explanation, and without some explanation of it from the mover of the resolutions, it is very difficult for us to say whether or not we will pass the resolution at all in its present form.

An HON. MEMBER: Where is the hon. gentleman?

Mr. BARTON: I understand that the mover of the resolutions, being greatly fatigued, has gone home. If his collaboration with us is to be of the value we hope it will be, there is no one amongst us who will begrudge his taking rest at any period of the proceedings—knowing well the serious accident under which he has been suffering for a very long time, and the necessity to our proceedings of his conserving all his energies, so as to make him of the best use to us during the proceedings of the Convention; and I hope no suggestion, whether it may be called generous or ungenerous, will be made that Sir Henry Parkes at any time is not doing well to take such rest as he needs. But I was going to submit this to the Convention: supposing a decision is come to upon this resolution this afternoon—whether we might not arrive at something that will prevent any misconception of it by adding a separate clause afterwards. There is a portion of one of the clauses of the American Constitution which seems to embody all that will be required to define this resolution sufficiently. I will read the words:

> No new state shall be formed or erected within the jurisdiction of any other state, ——

That is of course subject to any provision which may be made for the establishment of a federal capital.

> nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned as well as of the Congress.

Mr. KINGSTON: Is it worth while to insert that now?

Mr. BARTON: There is one reason why I think it is. No doubt a committee will be appointed to draft a bill, which work will necessarily have to be conducted privately, because you cannot draft a bill, at any rate, with the reporters present taking down every suggestion you make. Before the Committee goes to that work it will be necessary that the people of all the colonies should be aware of what we are proceeding to do; and there is a feeling in some quarters of alarm, which I think might be very well removed by a provision of this sort. I would suggest, therefore, that before we pass the resolution in its present form we ought to add a second clause, which I shall be prepared to propose, in some such words as I have read. In a draft bill, which I find some gentleman has prepared, it is put perhaps in a more logical form, and it would read rather in this way:

> No new state shall be formed by the junction of two or more states, or parts of states, nor any state formed or erected within the jurisdiction of any other state, without the consent of the legislatures of the states concerned as well as of the federal parliament.

Sir SAMUEL GRIFFITH: That is from the American Constitution!

Mr. BARTON: Yes. It seems to me that it will give definition to the meaning of the word "surrender," and prevent its being misinterpreted by people out of doors in such a way as to cause them to feel any alarm or distrust at the proceedings of this Convention. If we are to build this structure entirely upon a foundation of goodwill—as I think we are to do—we should proceed at each step so as to disarm suspicion, and let the world, or, at any rate, the world we are dealing with, know that no rude interference with the territorial rights, or with the actual land of any colony, is contemplated, except with the consent of those who are concerned; and I trust that if such an amendment is moved by me, it will receive the consideration of the Convention, or that something in a better form will be proposed by some other hon. member.

Mr. WRIXON: With regard to the point brought forward by the last speaker, it is undoubtedly worthy of attention; but I would submit to the hon. gentleman that it is somewhat premature to raise the question just now. All that the resolution does is to lay down the general principle that the states shall retain everything except what it is agreed they shall surrender to the central government; and it is impossible to say what that surrender will include until we have finished our task—until we have gone through the whole of our measure, and determined what matters the states shall retain to themselves, and what matters shall be conceded to the central government. Therefore, I submit that it would be premature now in this introductory statement of a general principle, to go on specifying either territorial or any other rights. This is merely a sort of introduction to what we are afterwards to do, and it says "in respect of such surrenders as may be agreed upon"—that is, hereafter, and not while we are now discussing. As to the point mentioned by the hon. member about the rights of territories, I quite agree with him that it is important that a clause dealing with that question should be inserted in the bill hereafter, and the words the hon. gentleman suggested from the American Constitution will be well worthy of attention; but at present the proposal seems to me to be premature. As to what has been said by the hon. members, Sir George Grey and Mr. Macrossan, I hope they will not understand that we at all under-value the importance of their suggestion. The simple view which we all take in this Convention is that we have no commission to deal with it.

Sir SAMUEL GRIFFITH: With reference to the use of the word "surrender," I think I can state the reason that induced Sir Henry Parkes to use that term. I believe the constitutions of all the colonies—certainly those of the older ones do—contain an express provision that the legislatures of those colonies shall have power to "make laws for the peace, order, and good government of the territory in all cases whatsoever." That is practically

autonomy. Consequently, any powers given to the federal parliament must involve a surrender of some of those autonomous powers. Therefore, I understood that Sir Henry Parkes thought that this was the aptest word by which to express the relationship of the states to the federal government—they are surrendering some of their present absolute powers to the federal parliament. With respect to the suggestion of the hon. member, Mr. Barton, that we should amend this resolution by inserting further limitations before we are in a position to frame a constitution, I would respectfully submit that we are by no means in a position to begin the draft of a federal constitution, nor shall we be even when we have passed these resolutions. There are at least some scores of subjects which must be defined by discussion.

Mr. WRIXON: By resolutions!

Sir SAMUEL GRIFFITH: Yes, by resolutions as an instruction to the framers of the draft. But for the purpose of framing those resolutions the propositions now before us, as I understand, are intended as guide-posts in the first instance. One of the first things to be done will be, as was done in the United States, to classify the powers to be surrendered to the federal parliament. It is impossible, at this stage of the discussion, to define those powers; but this resolution indicates the test that is to be applied as each subject comes up for consideration: "Is it necessary, or is it incidental, to the power and authority of the federal government?" If we affirm that principle, we shall easily be able to apply it, though, as to the mode of application, opinions may differ, and we shall then be able to proceed to the next step.

Mr. MUNRO: Would not the word "or" be better than the word "and"?

Sir SAMUEL GRIFFITH: I should say so; but that may be simply a misprint. On this point I hope I shall not be considered as doing too much if I mention that a few months ago it became the duty of the Government of Queensland, in consequence of the state of things there, to consider, as a practical matter to be dealt with within our own boundaries, what were the proper subjects for a central parliament to deal with as compared with those that should be left to local parliaments. The Government were, under the circumstances, obliged to make out a list—a tolerably complete one, I believe—of the different subjects for legislation and for executive government. Although it was not prepared in view of this Convention, and although it does not indicate the lines upon which we should advocate that the functions of a national Australian government should be defined, I believe it is a tolerably complete list of the subjects which will have to be assigned by us to one authority or the other, and if any hon. members can find any advantage in perusing it, it is at their disposal. I think that what we should do, after disposing of these resolutions, which I would suggest should not be amplified more than is necessary, is to appoint a committee, charged with the duty of preparing a second series of resolutions, founded upon and springing out of these.

Mr. PLAYFORD: Draft the bill on these resolutions!

Sir SAMUEL GRIFFITH: They are not sufficient to draft a bill upon. No committee would know the opinions of the Convention sufficiently to be able to draft a bill upon these resolutions.

Sir PATRICK JENNINGS: Why not amplify them!

Sir SAMUEL GRIFFITH: They must be amplified to a very considerable extent. Suppose a committee framed a bill upon these resolutions, and it turned out that half the principles contained in it did not commend themselves to the Convention, they would have to do their work over again. I, for one, do not desire that anything of that sort should happen, and I think that it is necessary that there should be an intermediate stage between the adoption of these resolutions and the drafting of a constitution. I have had some experience of this sort of work, and I know that unless we are aware beforehand what are the lines upon which the Convention wishes the constitution to run, it will be impossible for a committee to frame one.

Mr. PLAYFORD: These are the lines!

Sir SAMUEL GRIFFITH: These are some of the lines, the elementary lines; but there are a great many other things to be determined. For instance, what are the subjects which are to be left to the federal government? There will have to be an enumeration of twenty or thirty subjects.

Mr. PLAYFORD: Put them into the bill, and if we do not like them we can strike them out. That will be a great deal better than having to draft a new series of resolutions.

Sir SAMUEL GRIFFITH: For instance, it will have to be determined how many members shall be sent to the senate from each state, how they are to be elected, in what rotation they are to go out, what the powers of the senate shall be, and many other matters.

Mr. PLAYFORD: Put them all in the bill!

Sir SAMUEL GRIFFITH: The hon. member, if he had had any experience, would know that in drafting a bill it is better to know beforehand what is the object which its promoters desire to obtain.

Mr. PLAYFORD: We know the object!

Sir SAMUEL GRIFFITH: I have mentioned several matters in connection with the senate upon which it is impossible for a committee to know the feeling of the Convention.

Mr. BAKER: There is the power of veto over provincial acts!

Sir SAMUEL GRIFFITH: I am, as one coming from a distant part, anxious to adopt that form of procedure which will facilitate the business of the Convention, and I commend this suggestion to hon. members as the shortest way of getting through our work.

Mr. THYNNE: Before we can deal with the resolution practically it will have to be subdivided. Several subjects are comprised in it, to which separate and independent consideration will have to be given. It seems to me that the suggestion which fell from the hon. member, Sir George Grey, has not received that amount of attention which it deserves. When we are considering the preparation of a federal constitution, one important element in the consideration is of what items is the federation to be composed, and each circumstance affecting the separate elements of which the constitution is to be constructed is of considerable importance. But there is one matter which I should like to suggest for the consideration of the hon. member, Sir George Grey, in connection with his great desire to alter the constitutions of these colonies where they have nominee upper houses, and it is this: No doubt the constitution which is framed by this Convention will have to go to the parliaments of each of the several colonies, and will have to be indorsed by them before it can come into operation; but I would point out to the hon. member that there will be quite as much difficulty in getting a federal constitution containing the clauses which he desires to see inserted in it passed by the colonies containing nominee houses as there would be in getting similar amendments in their constitutions agreed to in the separate colonies. I point this out to the hon. gentleman, and to those who may think with him, in order that the matter may receive a little further consideration, and the direction in which that consideration should go is this: Will it be necessary that the constitution which we are about to frame shall be submitted to each parliament and adopted by it, or will it be sufficient to have it submitted to Conventions in the separate colonies?

Dr. COCKBURN: Direct to the people!

Mr. THYNNE: I approve of its being submitted direct to the people. But if it is submitted to the parliaments and requires their indorsement, the difficulty which I point out will be just as great in getting the constitution adopted as would be the difficulty of getting amendments made in the constitutions of the colonies which have nominee houses.

Sir SAMUEL GRIFFITH: It could not be submitted to a convention without the consent of parliament!

Mr. DEAKIN: Or to the people without the consent of parliament!

Mr. THYNNE: Probably the constitution will be submitted to the several parliaments, and then they will make provision by which Conventions shall be called together in each of their colonies, to give an affirmative or a negative vote upon the adoption of the constitution; but of course before that can be done the parliaments will have to a certain extent to give their approval to the federation.

Sir JOHN BRAY: In reference to the remarks of the hon. member, Sir Samuel Griffith, if we are to undertake to go through these resolutions first, and then have some others submitted to us, we shall be long indeed before there is any chance of getting the bill. It seems to me that it will be convenient, after we have adopted as much of these resolutions as we can, and have amended them where necessary, if a committee consisting of one or two representatives from each colony is appointed to instruct a draftsman to draw up a bill. I think we could get representatives from the different colonies who would take the responsibility of having a bill prepared in such a way as to elicit full discussion, and to allow hon. members to give a definite vote upon the subject before us. But if we are first to decide on the matters to be put into the bill, and then to deal with the bill itself, there will be great delay.

Sir SAMUEL GRIFFITH: We both have the same object in view—speed!

Sir JOHN BRAY: Yes; and I do not suppose that my hon. friend would hesitate to take the responsibility now of instructing a draftsman to prepare a bill which would embody in a general way the views of hon. members. It would, of course, be subject to amendment. But we shall do no good if we declare first of all the provisions to be included in the bill, then have a bill embodying them prepared, and then consider them as contained in the bill. Of course the matter must be fully discussed; but it is our desire to save time as much as possible. With regard to the remarks made by the hon. member, Sir George Grey, I agree with those who say that they are not entirely out of place here, because the preamble to the resolutions is that

> in order to establish and secure an enduring foundation for the structure of a federal government,

Certain propositions should be agreed to. And I understood the hon. member to say that in order to secure "an enduring foundation," we ought to provide that all parliaments shall be elected by the people. That is the groundwork he takes. We could not attempt to say, of course, what the constitution of any colony should be; but I feel quite satisfied that if the people of New Zealand, through their House of Representatives, express a strong and decided desire to do away with their nominated upper house, and have an elective upper house, the governments and parliaments of the other colonies will do all they can to assist them in accomplishing that object. I feel, as has been said, that we attach too much importance to the words, "The powers and privileges and territorial rights of the several existing colonies shall remain intact"; because our desire is not to take any power away they at present have to alter their constitutions. I would ask the hon. member, Mr. Barton, not to lay too much stress upon the word "surrenders." It seems to me that if we want to get on with business the sooner we pass the resolutions in some satisfactory state, which will commend itself to the view of hon. members generally, and the sooner we get a draft bill submitted to us, the better we shall expedite our business.

Mr. DIBBS: When I had the honor of addressing the Convention the other day, I took the liberty of saying that the resolutions had been presented wrong side up. I am of that opinion still. I am also of opinion, after having listened to the many speeches in Committee, that there is great force in the remarks of the hon. member, Sir Samuel Griffith, supported by the hon. member, Sir George Grey. These resolutions are as bald as a billiard ball, and there are no members of the Convention, excepting, perhaps, those who have come with constitutions ready cut and dried in their pockets, who can be prepared to arrive at any conclusion as to what form of constitution should be submitted. The resolutions in their present shape are as unsatisfactory as they can be, and it is because of their unsatisfactory character that all this debate has taken place. Supposing it were possible that we could arrive at some amended form of resolution, such as was suggested by the hon. member, Mr. Barton, and supported by the hon. member, Sir John Downer—a resolution declaring that territorial rights shall not be disturbed in any way, and then that the Convention went on to say that the federal government should have certain powers to be named, the matter would at once be brought into a form upon which a bill could be constructed. Some time ago I prepared, with the intention of submitting it in Committee for the purpose of tacking it on to the resolution we are considering, the following clause:—

> The federal parliament shall have control of the military and naval defences (the governor-general being commander-in-chief), mint and coining and currency, extradition, marriage and divorce, aliens and naturalisation, tariff, foreign relations, post and telegraph, weights and measures, patents and copyrights, quarantine, census and statistics, banks, legal tender, commerce, shipping, navigation, and light-houses.

I have also prepared another clause, setting forth what the state rights should be—a general saving clause, giving the state parliaments power to deal with all other matters which are not actually handed over to the federal government. If a committee were appointed after some agreement had been come to as to the powers upon which a bill should be drawn up, they would have something to work upon; but they would have nothing to work upon in these wretchedly bald resolutions—resolutions which, the mover told us, were only thrown down—like a bone thrown to a lot of dogs to worry over—for the purpose of discussion. We have worried over them, and there is no material in them upon which anything like a constitution can be built. If some person were to frame a constitution upon these four bald resolutions, or if a committee of the Convention were to frame a constitution, we should be where we are now, determining the powers which the federal government should possess. We have fired off all the powder, and now we have come to solid hard work.

Mr. KINGSTON: To the bomb-shell!

Mr. DIBBS: The hon. gentleman will hear about that by-and-by. The bomb-shell question has been terribly misunderstood, especially by my powderless friend, the Chairman of Committees. It has been misunderstood by him, because, unfortunately, he finds that his powder, when he wants it to go off, is sometimes damp. We require a sub-committee to act in connection with the Parliamentary Draftsman. The Parliamentary Draftsman should possess an expression of the views of the Convention as to the powers which a federal government should possess,

and the sooner we get to that stage the better. I shall be prepared, as soon as the hon. member, Mr. Barton, deals with the resolution declaring the retention of provincial or state rights, to move that a bill be drawn up embodying certain powers, the states to deal with the remaining powers afterwards. With material of that kind, I think the hon. member, Sir Samuel Griffith, will be disposed to admit that those who proceed in the manufacture of a constitution will have fair and good ground to work upon. Otherwise we shall merely play upon the surface of a very hard piece of ground. We are wasting a deal of time, profitably, I hope, to the members of the Convention from other colonies. Even those who reside in Sydney, however, feel it somewhat tedious to be compelled to attend here day after day to the neglect of their private business. What must it be, then, for our friends from abroad?

Mr. KINGSTON: I cannot appreciate the strictures which the hon. gentleman who has just sat down has launched at the resolutions. The resolutions were introduced for a certain specific object, that of raising discussion, and they have certainly accomplished it, and, as was intended when they were first tabled, we are now in Committee for the purpose of putting them in to such a shape as will enable a bill to be drafted. I think we ought to recognise this: that whilst they are sufficient for the purpose of raising discussion, they are not sufficient in their present form to enable a draftsman to draft a bill which is likely to give satisfaction to the Convention generally. At the same time, we need not provide in this discussion with great particularity for all possible details, because if we do that it will simply amount to an attempt on the part of the Convention itself to draft a bill. Something must be left to the consideration of those who will be intrusted with the preparation of the measure, and who will have to put certain minor matters into such a form as they may consider best likely to meet the wishes of the Convention. I do not think the resolutions, as they stand at present, are sufficient to enable a bill to be satisfactorily drafted. Nor do I see the necessity for the suggestion which has been thrown out, to the effect that a sub-committee should be appointed to draft further resolutions to be submitted to the Convention. There are several most important principles embodied in the resolutions, and I think, if we take them as a frame-work upon which to engraft such other resolutions as we consider essential on matters of importance, we shall do better than if we attempt to set out everything in detail. In connection with this matter, I should like to say that I sympathise with the suggestion which has been made by the hon. member, Mr. Barton, as to the propriety of laying down in these resolutions, for the guidance of the draftsman, the principles upon which fresh states may be carved out of the different provinces. It has been well said by various hon. members that a provision of this sort would be likely to be inserted by the draftsman without any special instructions. Such a provision was originally contained in the United States Constitution. It is also contained in the South African Act. We must remember, however, that it was not originally contained in the Canadian States Constitution, in the British North American Act of 1867, and that legislation had to be introduced for the purpose of meeting it in 1871. Under these circumstances, particularly in view of the doubts which have been expressed in various quarters as to the intention of the Convention with reference to the appropriation of territory which belongs to the several colonies, it would be just as well to make the matter perfectly plain. There would be no difficulty whatever in adopting the provision which has been suggested by the hon. member, Mr. Barton, and if the hon. member will move the resolution in question as an amendment to that which we have before us, I shall be most happy to support it. At the same time I think it would be well not only to provide for the consent of the local legislature, and of the federal parliament, to the carving of new provinces out of existing colonies, but that a provision should be inserted, possibly in the shape of a referendum, for ascertaining what are actually the wishes of the people themselves on the particular point. If we discuss this subject at this stage in connection with the resolutions—it is a matter of importance and of principle—we shall shorten the way towards getting it absolutely settled, and will certainly also lighten the task which will be imposed on those whose duty it will be to draft the bill. I think that if we deal with each question as it arises; if we refuse to attempt to put off the day when it will be necessary for us to face and discuss and settle these difficulties; if we meet this point which has been raised, and dispose of it, and deal similarly with all other matters of principle, whilst relegating questions of detail to the consideration of the draftsman intrusted with the preparation of the bill, we shall do well; and I shall be happy to join in doing whatever is necessary to dispose of the matter now raised, which may fairly be considered a matter of principle.

Mr. WRIXON: A new matter, one of procedure, has been raised, which it is very important to decide, and I wish to say a word about it. It will, I imagine, be utterly impossible to draft a bill unless you draw up full instructions for it. No one can say that if we pass all these resolutions they will be instructions. No draftsman could know what our ideas upon the vast number of matters that must yet be provided for. All a draftsman could be expected to do would be to put into technical and legal language what we determine, and there are not only one or two, but fifty or sixty matters of detail, all of which we must vote upon before we can employ a draftsman; therefore I thoroughly agree with the proposition made by the hon. and learned member, the Premier of Queensland, which I do not think is open to dispute, namely, that after we pass this resolution we must pass a number of other resolutions embodying the details of the bill; but, nevertheless, I would advise the Convention to go on as fast as we can in dealing with what is before us, for this reason: if we take what is before us, and determine all the questions that are raised by these resolutions, though that will by no means afford materials for a bill, it will determine one or two points which it is essential we should have determined before we talk of any bill at all. We shall determine the question of state rights, as against dominion rights, and, of course, any arrangement for customs revenue. All that is provided for; and I suggest that we go on as fast as we can with what is before us, all the while understanding that it is imperfect, but yet that it embodies vital questions; and when we have determined these I do not think that we shall have much difficulty in passing thirty or forty other resolutions dealing with matters all essential to a bill being drawn.

Sir JAMES LEE-STEERE: I rise to support the proposition of the hon. and learned member Sir Samuel Griffith, that before a bill be drafted we pass some other resolutions saying what provisions the bill shall contain, more especially in regard to the powers to be conferred on the federal government. I cannot see how we can come to a determination as to the powers that we propose to confer on the senate until we know what powers we are going to give to the federal parliament. I think it will expedite matters very much if further resolutions be prepared by the Committee, and it certainly will not cause any further long discussion on the bill.

Resolution agreed to.

Mr. BARTON: I think we may as well take into consideration at once the propriety of amplifying these resolutions, so that they may be a sufficient instruction to any drafting committee or draftsman —I myself am in favour of a drafting committee being elected—without going through the intermediate stage suggested by the hon. and learned member, Sir Samuel Griffith. We have all one thing in common, that is, the saving of time. Now that we have taken these resolutions in hand, the subjects of absolute principle are not so very numerous. Most of the provisions of the bill, or a large number of them, at any rate, would be provisions in regard to matters of detail, and they would all be subject to amendment. The drafting committee that we shall elect will have such a knowledge of the feeling and opinion of hon. members, as can be derived from a study of the debates, that they will be able, as regards most ordinary matters of detail, at any rate, to frame provisions which will probably be within the drift of the discussion, or, at any rate, there will be a fair basis for proceeding in Committee upon the bill. Why, then, without this intermediate stage, should we not lay down matters of principle, so long as they are matters of the inherent principle? It seems to me that it will be easier and shorter to do that, and it would not be necessary to add to the resolutions more perhaps than half a dozen provisions to enable the drafting committee to have a sufficient set of instructions to prepare a bill that we can go on with. Therefore I move:

> That the following stand as clause 2:—"That no new state shall be formed by separation from another state, nor shall any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned, as well as of the federal parliament."

Sir SAMUEL GRIFFITH: Before that resolution is formally put, I would suggest to the hon. and learned member, Mr. Barton, whether he thinks it desirable to propose that resolution formally from the chair in the absence of the hon. member, Sir Henry Parkes? I do not profess to be in that hon. gentleman's confidence with respect to the resolutions any more than is any other member of the Convention; but he is specially in charge of these resolutions—they are of his own drafting entirely, and I am under the impression that he does not desire, from his point of view, that they shall be amplified to any great extent, at any rate. They are now, of course, in the hands of the Committee; but it would not be courteous, nor in accordance with parliamentary practice, to insist on any important amendment in the hon. gentleman's absence.

Mr. GORDON: Are we only to agree and not dissent!

Sir SAMUEL GRIFFITH: I merely call attention to the hon. member, Sir Henry Parkes' unfortunate absence.

Mr. GORDON: Then we should not sit!

Mr. BARTON: I think that we might go on with the discussion, but not take a division until the next sitting day.

Sir SAMUEL GRIFFITH: I may take this opportunity of adding to what I said just now, that one of the matters upon which the draftsman will have to be instructed is, how the governors of the colonies are to be appointed. Is there a single member of the Convention who has the slightest idea what is the opinion of the Convention on that point?

Mr. PLAYFORD: They can put something in the bill, and we can agree to or dissent from it!

Sir SAMUEL GRIFFITH: The hon. member must have a very small knowledge of the drafting of bills if he says that. Another question which has to be considered very fully is, what provision is going to be made in reference to the enormous surplus revenue which the central government will have? That is one of the most important matters that we shall have to deal with, and it must be discussed very fully.

Mr. MUNRO: What is the good of raising new questions now?

Sir SAMUEL GRIFFITH: I am merely pointing out that these are things which must be settled in a preliminary manner before anything can be put into a concrete form.

Mr. MUNRO: If we are going to discuss the whole subject on every motion we shall never get through the business!

Sir SAMUEL GRIFFITH: I am not proposing to discuss them, but am merely pointing out that there are a number of subjects besides those mentioned in the resolutions which must be discussed before they can be put into a concrete form. I am disposed to think that the shortest way would be the appointment of a committee straight off.

Colonel SMITH: Why not do it?

Sir SAMUEL GRIFFITH: I have pointed out the objections to it. I am most anxious that we should get the business done as soon as possible.

Mr. MUNRO: I want to call attention to what appears to me a slight irregularity. I understood that we were to be governed by the standing orders of the House of Commons, which are practically the standing orders of our legislatures. We have passed one resolution, and there are others to follow; but now it is proposed to bring a new resolution in between the 1st and the 2nd. That is not in accordance with our practice. My object in speaking is to try to get back to a business-like way of going on. According to our practice we must either add Mr. Barton's resolution by way of amendment to the one before the Chair, or allow it to remain until all the resolutions are dealt with.

The CHAIRMAN: I am bound to say that, in my opinion, the hon. member is out of order in proposing his resolution at this stage. He should either have proposed it as an amendment, or have waited until the whole of the resolutions had been disposed of, and then have proposed it as a new resolution. An hon. member having raised an objection to the resolution, I must rule it out of order.

Mr. BARTON: I did propose at first to submit the proposal in the form of an amendment, but I thought the better course was to submit it as a new resolution. I know that that is not strictly according to parliamentary rule, but I thought that a greater degree of latitude would be allowed than is ordinarily permitted in parliament.

Mr. DEAKIN: I wish to propose that the 2nd resolution be postponed until after the 3rd resolution, with the view of giving No. 3 priority over it. This, it appears to me, would be the logical order of dealing with the resolutions.

The CHAIRMAN: According to parliamentary practice, if the 2nd resolution is postponed, it must be until after the discussion on all the other resolutions.

Mr. DEAKIN: There may possibly be no objection to the course I suggest. I move, with concurrence:

> That resolution No. 2 be postponed and stand after resolution No. 3.

Mr. FYSH: I must ask the ruling of the Chair on the subject. As the hon. member, Mr. Munro, pointed out, we must carry out our parliamentary practice in its entirety. The proper course, under the circumstances, will be to treat the resolutions as a bill. If one is reserved it must be dealt with after the whole of the other resolutions have been disposed of.

The CHAIRMAN: The hon. member, Mr. Deakin, has asked to be allowed to take another course, with concurrence. Does the hon. member object?

Mr. FYSH: No, I shall not raise any objection.

Motion agreed to.

Resolution No. 3 proposed:

That the power and authority to impose customs duties shall be exclusively lodged in the federal government and parliament, subject to such disposal of the revenues thence derived as shall be agreed upon.

Mr. DEAKIN: The first question that arises in connection with this resolution is whether the word "excise" will not require to be inserted. I move:

That after the word "customs," the words "and excise" be inserted.

Mr. ADYE DOUGLAS: Before that alteration is made we ought to have some explanation as to what the hon. member would include under the term "excise." In different colonies the word is interpreted in different ways. In Victoria the excise duties are of the same character as those levied in England; but in Tasmania we have a stamp duty which is virtually an excise duty. Every barrel of beer has to be stamped, and all breweries are subject to Government supervision. Would such a duty come within the meaning of "excise"? Before the word is inserted we should know to what it is intended to apply.

Mr. McMILLAN: I presume that when we come to deal with the matter in the federal parliament there will be a uniform excise, and whatever principle is agreed to generally will be extended to all the colonies, consequently no difficulty can really arise.

Mr. ADYE DOUGLAS: A difficulty will arise at once if it is made payable into the general revenue. I imagine so, at least, because we in Tasmania should at once do away with the duty.

Mr. McMILLAN: The fact of what the hon. member's colony will do beforehand will not affect what the federal government will do afterwards, even if they had no excise whatever. The hon. member referred to a system of affixing stamps to beer barrels. It is simply a *modus operandi* for collecting the excise duty; it can scarcely be called a stamp duty in the strict sense of the term.

Mr. ADYE DOUGLAS: It is strictly excise!

Mr. PLAYFORD: There will be no more difficulty, I imagine, in connection with excise duties than in connection with customs duties. I suppose it is understood by all of us that the customs duties or excise duties shall be of a uniform character; that one law shall not be made to suit Victoria, another law to suit South Australia, and another law to suit Western Australia; but that whatever customs laws are passed shall be absolutely the same as regards all the colonies. I do not suppose it is necessary to insert every little thing in the resolutions for the information of the celebrated draftsman of this bill.

Mr. THYNNE: There is something more in the insertion of the word "excise" than appears at the first blush. Perhaps the question of state rights may come in in a way which we do not anticipate. In Tasmania a great many articles are liable to excise duty which are not liable in the other colonies.

Mr. BURGESS: Only one—beer!

Mr. THYNNE: There is nothing to prevent a duty on the production of tobacco being classed as an excise duty. In fact, many other products might be made liable to excise duty in just the same way. Is the federal government to have the same power of imposing taxation on local productions as the state governments have? The subject wants a little more consideration, I think. I can foresee possibilities under which rival claims may be made by the separate colonies, and by the federal government to impose taxation on the same objects. We must bear in mind that we are producing in these colonies almost everything that we require. Some colonies produce what others cannot produce. A tax on the productions of one colony would be a very unfair tax, and it might also have the effect of depriving each separate state of its own legitimate source of revenue.

Mr. MUNRO: The difficulty which has arisen must be coped with. It will be absolutely impossible to give the import duties to the federal government without the excise duties, unless we are to allow some colonies to take advantage of others. Take, for instance, the case of an article which I do not use. If the federal parliament is allowed to put an import duty on whiskey for the whole of the colonies, and one colony puts an excise duty on the local manufacture, and another colony does not do so, the result will be that the colony which does not tax the local whiskey will get the local article produced to the largest extent, and it will be passed on to other places, because being a local manufacture it will not be liable to any duty. I understand, whatever we may do, we intend to apply the same law to every colony, consequently we cannot allow the excise duties to go without the customs duties, for otherwise the whole thing will be bound to go wrong. At the present time Tasmania has an excise duty on beer, Victoria has no such duty; but there is not the least doubt that if the revenue of Victoria were to become short, we should fall back on that article as a means of raising revenue. If we are to give the excise and customs duties to the federal parliament, we shall expect that body to take a large amount of local expenditure off our shoulders. In this way one will balance the other. We spend, for instance, large sums on defence works. We expect the federal parliament to take over the whole of the defences, and in that way one will balance the other. I am quite clear, however, that if the excise duties are not to go with the customs duties the whole thing will break down.

Mr. BAKER: I do not think the hon. member, Mr. Munro quite understood the argument of my hon. friend, Mr. Thynne. My hon. friend, as I understood him, admits that excise duties must be uniform throughout the colonies; he also admits that the federal legislature must have the power to impose excise duties; but he points out that, although the duties may be uniform in all the colonies, still they may be imposed on some article which is raised exclusively in one colony, as, for instance, sugar in Queensland. Therefore the question of state interests comes in, although indirectly, in considering the matter of regulating excise duties. My hon. friend's argument is worthy of our consideration, because taxation might be imposed in such a manner that one particular state would be prejudicially affected, and the rest of the states would obtain an unfair advantage.

Mr. CLARK: The case just mentioned is exactly parallel with the tobacco cases in America, to which I referred in my speech on the resolutions the other day. Having had these cases brought under my notice, I thought a great deal about the subject, and I think the only way in which we can avoid that state of things arising under our constitution is by providing that there shall be no export duties, and that there shall be no excise duty imposed upon any article which is not also subject to customs duties. I think it will cover the whole ground if we have no export duties whatever, and no excise duties except on articles which are subject to import duties.

Mr. BURGESS: There can be no doubt that the suggestion of my hon. friend, Mr. Clark, if given effect to, will cover most of the ground. If the hon. member, Mr. Baker, will look at the wording of the resolution, I think he will see very clearly that the power of levying an excise duty will be lodged exclusively in the hands of the federal government, and that the local legislatures will have no power whatever to impose an excise duty upon any article. It is very necessary indeed that this power should be possessed by the federal government, particularly in view of the way in which the customs duties as a whole would be affected if proper care were not taken to provide for this at the outset. The hon.

member, Mr. McMillan, in his address to the Convention yesterday, referred to the amount of duty that would be lost in connection with intercolonial free-trade. I think he stated that the total customs revenue of the colonies at the present time was something like £8,600,000; but, that if we had intercolonial free-trade, that amount would be reduced by some £225,000. I am quite sure, however, that if the matter be carefully looked into, instead of the amount being reduced by some £225,000, it will be found that the reduction would amount to between £600,000 and £700,000. Take one item alone. On referring to the statistics of Queensland, I notice that the average export of sugar from that colony is 40,000 tons per annum. Taking the average duty levied to be £5 per ton, that would represent £200,000. In addition to that you would lose a large amount collected upon rum manufactured in Queensland, and upon the spirits and tobacco manufactured in both New South Wales and Victoria, also upon the wine in South Australia, to say nothing of cereals. It will be found that the amount given by the hon. member would be largely increased. It is a matter of the greatest moment that we should see that the power of levying excise duties is placed in the hands of the federal parliament.

Mr. MARMION: I can see that the giving to the federal parliament of the right to interfere with the separate states, so far as the levying of excise duties is concerned, may have rather an extraordinary effect, unless something is done in the direction of the suggestion made by the hon. member, Mr. Clark; that is, providing for an import duty upon every article upon which excise is levied. I will give my reasons for thinking so, and I do not think they have been touched upon by any one who has yet spoken. Take, for instance, the colony I represent—Western Australia. We are large producers of colonial wine, and we hope to be large producers of tobacco. We have also a large number of breweries. Take one of these items. It is proposed by these resolutions that trade and intercourse between all the Australian colonies shall be absolutely free. Let us suppose that the federal parliament levied an excise duty on colonial wine of a few shillings per gallon for purposes of revenue. There would be no objection to that; but what would be the result if we had absolute free-trade between the colonies? Colonial wine would be imported into Western Australia from the other colonies, and would undersell the locally-produced wine; and the same thing would hold good with regard to tobacco, and the other items to which I have referred. I believe I am correct in that view. I believe it is absolutely necessary that we should carry out either the suggestion of the hon. member, Mr. Clark, or one similar to it.

Mr. FITZGERALD: The duty would be uniform in all the colonies!

Mr. MARMION: I am afraid I have scarcely made myself understood. I have not said anything as to the uniformity of the duty. I do not know whether the customs duties, excise or import, would be uniform; but the case I put is this: Supposing an excise duty were levied on tobacco in Western Australia of 1s. per lb. The manufacturer would have to pay the duty in the first instance, and later on the consumer would have to pay it. At the same time, the tobacco grown in South Australia, Victoria, and New South Wales would enter the colony duty free.

Mr. PLAYFORD: But there would be an excise duty all over the colonies!

Mr. MARMION: Then, I fear I have misunderstood the question; but I thought an excise was a duty imposed upon internal, and not upon external, productions. I have never read of an excise duty referring to productions outside of the country in which the duty was levied.

Mr. J. FORREST: It is generally understood to be a duty levied upon home productions!

Mr. MARMION: Then my argument, I take it, is applicable!

Mr. DONALDSON: I think we ought to make haste slowly in this matter. It would be only right that the federal parliament should have the right to levy an excise duty upon spirits, tobacco, and beer. These are three items subject to excise at the present time. But suppose the parliament were to go a little further, it might possibly put an excise duty upon sugar, and, as far as I know, there is only one colony in this group at the present time which grows sugar.

Mr. GORDON: Excise would include licenses!

Mr. FITZGERALD: The states representative would see to those matters!

Mr. DONALDSON: I believe an excise would also include a stamp duty. I should like to have this matter fully considered. It is getting late, and in the absence of the mover of the resolutions I think they might now be postponed until our next sitting. I therefore move:

That the Chairman do now leave the Chair, report progress, and ask leave to sit again.

Colonel SMITH: I should like, before that question is put, to ask members of the Convention to consider the question as to how much of the customs revenue of the colonies is to be given up to the federal body until the general tariff is established. I quite understand the objections of Western Australia, and I think all the colonies would object to give up the whole of their customs revenue before the general tariff is framed. I think that some limit should be fixed, say about one-fifth of the total. A general tariff should be established before the colonies abandon the whole of their customs revenue.

Progress reported.

Convention adjourned at 4·40 p.m.

MONDAY, 16 MARCH, 1891.

Address—Reports on Colonial Defence—Federal Constitution.

The PRESIDENT took the chair at 11 a.m.

ADDRESS.

The following address was read by the secretary:—

57, Queen-street, Melbourne,
13 March, 1891.

Sir,—We have the honor, on behalf and at the request of the members of council of the Melbourne Chamber of Commerce, to tender to the members of the Convention the assurance of the profound sense entertained by the mercantile community of Melbourne of the importance attaching to the deliberations of the Convention and of their far-reaching consequences.

The members of the chamber trust that the Convention will be influenced and guided by wise and patriotic counsels, and that on all the great issues which will come under their consideration the conclusions arrived at may tend to the consolidation of Australian interests, the fuller development of our varied resources, and the firmer foundation of all the institutions of our civilisation on a national basis in harmony amongst ourselves as colonies, and always in truest touch with the heart of the great British empire.

We are, &c.,
HENRY G. TURNER, President.
C. HALLETT, Secretary.

REPORTS ON COLONIAL DEFENCE.

Mr. DIBBS: Before the orders of the day are called on, I would like to ask, by way of suggestion, whether it would not be desirable that the reports with regard to our military defences, which have been received by the various governments from Major-General Edwards and others, should not be printed and circulated in this room, for the purpose of enabling us to thoroughly understand the position of

ur military defences when we come to consider the th resolution? I make that suggestion because, on making inquiries among hon. members from the other colonies, I have been told that certain information has been in their possession as members of Parliament which has not been placed in the hands of members of Parliament in this colony. In dealing with a large question such as military defence is likely to be, it would be a great assistance if hon. members had the advantage of having before them all the reports which have been made to the various governments.

The PRESIDENT: There can be no objection to affording the fullest information to members of this Convention which the Government may have in its possession. But I would invite attention to the fact that the Convention is not called upon to consider the state of the military forces in this country, but to decide the question whether these forces should or should not be placed under a federal parliament; and the light which may be thrown on the state of the forces in any colony by any reports will not in any way assist us in deciding upon the policy whether or not the forces of the country are to be placed under a federal government.

FEDERAL CONSTITUTION.

In Committee (consideration resumed from 13th March) on motion by Sir Henry Parkes:

The CHAIRMAN: The original question was that the following resolution be agreed to:—

> (3.) That the power and authority to impose customs duties shall be exclusively lodged in the federal government and parliament, subject to such disposal of the revenues thence derived as shall be agreed upon.

It has since been moved by the hon. member, Mr. Deakin, by way of amendment, that after the word "customs," in the second line, the following words be inserted, "and excise."

Mr. GORDON: I think the Convention did wisely at its last sitting in postponing further consideration of these resolutions until the members should have had time to give them fuller consideration, because, after all, it appears to me that the question involved in the resolution now before us touches a very vital point in the discussion. It touches the money bills, and, as was said by the hon. member, Mr. Wrixon, the power of government really lies in the power of the purse. I support the suggestion made by several hon. members, that as much as possible we should clear the ground of this discussion as we proceed. The hon. member, Sir Samuel Griffith, suggested that we should give the draftsman of the proposed bill merely a sketch of instructions, and leave a great deal to be filled up by those whose duty it will be to prepare the bill.

Sir SAMUEL GRIFFITH: No. My suggestion was the opposite!

Mr. GORDON: Then I must place myself in the ranks of those hon. members who have been so unfortunate as to more than once misunderstand the hon. member.

Sir SAMUEL GRIFFITH: The hon. member mistook the suggestion!

Mr. GORDON: I understood that two suggestions were before the Convention at its last meeting. The first was that our instructions to the draftsman should be somewhat sketchy, and that we should reconsider the bill when it was brought before us. The other suggestion was that we should as much as possible clear the ground of the discussion as we went along. I think our duty is to save time as much as possible, as was suggested by the hon. member, Mr. Playford, by settling every item and condition of the contract we are about to make before we instruct the draftsman to prepare the bill, because, even if we are only building "a castle in Spain," we had better now decide how high and deep the building shall be, how many rooms it shall contain, and leave the question of the decorations for future consideration. There are many definitions and provisions which the draftsman must insert, and members of the Convention cannot insert those as they go along. But with regard to all the principles that must be embodied in the contract, and all the terms vital to its being carried out, we should clear the ground as we go along, so that we shall not afterwards have to retrace our steps and make fresh arrangements. With this view I shall at once propose an amendment upon the resolution before us. I beg to move:

> That all the words after the word "That" be struck out.

The CHAIRMAN: The hon. member can only do that if the mover of the present amendment withdraws it.

Mr. GORDON: I did not understand that the original amendment had any prescriptive right.

The CHAIRMAN: The original question was that this resolution be agreed to. Since then Mr. Deakin has proposed, by way of an amendment:

> That after the word "customs" the words "and excise" shall be introduced.

Mr. FYSH: I understand that the hon. member, Mr. Gordon, desires to move a prior amendment, and, therefore, he would be in order.

Mr. GORDON: Perhaps the hon. member will temporarily withdraw his suggestion as to excise. I did not understand, from the proceedings of the day, that the hon. member made the motion formally. He certainly suggested it, but it does not appear on the business paper.

Mr. DEAKIN: I have no objection to withdraw the amendment if that be necessary for the fullest consideration of the resolution.

Amendment, by leave, withdrawn.

Mr. GORDON: I am much obliged to the hon. member. The amendment which I propose is as follows:—

> That all the words after the word "That" be omitted with a view to the insertion in lieu thereof of the words:—
> "(1.) The customs duties imposed by the federated colonies upon goods imported from places outside such colonies shall be uniform, and shall be fixed by the federal government, and that such excise duties as may be agreed upon shall be similarly fixed.
> (2.) That trade between the federated colonies shall be absolutely free.
> (3.) That all bounties for manufacture or production shall be offered only by the federal Parliament, and that all bounties now offered by any of the federated colonies for manufacture or production shall be withdrawn.
> (4.) That upon all railway lines which in the opinion of the federal government are lines affecting trade between any two or more of the federated colonies, a uniform charge for carriage to be fixed by the federal government, shall prevail.
> (5.) That the expenses of the federal government shall be apportioned annually between the colonies in proportion to their respective populations."

Leaving out of consideration for a moment the question as to who shall collect the customs duties, which I shall deal with presently, there are some important additions which, it appears to me, must be imported into this resolution before it can be said to fairly embody the terms of the contract into which it is proposed the various colonies shall enter. This is largely a commercial treaty, and its initiation is really the promotion of the trade and commerce of these colonies, as it is pretty generally admitted was the case in the federation of the American colonies. There were some other conditions affecting their federation which happily do not surround us; but it is chiefly in the commercial interests of these colonies that we desire to federate. If this is a commercial treaty, it behoves us to see that its terms are fairly set out, so that each colony coming into the federation may understand the bargain which it is making, and as far as possible that such provisions be drawn

up as will prevent irritation from afterwards arising. We want, therefore, in the first place, to see what we are going to pay, and in the next place what we are going to get from federation. A knowledge of what the price is to be, and what are the advantages to be secured by the price paid, is the first preliminary to a commercial bargain, and the only delegate who made an attempt to tackle the question, "What have we to pay?" was the hon. member, Mr. McMillan. We were pretty much on the heights of Pisgah before, viewing the promised land from a distance; but the hon. member tried to ascertain our position and to come down to the hard logic of facts. He told us it will cost £2,000,000 to support the federal parliament, and to carry out the purposes for which it will be established. I believe the hon. member is well within the mark in that estimate, and that the cost will be more. But for the purpose of my argument I shall assume that federation will cost £2,000,000. As to the conclusion which he founded on some of his figures, that the colonies would get the money back again in the shape of the decreased rate of interest at which they could borrow, I believe that to be thoroughly unsound, and it does not support his deservedly great reputation as a financier.

Mr. McMillan: I only mentioned that as one of the incidental matters in connection with the subject. I did not want to form any argument of a logical nature upon it.

Mr. GORDON: I did not hear the hon. member's speech; but in the official report it certainly appears as a very substantial argument. Nothing could be more substantial than a statement to the colonies to the effect that if they spend £2,000,000 upon federation, they would get that sum back within a few thousand pounds by the decreased interest which they would have to pay for loans. It appears to me that the argument would be a good one, if true; but I believe that it is most unsound. Underlying the fact that the federal parliament would be able to borrow more cheaply than the colonies now do is the fact that it would have to take over the assets of the colonies. But I do not think that that is possible. If they did take over the debts they would only take over those incurred on good assets. It is not to be supposed that they would take over the debts incurred in building breakwaters that shelter no ships, railways that carry no goods, or jetties on which the grass is growing, and in the other reckless expenditure in which every colony has indulged. There are such assets everywhere, and only the other day I saw it stated that the great colony of Victoria was going to close one of her railways. The federal government would only take our picked assets, upon which they could borrow cheaply, and we should be left with our bad assets, upon which we would have to go, cap in hand, to the Jews, to get any money at all, so that we should more than lose the advantage which we now have of being able to borrow at a cheap rate upon our good assets.

Mr. Munro: I rise to order. Is it understood that in Committee hon. members, speaking upon a special resolution, may debate all the matters that were raised in the discussion in the Convention? At the present time the hon. member is supposed to be speaking upon a special resolution before the Committee; but he is really replying to a speech made by the hon. member, Mr. McMillan, when the whole of the resolutions were before us. If we go on in that way we shall never finish the business.

The Chairman: I think that the hon. member, when he proposed his amendment, ought to have handed it into the clerk, so that I might be able to understand whether he was speaking to the resolutions generally, or to the amendment. The hon. member would certainly not be in order in speaking of matters irrelevant to his amendment; but I have not had an opportunity of forming an opinion as to whether he is doing so.

Mr. GORDON: I am dealing with excise duties, in relation to the question with which the hon. member, Mr. McMillan, dealt the other day.

Mr. Munro: The hon. member was dealing with loans—a different question altogether!

Mr. GORDON: I am dealing with certain questions touching excise duties, and I believe I am in order in doing so. I shall be very loath to attempt to draw the discussion into channels which would waste time; but, in my opinion, I am trying to save time by dealing with the questions treated in the resolution before the Convention, namely, the collection of the excise duties, why we are asked to surrender them, and, if we surrender them, what we are to get for them. It appears to me that my remarks are in the main to the resolution before the Committee, and I shall continue them, as shortly as possible, unless hon. members object. I think I have shown that the conclusions arrived at by the hon. member, Mr. McMillan, are not justified by his figures; but I will assume that his estimate of the cost of the federal government to the various colonies will be £2,000,000. That is what we have to pay. Now, what shall we get for it? A treaty, which is really a commercial bargain, is what has to be enacted by this Convention, and we must see that the commercial advantages to be gained by it, great as they will be, are clearly assured to us by it. I have as much reliance as any hon. member on the good faith of the colonies; but at the same time I think that it is a quality to be kept as much in reserve as possible, to be drawn upon only when necessary, and the clearer the terms of the contract, the less chance there will be of irritation and disagreement in the future. I think it necessary, therefore, that the stipulations embodied in my amendment should come on at this stage. First of all, the duties must be uniform. Of course, I know that it will be finally enacted by the Convention that the duties should be uniform; but it is as well to state it, as also, following the amendment of the hon. member, Mr. Deakin, with regard to excise duties, that only certain excise duties should be included. The dictionary definition of excise embraces a good deal more than the local parliaments will give up. According to the English definition of the word it embraces licenses; but the definition, which I have no doubt every member of the Convention intends, is simply duties upon articles of home production, especially spirits. My amendment, therefore, would provide that certain excise duties to be agreed upon should be handed over. Then we come to the question of the abolition of the bounties offered by the various governments. Now, what would be the good of free-trade between the colonies if, in one colony, we have bounty-fed goods competing with goods manufactured in a colony where there are no bounties? Quite recently, in the great colony of Victoria, and out of a magnificent surplus which that colony earned under the able management of the late government, a sum of between £250,000 and £300,000 was devoted towards the promotion of local industries.

Colonel Smith: That is nearly all gone!

Mr. GORDON: If it is nearly all gone, I can only congratulate the farmers on having secured it. I have no doubt that that policy, with which I most heartily disagree, because I think that bounties are most vicious, having been once initiated, is likely to be repeated.

Mr. Munro: No fear!

Mr. GORDON: The money, however, has not all gone, and Victoria is not the only colony which has offered bounties for the promotion of the manufacture of home products. In my own colony of South Australia we have offered a bonus for the growth of a certain quantity of sugar. What would our Queensland friends say to us if, with free-trade between the colonies, we were to supply them with bounty-fed sugar, as against their production, which

had no bounty to support it? To make this a fair contract, we shall have to provide that the federal government shall only fix bounties on home-grown goods or manufactures, and that all bounties now offered by the various governments shall be absolutely abolished. That appears to me to be essentially necessary to making a fair contract on the basis of intercolonial free-trade. I now come to the next point, namely, that there shall be a provision which shall prevent a war of railway tariffs. What will be the good of free-trade between the colonies if, for instance, at Broken Hill, New South Wales having no railway to a seaport on her shores, South Australia can charge an enormously high rate of carriage upon New South Wales goods carried to one of her own ports; or, if New South Wales, having a railway to one of her own ports, and South Australia having a railway to one of hers, one of these colonies chooses to initiate a war of tariffs, and to carry goods at a loss, in order to tempt the goods of other colonies to her lines? By this means the whole of the benefits of the contract would be swept away, and a barrier would be erected, more insurmountable, more irritating, and which would lead to more vindictive reprisals than under any system of protection ever invented. The system of protection, after all, has some social basis to work upon; it is not purely a commercial system of pounds, shillings, and pence; but a war of railway tariffs has nothing to commend it. It is essential, before giving up customs duties, before contributing to the federal government, before the colonies come into the contract at all, that these two points, and especially the last-mentioned one, should be settled by the colonies. If the railway lines between any two or more of the colonies are decided by the federal parliament to be lines affecting the trade between the colonies, the federal parliament alone should have the right to fix the rates. Then we shall get the benefit of the contract. I do not think that, with these conditions up to this point, the colonies will be paying too much if they pay £2,000,000 per annum for federation. I anticipate the greatest advantage to the commerce of the continent from the freedom of the borders from customs duties, and from united action in commercial matters. The two conditions which I have indicated, however, must be clearly understood. As far as I am concerned—I have not mentioned this matter to any of my colleagues, excepting the hon. member, Sir John Downer, a couple of minutes ago—I shall agree to no treaty which does not embrace those conditions, and in terms respecting which there can be no possible mistake whatever. We now come to the last clause embraced in my amendment, and which covers the point as to whether these customs duties shall be collected by the various governments or by the federal parliament. It appears to me that the collection of duties by the federal government will bring about what the hon. member, Sir Thomas McIlwraith, so happily described as a dislocation of the finances. Each of these colonies is very heavily in debt. Take South Australia: Her debt is something over £20,000,000, and her customs duties reach £600,000 a year. We require every penny of that money as it comes in; and not to obtain it as it comes in, or as much of it as we can possiby get, means financing; it means going to the banks. How long is it likely that a federal government will lock up the £8,000,000 which they will collect from the customs?

Mr. BAKER: They can hand it over every day!

Mr. GORDON: It is impossible to hand it over every day. How is the executive to know what money will be required? Supposing the federal government reserves £2,000,000 for their expenditure, will it not be competent for the federal parliament to make it £4,000,000 or £1,000,000? Therefore, the federal government must always hold a very large surplus over and above what the government may reasonably think will be required for federal purposes. If £2,000,000 per annum is the estimated amount required, it appears to me that, in order to be well within their borders, in order to have reserve funds, and to be able to carry on the work of government, they will have to keep something like £4,000,000 in hand, and that means a contribution from South Australia of £400,000 annually, which will be kept from her, it appears to me—of course this is entirely a suggestion—for long periods of time. Supposing the federal parliament only sits four months once in the year there will be eight months during which there will be no arrangement as to the disposition of the finances, and during which the executive of the federal parliament will not know what expenditure their parliament is going to insist upon. They certainly must retain at least £4,000,000 every year in order to carry out their duties, and in order to be well supported for any expenditure the federal parliament may authorise. As South Australia is at present situated she cannot afford to let £400,000 per annum—and I do not think that is an unreasonable estimate—be locked up by the federal government. It appears to me that this will be a most expensive way of collecting £2,000,000. To say that the federal government shall collect £8,000,000 and hand back £6,000,000 is to say that they are adopting absolutely the most expensive and roundabout way of collecting £2,000,000. Why not let the colonies hand over £2,000,000, as provided by the federal parliament, at once?

Sir JOHN BRAY: We have not agreed about the £2,000,000 as yet; it is only imaginary at present!

Mr. GORDON: My argument is founded on the supposition that the figures of the hon. member, Mr. McMillan, are correct. I do not say that they are correct; but I think they are nearly correct. I do not think any delegate will estimate the cost of the federal parliament at much under £2,000,000; but whatever the amount may be, it is simply a matter of proportion. The difficulty remains, that a very large amount of money will be kept out of the hands of the treasurers of the various colonies, and which the smaller colonies can ill afford to have reserved.

Mr. MCMILLAN: That includes a large amount which we pay under any circumstances!

Mr. GORDON: No doubt it includes defences. Let us take the case of South Australia with regard to defences. We pay £50,000 a year for our defences; but our share of £2,000,000 will be £200,000, so that we will be paying £150,000 more than we are at present paying. The difficulty is this: it is not only the amount we have to pay but it is the fact that a large amount of money which we want from day to day will be absolutely locked up. I place this suggestion, which I will not further labour, before the Convention. Apart from that point, however, this will be for other reasons the most expensive way of collecting the £2,000,000, or whatever the amount required for the federal government may be. I am sure it will involve a large increase of officers. There will have to be a system of checking. You cannot collect the moneys of a colony, out of which deductions have to be made, and the balance refunded, with a staff that is sufficient to simply collect the amount and hand it over to one authority.

Mr. MUNRO: Why not?

Mr. GORDON: You cannot perform a double business operation of that sort as easily as you can perform a single business operation.

Mr. MUNRO: Cannot a cheque for £10,000 be drawn without appointing an additional officer?

Mr. GORDON: I will take the hon. member's own illustration. You cannot receive £10,000, and draw a cheque for £2,000 and a cheque for £8,000 as cheaply as you can receive £10,000 and draw a cheque for £10,000. It is an *a b c* proposition in financial business which cannot be controverted, that you cannot perform a large double business operation of this kind as cheaply as a single one. It involves

a double set of books, and it must, in the nature of things, be more expensive. It is a question also whether the system proposed will not involve a dislocation of the civil service of all the colonies, as well as a dislocation of the finances. The customs service of every colony forms a large portion of its civil service, and the customs officers will have to be transferred to the federal government. Some of the colonies have regulations which give their civil servants pensions and some have not; and the colonies that give pensions to their civil servants will be involved either in a most expensive computation of pensions or in some adjustment of the relations between the civil servants themselves. This is, I think, quite clear. We have no system of pensions to civil servants in South Australia, and we are not going to take over civil servants of the other colonies with their pensions or right to earn pensions. So the colonies with a civil service, such as that of this large colony of New South Wales, where the civil servants, either from length of service or other causes, earn pensions, will have to compute their pensions or make a bargain with the civil servants which will reimburse them for the loss they will incur by serving under another government, or the federal government will have to take over their pensions, which it is not likely to do. Federation involves a dislocation of finances, a most expensive mode of collecting the money required, and a large expense for readjustment of the civil service. On these points it seems to me that the simplest system will be for the colonies to pay over to the federal government the contribution which the federal government adjudges they must pay.

Mr. PLAYFORD: That is the old confederation in America which broke down!

Mr. GORDON: I am aware that it is the system of finance that prevailed under the American confederation, which broke down, however, from causes that will not happen here.

Colonel SMITH: Suppose one colony refused to pay its proportion?

Mr. GORDON: If one colony dared to refuse to pay its proportion, its credit on the London money market would be lost altogether. It is as easy to say that one colony will bring about a revolution and secede from the federation as not pay its proportion. I am astonished that the hon. member, who has so much pride in the resources of the colony of Victoria, should suggest that any of the colonies will not pay its contribution. To my mind the thing is absolutely unthinkable—at least, as much as that any one of the colonies will secede from the union. Referring to the interjection of the hon. member, Mr. Playford, I say that the causes that led to the breakdown of the financial arrangements of the old American confederacy are not likely to happen here. That was the result of the strain of a long war, which we are not likely to have here. The difficulties of transport would prevent a long war. No nation in the world, excepting the Chinese, could keep up three or four campaigns against a country 12,000 miles away; and we have in addition the navies of old England riding the seas to protect us. The American confederacy had no protections of this kind. The only argument in favour of the central government not collecting the revenues is that the American confederacy broke down under the same system; but, in a reasonable contemplation of events, we may say that it broke down from causes that will not affect us here. Even supposing it were reasonable to suggest such a breakdown, considering the distance and the possibilities, the balance of convenience is undoubtedly in favour of my contention; and when the strain does come it will be much cheaper for us to make new financial arrangements then, than to go on during the next fifty or sixty years paying through the nose as we should do for such an arrangement as the resolutions propose. I am aware that this suggestion of mine contemplates a somewhat looser bond of union than the resolutions contemplate—that follows as a matter of course; but if we are to achieve anything beyond a step in consultation, the agreement at which we do arrive will have to be somewhat less than the union contemplated by the resolutions now before the Convention. I think that the arrangement which I suggest will allow Western Australia to come into the federation on something like reasonable grounds. The hon. delegates from that colony tell us that they cannot give up their customs duties right away. They might be allowed to keep them, and pay only such a contribution for defence as the federal government decided was their fair share for the protection afforded them, and which, I am sure, that colony would gladly pay.

Amendment proposed.

Mr. McMILLAN: With all respect to my hon. friend opposite, I think we are in great danger of misconceiving the exact character of the debate upon these resolutions. As far as I understand, these resolutions were never intended to be amended in the elaborate manner foreshadowed by the hon. member, and it seems to me that if we take that course we are simply now going through the discussion that will have to be carried out in a committee upon financial matters. I take it for granted that probably one of the schemes to facilitate business will be after these resolutions have been passed in some shape or other, to have a series of committees dealing specifically with certain subjects, and then the outcome of those committees will be resolutions of a character which will form the basis of a bill which will be capable of scientific amendment. It seems to me, therefore, that unless we try to pass the general principles which only are embodied in these resolutions, we may get into second reading speeches, which may really be a reiteration of the elaborate speeches of last week; consequently I would urge upon my hon. friend and others that it would be better for us to pass these resolutions with any verbal amendments that may be necessary; but simply embodying in the result the principles of the resolutions.

Mr. GORDON: These are principles in the amendment—as much principles as in the resolutions!

Sir JOHN BRAY: I would ask the hon. member, Mr. Gordon, to withdraw the amendment. I may say, in justice to Sir Samuel Griffith, that it was not he who suggested that we should pass the resolutions in a general shape and discuss the matters afterwards, when they were embodied in a bill. It was I who made that suggestion. It is impossible, in a large Committee like this, to attempt to draft a bill. That is what we shall be attempting to do if we go into these details. We have not had the amendments before us in print, and it is hardly fair to ask us, without seeing them in print, to agree to a series of proposals like these. It is a pity that Mr. McMillan went into figures to the extent that he did, because he has thrown out the suggestion that the federal government will cost £2,000,000 without telling us how he arrived at the estimate. Unless we know what the federal government is going to do it is impossible to form an estimate of its cost. I agree with Mr. Gordon in saying this: that if we all understand that the cost of the federal government is going to be £2,000,000 we could arrive at a much easier way of collecting it than by giving the federal government power to collect £8,000,000 of customs duties, all of which they do not want, but we have not agreed on it. We cannot yet tell what the federal government is to consist of, and what its powers are. I agree with Sir Samuel Griffith, that they will have to be considered carefully and put into a bill. We must not ask this Committee to decide upon details until we see them all in print. I agree with the suggestion of the hon. member, Mr. McMillan, that as far as possible we should adopt the resolutions now, it

being distinctly understood that we shall have the fullest opportunity of dealing with them in a complete shape when the bill is brought in. If it is necessary to deal with the resolutions in this way we may fairly do it now, but we should not be taken by surprise by having important amendments proposed before we have seen what is to be proposed in print.

Mr. DEAKIN: I would only say that if the hon. delegate, Mr. McMillan, is prepared with a motion to refer these resolutions to the various committees, to be dealt with by them in their various branches, I should be glad to bow to that proposal, and to withdraw the amendment in reference to excise which I moved the other day, and also to withold certain other amendments which I proposed to move at a later stage in regard to fiscal arrangements. It seems the proper way to deal with the different matters in separate committees, in the first instance, as that gives a better prospect of their speedy and satisfactory settlement than dealing with them in this large Committee. I shall be glad, therefore, to fall in with the suggestion which has been made, and to withhold the amendments I propose to move, if such be the pleasure of the Committee. The points referred to by the hon. member, Mr. Gordon, are worthy of most careful consideration. The hon. member has brought them forward in a manner to command the attention of the Convention. The Convention does not desire to avoid their consideration, but to discuss them at this stage appears to many hon. members to be inexpedient.

Mr. McMILLAN: I do not propose that we should go into Committee at once, but that we should pass the resolutions as they stand, embodying the principles, and then to proceed to the appointment of committees.

Sir JOHN DOWNER: I disagree so radically with the details of some of the resolutions that I think I should not be satisfied with their being passed in the formal way suggested. We have had much discussion about the houses of parliament and the relative rights of the senate and the house of representatives; and are we, as a matter of form, to pass a resolution contrary to the opinion of a large majority, or at least of a large section, of the delegates? I think the suggestion of the hon. member, Mr. Deakin, a very good one. After the long discussion which we had when we were sitting as a Convention, we should appoint committees to bring up a report as to any bill which may be necessary. But if we are to go through these resolutions in Committee and pass them, we must treat them as matters of substance, and not at all as matters of form. We are not to introduce details such as are contained in my hon. friend, Mr. Gordon's amendment, upon which, although not inconsistent with the form of the resolutions, it is, nevertheless, inexpedient that we should come to a determination at the present stage. I cordially agree with the suggestion of the hon. member, Mr. Deakin, in which he appears, unhappily, to have misunderstood the hon. member, Mr. M'Millan, for which I am sorry. I should have been glad if the hon. member, Mr. M'Millan had intended what he seemed to suggest. The sooner we have the committees appointed in the manner which he suggested, the better for us all, and the more time we shall have at our disposal.

Sir SAMUEL GRIFFITH: As I understand, these resolutions were brought forward as a first basis upon which to found the constitution, so that we might settle the general principles upon which the constitution is to be framed. And we are in Committee to consider them, not to adopt them as they stand, but to make such modifications in substance as will commend them to the convention. It would be quite foreign to the objects of the proposer to ingraft on them anything like details. That must be left to a subsequent stage. I indicated on Friday some doubt as to whether the resolutions themselves went sufficiently into detail to enable a select committee to go to work; but, on reconsideration, I confess myself converted to the view suggested by the hon. member, Sir John Bray, that we ought to agree to these resolutions, with such modifications as are necessary, and then set to work in committee. And no doubt we shall have different committees. A committee of delegates who are financial experts, as suggested by Mr. Wrixon, will deal with financial matters, and the constitutional branch of the subject might be intrusted to other hon. members. If this is the correct view, I would deprecate any attempt to add additional resolutions to those now before the Committee. That should be left to a subsequent stage, when these and other details will have to be dealt with. I believe that that will carry out the original intention of the mover, and I have come to the conclusion that it will facilitate business; but it is certain that we cannot make further progress until we have disposed of these proposals.

Mr. WRIXON: The proposal to appoint the committee is excellent; but there are two points on which we require a general understanding. One is the question of state rights, and the other that of the customs duties—the power of the federal parliament, and how it shall impose customs duties. I believe that the difference of opinion on these points in the Convention is not so very great, and that when they are rightly looked into we may soon arrive at an agreement. It will assist us if we so deal with the resolutions as to avoid matters of detail, and the sooner the committees are appointed the better.

Mr. GORDON: I should be glad to withdraw the amendment with the protest that it embraces questions of policy on which a direction should be given to the committee. The committee itself ought not to be allowed to decide a question of national policy. The point of my amendment, that the duties shall be uniform, is undoubtedly a matter of national policy. My amendment with regard to bounties is of a somewhat smaller character, but is essential; and my amendment with regard to uniform railway rates on lines which affect intercolonial trade is undoubtedly a most substantial amendment, and a matter of national policy. If the Convention by a majority decides to leave matters of policy to committees, I shall have nothing more to say; but I protest that my amendment does include matters of policy on which the Convention ought specially to direct the committees. The committees will have to take into consideration very large details, no doubt, and a great deal of scope must be given to their inquiries; but to leave to the committees questions of broad policy such as these will not, I most respectively protest, be consonant with the duties of the Convention.

Mr. MACDONALD-PATERSON: I rise to make an observation with regard to what has been repeated by the hon. member, Mr. Gordon, on the question:

> That the trade and intercourse between the federated colonies, whether by means of land carriage or coastal navigation, shall be absolutely free.

The hon. member is under the apprehension that he is the only delegate who holds these views. The question has, I know, been discussed by myself and a number of others, and we mutually agreed, particularly on the advice of the hon. member, Mr. Clark, to leave these subordinate matters to be worked out in Committee. Questions of subordinate or provincial policy are undoubtedly involved in this very sub-section. I wish hon. members to quite understand that the question of what may be termed the Australasian consolidated finance, and that very question of railway tariffs in the interior—because it is no use having a customs union and perfect harmony of trade on the coast if we have a war of railway tariffs in the interior—have been discussed amongst many hon. members The hon. member, Mr. Gordon, will not, I trust, be

under the apprehension that he is the only delegate who has thought of these questions. Committee is, I hold, the proper place to work out these questions, and I trust the suggestion to leave them to sub-committees will be carried out.

Mr. DIBBS: I think my hon. friend, Mr. McMillan, has not dealt very generously with the hon. member, Mr. Gordon, in condemning his remarks on the amendment. I have looked upon the hon. member, Mr. Gordon, during the sittings of the Convention as the most eloquent listener of all the delegates. We have heard nothing from the hon. member until to-day, and he spoke on what may be considered a fair amendment of the resolutions. There is no doubt that the various sub-heads of the questions to be defined in the constitution bill can be best dealt with by committees. But I would ask the Convention whether, when the committees bring up their reports, hon. members will be prevented from discussing the subject-matter of those reports? The time which has so far been consumed in discussing the amendment has not been wasted, because it has been the means of throwing a certain amount of light on difficult questions. For instance, in regard to the bounties and the possible war of railway tariffs, the hon. member has raised two points which are worthy of our consideration, and which will have to be considered, in the first instance by committees, and afterwards by the Convention, I deprecate altogether any desire to hastily conclude the sittings of the Convention when we have just reached the very kernel of the business. All we have done up to the present time has been to make each other understand our views in set speeches; but the real kernel of the whole business is, on what terms and conditions are we to construct this constitution? A very easy way out of the difficulty has already been foreshadowed by several hon. members. The resolutions will not pass the Convention until they have been amended; they cannot be amended until they have been discussed, and if amendments are to be made in one direction why should they not be made in another? I would make a suggestion which I think will meet the views of the hon. member who moved the resolutions in the first instance. The hon. member told us distinctly that he introduced the resolutions not to form a basis for the constitution, but for the purpose of eliciting the views of hon. members. He says he is not bound strictly by the resolutions, and that being so, why should he not withdraw the whole of the resolutions and appoint sub-committees to bring up reports on the various sub-heads of the constitution? Then we might have a discussion, and we might arrive at such conclusions as might become the basis of a bill. But as long as the resolutions are before the House they will be open to amendment. I intend to move one or two amendments on the 3rd and 4th resolutions, but I shall be very glad to waive my undoubted right to move amendments, if the whole of the resolutions are withdrawn and the questions referred to sub-committees.

Amendment, by leave, withdrawn.

Mr. DEAKIN: I simply desire to know where we stand, and what is intended to be the method of dealing with these resolutions? If it is proposed to amend them on general lines, I have amendments of a general character; and if it is intended to refer them to committees, I do not desire to occupy the time of the Convention. I think we ought to arrive at some understanding which will be fair to all the delegates as to how we are to deal with the resolutions. Perhaps the mover will indicate his views. For instance, on this question of excise—the question with which we were dealing before the hon. member, Mr. Gordon, moved his amendment—is it proposed to deal now with a question of that sort! Because if it is, I wish to amend my former amendment, and to submit it in this form:

That the resolution be amended by the insertion after the words "customs duties" of the words, "and duties of excise upon goods the subject of customs duties."

Amendment proposed.

Sir HENRY PARKES: The discussion this morning has almost convinced me that we are aiming to some extent at very different objects. My hon. friend, Mr. Gordon, obviously does not want a union at all; what he wants is a federation of the colonies —colonies themselves really conducting business of a federal character. But what these resolutions contemplate is the creation of a federal government for the whole of Australia, which is quite a different thing. Now, when I had the honor to submit the resolutions, I took occasion to repeat several times that I submitted the resolutions to be discussed, to be amended, to be rejected, to be dealt with in any way that the Convention thought fit; but I never supposed that if they were amended or rejected other matter would not be put in their place to give to the Convention what I think is essential before it can go into Committee beyond the Committee of the Whole —that is, an outline of the basis of the constitution which we seek to bring into existence. Take the resolution on which the hon. member, Mr. Deakin, has moved an amendment. It seems to me that what his amendment expresses is implied in the resolution as it now stands, and seeing that the resolutions are at best only an indication of the broadest features of the constitution which we seek to create, we should enter upon a useless and laborious course if we sought to add to them all those conditions which certainly must be added in the bill. My object was simply to put before the Convention an embodiment of what may be called the cardinal principles, such, for example, as a legislature of two houses, and not of one; such for example, as the electoral basis of the house of representatives; such for example as the power of dealing with all bills imposing burdens on the people, or appropriating their money. These seemed to me to be the essential parts, forming in reality the very soul of any scheme to which we can agree. But these all presuppose a federal government and a federal parliament for the whole of the colonies, and it is giving the go-by to our objects, as so embodied, to speak of states confederating as they now exist in doing some kind of federal work which they never can do except in the most imperfect manner in their separate states. I hope I make it plain now that I am quite willing that any amendment should be made; in fact, I should rejoice to see any made, so long as there is no attempt to add details, which must in the result be imperfect, because any attempt of that kind cannot embrace all the details, and it would therefore be better to omit all. I do not care, so far as these resolutions are concerned, as they have been submitted by me, if everyone is altered, so long as the simple basis embodying what the Convention aims at in point of foundation principles is agreed to. I do not think I need detain the Convention longer, for I have already tried to explain the sense in which I submitted these resolutions.

Mr. BARTON: It does seem to me that, after the statement we have had from the mover of these resolutions, there cannot possibly be any objection to the adoption of the amendment which has been moved by the hon. member, Mr. Deakin, because if the resolution now before us is extended to cover the ground of excise upon articles subjected to customs duties, the hon. member's amendment will make clear what, perhaps, is not now quite clear, and it is, therefore, unobjectionable. If, on the other hand, it be an amendment in point of principle, it is conceded by the mover of the resolutions that amendments in point of principle are what we have now to deal with. In either case, therefore, it does appear to me—subject to correction—that the amendment moved by the hon. member, Mr. Deakin,

is one which we might entertain at this time, and with which we might deal at once. We do not want to be told out of doors, or indeed anywhere else, that in giving to the federal government the power to deal with customs duties we did not include the power to deal with excise on articles subject to those customs duties. If we pass the resolution before us in this form, I am afraid that that is what we shall be told. We are, therefore, in this position: that the resolution intends the thing now proposed, but does not make the intention clear, and, if it does not make the intention clear, the amendment offers a fair ground of debate, and is quite within the principles upon which the resolutions are submitted. In either case, therefore, I hope the hon. member, Mr. Deakin, will not withdraw his amendment.

Mr. GORDON: The point so clearly put by the hon member, Mr. Barton, satisfies me—as I am sure it must satisfy every member of this Convention—that, seeing that the object of the resolution is to establish an absolute equation of trade—if that expression be permissible—between the colonies any proposition which substantially affects the position sought to be established involves a principle which ought to be discussed in open Convention, and not in a committee. The question of whether excise duties shall also be fixed by the federal government is no stronger as a matter of principle than the question as to whether bounties shall be fixed by it. In fact, if the one question may reasonably be considered, the other has equally strong claims upon our consideration. Stronger still are the claims of the question of railway rates, and if the object of the resolution be to establish a commercial equation—to place all the colonies absolutely, or as nearly as possible, upon the same basis as to trade and intercourse—then I submit that most strong support is given to me by the clear argument of the hon. member, Mr. Barton, that any proposition which will effect that purpose—and my amendment does most strongly effect it—much more so in fact than the amendment of Mr. Deakin—should be considered at once by the Convention. I think there can be no doubt but that the propositions I submitted should be considered in open Convention. I confess, however, that I am a little confused as to my position. Are we to pass resolutions now with which we do not agree, and to express our disagreement subsequently, or are we to amend them or appoint committees to lick them into shape? That question is exercising the mind of the Convention I am sure as much as it is exercising my own mind, which is not at all clear upon the subject.

Mr. MUNRO: I think the delegate from South Australia who has just spoken misunderstands the position of the mover of the resolutions. He does not say they cannot be amended, but what he does say is that they should not be hampered by too much detail at this stage. I quite agree that the suggestion of the hon. member will come very properly before the Committee. But if we are to include in the present resolution every detail that can be imagined—

Mr. GORDON: I do not propose that!

Mr. MUNRO: I do not think the question of railway tariffs is one of those details which should be included now.

Mr. GORDON: It is a question of national policy!

Mr. MUNRO: I quite admit that.

Mr. GORDON: Then it is not a detail!

Mr. MUNRO: I could name half-a-dozen other questions which are quite as important; but they are not questions which bear directly on the resolution before the Committee. They are altogether different questions. While I understand that the resolutions ought to be amended upon questions of principle, when the majority of the Convention is hostile to the principle included in any particular resolution, still if we are going to make any resolution dealing with the principle only, the vehicle for bringing before the Committee all the details that can be brought before it, our consideration of the resolutions will be extended over six months or more; in fact, the whole thing will go wrong. I quite agree that the original resolution really implies all that the hon. member, Mr. Deakin's amendment suggests; but I, for my part, should prefer that he should withdraw it now, and that we should carry the resolution as it stands. We all intend what the hon. member, Mr. Deakin, intends, but we are not agreed that this is the stage at which the matter should be considered.

Mr. KINGSTON: I confess that I thoroughly disagree with the remarks of the hon. gentleman who has just resumed his seat, and who suggested that the amendment moved by the hon. member, Mr. Gordon, dealt with matters of detail only. To my mind it dealt with principles of the highest importance, which, unless affirmed, will interfere with the establishment of intercolonial free-trade. If we are simply to prescribe that there shall be intercolonial free-trade while leaving the various states, so far as their railway systems are concerned, to pursue the cut-throat policy which they have already adopted in certain instances, I am sure we shall not reap one-half the advantage from intercolonial free-trade which we are anticipating. I am sure we shall not derive those advantages which we have a right to secure, and which we should be able to secure if, in framing this federal constitution, we provided for the abolition of the system the hon. member, Mr. Gordon, has attacked. I think we shall also be making a great mistake if we do not lay it down as clearly as possible that not only shall the federal government have control over customs duties, but that they shall also have control over duties of excise, and power to prevent the continuance of the system of bounties established in some of the colonies, which would subject the manufacturer in other less favoured districts to serious disadvantages. But it appears to me that the error into which the hon. member for South Australia fell was in attempting to deal with these resolutions in a wholesale manner, and in trying to practically strike out resolutions 2 and 3. The hon. member also submitted his resolutions without having given the Convention an opportunity of seeing them in print, and of fully considering them. Instead of endeavouring to secure the affirmation in one block of the principles embodied in his resolutions, the hon. gentleman should seek to ingraft on the resolutions we are now considering the principles he has so ably advocated. That, I think, can be done without any serious interference with the language of the resolutions. I am sure it will commend itself to the good sense of hon. members, that when we are giving instructions to the draftsman who will be intrusted with the preparation of the bill we ought to lay down as clearly as possible precise rules for his guidance on matters of principle. But, as regards these three questions—uniformity of tariff in the whole of the federated states; the control by the federal government of duties of excise——

The CHAIRMAN: I would remind the hon. member that he is discussing matters that are entirely irrelevant to the amendment proposed by the hon. member, Mr. Deakin. The proposal is that there shall be added to the resolution on the paper these words, "and duties of excise upon goods the subject of customs duties." The hon. member is referring in very general terms to the amendment of the hon. member, Mr. Gordon.

Mr. KINGSTON: At the particular moment when you called me to order, sir, I was referring to the subject embodied in the amendment of Mr. Deakin—that of the control of the duties of excise. I accept your suggestion that the debate should be confined to that one question; but I hope that after we have affirmed

the principle embodied in the amendment now before us we shall be able to deal with the other amendments relating to similar matters of principle, in which case I promise the hon. member for South Australia, Mr. Gordon, my hearty support.

Mr. THYNNE: On the last sitting day I suggested that the amendment of the hon. member, Mr. Deakin, should be postponed for further consideration. I am not sorry that it was postponed, for it has in the meantime evidently received further consideration, at any rate from the hon. gentleman who moved it. But it seems to me that the amendment as now proposed, is tending in the wrong direction. Its effect will be to give to the federal parliament power to impose excise duties only on those articles upon which import duties are imposed. That involves, I think, a forgetfulness of the powers to be conferred on the federal parliament. The functions in relation to defence and other matters which we intrust to the federal government are such as only this Convention, and no other power, can limit. There is no limit to the claims that may under certain circumstances be made upon the resources of the federal government. The amendment now proposed tends in the direction of limiting the power of the federal parliament in regard to excise to the imposition of duties upon certain articles only. I think the federal parliament must have power to impose excise duties upon everything. It struck me on Friday that this question of excise duties raised a very important question as to how far the power of taxation which belongs to the states may be affected by a similar power of taxation being possessed by the federal parliament. The federal government may in the future come under great stress of circumstances, and there should be no limit to its power of taxation. The necessity is here shown of seeing that the several state governments are properly represented and protected. I think that the amendment in its altered form ought not to be accepted. If excise duties are to be imposed, and if the power must be given to the federal parliament to impose them, that power must be given to them without limit. Instead of proposing to limit the excise duties to goods upon which import duties are already imposed, I hope the hon. member, Mr. Deakin, will revert to the amendment he originally proposed. I think that when the federal parliament is constituted the people will have sufficient confidence in it to believe that it will not impose duties of excise in a way detrimental to the best interest of the community.

Sir THOMAS McILWRAITH: I thought the objection of the hon. member, Mr. Thynne, would have taken quite a different direction to that which it did. I like the amendment better now than in its former shape. But as the hon. member who moved it has given so few reasons in its support, I look for these more in what other hon. gentlemen have said. The only reason given by the hon. member, Mr. Deakin, was that his proposal would make the powers of the federal parliament more uniform. Now, uniformity in a customs tariff means that the customs tariff shall affect all the states equally; but uniformity in excise is a very different thing. A uniform excise duty may be a duty which oppresses one state, and is paid by one state only. For instance, take the case mentioned the other day the hon. member, Mr. Donaldson. Suppose the federal parliament decided to impose an excise duty on sugar, what would be the effect? It would fall almost entirely upon Queensland. New South Wales would be affected to a small extent, but the other colonies would not come under the operation of the excise. I agree that the federal parliament, having control of the customs, must also have control of excise. But I believe—and this is why I am not going to oppose the amendment of the hon. member, Mr. Deakin—that we ought to put a limitation to that power in the bill itself—that is to say, we should limit the power of the federal parliament to impose excise duties to articles that are produced by the colonies equally, or, at all events, produced by all the colonies for export. You cannot select for excise an article like sugar, for instance, which is produced in one colony and exported to another, because you defeat one of the principal objects we have in view, namely, free-trade between all the colonies, and especially for home products. There would not be absolute free-trade between the colonies. Of course I do not believe that the federal parliament would exercise the power I have indicated; but I do not think it should be given to them without the limitation suggested. The Premier of Victoria instanced a case that showed the absolute necessity of their having that power. The hon. gentleman referred to the familiar article of whiskey, and pointed out that one colony could get all the trade of the colonies by simply lowering the excise duty. No doubt that is so, and on that account we must give the federal parliament the power of controlling excise duties. But for the protection of the particular colonies, we must limit that power. It is very easily limited, because excise duties are confined in all the colonies, and to only three articles—beer, spirits, and tobacco, and we can easily make a special reference to those three articles, and, therefore, as far as they are concerned, there is not the slightest objection to the amendment of the hon. member, Mr. Deakin. I will not say anything more about the amendment, because I shall expect to see embodied in the bill the limitation I have suggested. There is another point the hon. member has forgotten. In these colonies, there are not only import and excise duties, but there are also export duties, and he has forgotten to make any mention of these.

Mr. DEAKIN: We have not come to them yet. In submitting this amendment, I did so almost without remark, because I thought I was following in the footsteps of the mover of the resolution by simply giving a general indication of what I thought was desirable, instead of entering into a detailed consideration of the question involved. It was for that reason I said nothing, and not, as the hon. member, Sir Thomas McIlwraith, appears to suppose, because there was nothing to say. On the contrary, although I recognise the eminent standing of that hon. member in everything relating to finance, I would point out to him what appears to me to be a misapprehension into which he himself has fallen in considering this question. That was when he spoke of the danger of allowing the federal government the power of imposing excise on articles the product of only one or two colonies, and seemed to imagine that it might be made the means of oppressing those colonies. That is possible; but it is also possible that it might be necessary to have the power of imposing excise even though the article chosen might be the product of only one colony. An excise duty is often associated with a protective tariff, and if an article is highly protected, it might, perhaps, be found necessary for the purposes of revenue, to be able to collect an excise on goods subject to a customs' duty. It would be perfectly possible to adjust an excise upon that particular article if produced by one colony in relation to the protective tariff so as to do perfect justice to the industry affected, while obtaining a revenue for the state. I do not wish to enter upon these subjects, because it would be possible to occupy the whole day with the discussion of this question alone. For the same reason, I am prepared, having brought the subject before the Committee, either to withdraw the amendment or to put it in another form, because I presume our object is not to carry a precise amendment that shall embody all the details of the views of the Committee, but rather to give another committee a general direction to enable it to bring up a recommendation which we shall then be able to debate, having something definite before us.

Mr. PLAYFORD: I trust that if the hon. member presses his amendment he will do so without any limitation, because in a matter of this kind the powers of the federal body should be the same as those given to the federal body in the United States and the Dominion of Canada. Hon. members will see, on consideration, that by giving the power of levying customs duties on particular articles you have given as much power to injure a particular colony—if the federal government would be so wicked as to do anything of the sort—as by giving this power of imposing excise. If the federal parliament desires to raise revenue, and they can do so better by means of an excise duty than in any other way, they certainly should have the power. I quite agree with hon. members who say that as far as possible we should deal only with the more important matters connected with the subject, without going into detail. As I pointed out the other day, there is one point connected with this matter of more importance than any one of the subjects introduced by hon. members. That is, that in giving the power to levy customs duties throughout the colonies there should, at any rate, be a proviso that the customs duties, when levied, shall be uniform.

Mr. GORDON: Why not specify that?

Mr. PLAYFORD; There is not the slightest necessity to put that in this resolution. I guarantee that it will appear in the bill which will be prepared by a committee, and if it does not we can easily insert it. At present it is only waste of time to discuss such questions. So long as we indicate the main principles that will be sufficient for the draftsman, and the sooner we settle those main principles, and the sooner we appoint another committee to prepare the bill, the sooner will our labours be brought to an end.

Mr. BAKER: There is one word in the resolution which the hon. members, Mr. Playford and Mr. Thynne, appear to have overlooked. I mean the word "exclusively." It is not intended by this resolution to limit in any way the power of the federal government to impose taxation. I quite agree that it is impossible to provide any limitation in the exercise of a power the objects of which are unlimited. The objects of this federal government, including as they do the question of the defence of these colonies, are unlimited, and we shall have to give the federal parliament unlimited power of taxation. We are only dealing now with that form of taxation with respect to which it shall have exclusive power, and therefore I think that the hon. member, Mr. Deakin, is right in not proposing to place a limit on the exclusive power of the federal government to impose excise duties, and that the amendment, as suggested by him, is the amendment which we ought to carry. I take it that we are now asked to pass resolutions with which we agree, admitting as we all do, that they do not in any way cover the whole of the ground. This is all we are asked to do, and that is all I am prepared to do at the present.

Mr. THYNNE: I wish to point out to the hon. member, Mr. Baker, that the resolution, if followed up, would be the one most likely to lead to difficulty between the state and federal governments. Because if the view he takes is this: that when an excise duty is imposed by a state government upon goods produced in its own state, it is deprived of the power of imposing that excise duty the moment the federal government imposes an import duty upon the same goods, he will take away from the state governments immediately the whole of their powers of taxation. This resolution raises a very important question as to the future privileges of the state and federal governments. We ought not to run away from this question now, but should stick to it until we come to some conclusion. We are trying to make haste, and may make the less speed with our work.

Amendment agreed to.

Mr. GORDON: I beg to move:

That after the word "excise" the following words be added:—"and to offer bounties."

Mr. DIBBS: I should like to know from the mover of this amendment if it is his intention to practically destroy the bounty system existing in Victoria?

Mr. GILLIES: It will not affect it!

Mr. MUNRO: They will be used up before that can apply!

Mr. DIBBS: There will be no bounties given in any of the colonies, except by the authority of the federal government?

Mr. BAKER: Hear, Hear!

Amendment agreed to.

Mr. DEAKIN: Since it is the general consensus of opinion, as I gather it, that we at the present time should confine ourselves, as far as possible, to broad general issues, and not enter into details, I shall refrain from proposing the amendment which I have drawn. It has reference to the limitation to be imposed upon the fiscal powers of the federal parliament in the first years of its existence. The question has been already brought under the notice of the Convention, and it would be unnecessary for me to make any further remarks concerning it were it not for a misapprehension which has gradually increased since the remarks which the Victorian delegates made in the early stages of the debate. It is perfectly open to us to adopt either of two or three different modes of dealing with the fiscal issue. It might be laid down in the constitution that the federal parliament should commence, in the first instance, with a system of perfect free-trade, and should not impose any customs duties without the direct warrant of its constituents. That would be one proposal; and I feel sure that it will not commend itself for a moment to the members of this Convention, because it would disregard the vested interests which have been created, not in one only of the Australian colonies, but in every colony except one, and even in that one to some slight degree. Then there is the other proposition, which would be much more grateful to myself and to some other members of the Convention. It is that the federal constitution should set out with the adoption of a protective tariff, and leave it to the federal parliament, if it thought fit at a future date, to gradually reduce that tariff. This, it might fairly be contended, should be an equitable recognition of existing rights, and would not trammel the freedom of the future federal parliament to any serious degree. As I learn, however, from the remarks which have been made by the delegates during this debate, there is some objection to take that course, and, as far as I could gather the trend of their comments, they prefer to allow the federal parliament to commence with this fiscal issue exactly as it stands in the several colonies. It is to propose a federal tariff which shall take the place of the different tariffs now in existence in the various colonies, and to impose any excise duties which may be necessary for the proper working of those import duties. It has been generally admitted—although there are one or two delegates who have taken a contrary view—that the future federal parliament will adopt a protective tariff; and that, establishing intercolonial free-trade, it will be certain to impose protective duties against imports from the outside world. It seems to have been imagined that this should furnish a quite sufficient answer to the delegates of those colonies who consider that the industries in their states are entitled to some special consideration—inasmuch as they have been built up under state encouragement and state support—before the support on which they have rested is rudely swept away. I wish to point out, however, that that argument has only a limited application.

It is perfectly possible for a future federal parliament to adopt a protective tariff, on the Tasmanian basis, which would leave every one of the continental colonies out in the cold. The Tasmanian tariff, if I remember rightly, ranges on an average at about 12½ per cent., and the federal parliament would by adopting this standard incidentally expose the industries of South Australia, Queensland, Western Australia, as far as they have been developed, and certainly those of Victoria, to far greater competition than hitherto. It would expose the industries which have been built up under a protective tariff of 25 per cent. to competition under a tariff of 12½ per cent. The federal parliament will, to my mind, certainly adopt a protective tariff; but it is a question of moment as to whether that protective tariff takes the 12½ per cent. rate of Tasmania, the 15 per cent. rate of Queensland, the 20 or 25 per cent. rate of South Australia, or the still higher rate of Victoria; and that is an all-important question to the colony that has the highest protective tariff of any colony in the group. Then, again, hon. members have said that Victorian industries have had the benefit of the Victorian tariff for twenty-five years past; but the Victorian tariff, like every other tariff, has been built up by gradual accretions, and it is only for the last two or three years that the industries there have enjoyed a tariff at the present high rate.

Mr. MUNRO: Two years!

Mr. DEAKIN: Two years. Further than this, there are industries coming into existence every year, and, consequently, there are a number of manufactures in which there is a large amount of capital invested, which have only been started since the imposition of the last tariff, and have only had one or two years of protection. I think that the members of the committee charged with the consideration of the fiscal question may fairly have their attention called to these points: that the colony which has the highest protective duties stands in a peculiar position, and is entitled to have that position considered, and that all the colonies having protective tariffs are entitled to have their interests equally considered. This is an argument, although it comes from Victoria, which applies to other colonies. An hon. member behind me interjected that the revenue necessities of a federal parliament will impel it in the direction of a protective tariff. I believe they will do so, and I am further of opinion that when we thrash out this question, and consider the position of the smaller colonies from which it is proposed to withdraw their customs revenue, ably put by the hon. member, Mr. Gordon, to-day, and by the hon. member, Mr. Hackett, last week, we shall find that it will be necessary to make provision so that those colonies shall suffer little or no loss for some years to come. This matter will indirectly affect the extent and height of duties in the federal protective tariff. Consequently I am prepared to leave it in the hands of the committee to draft such a clause in the constitution as shall seem to them to offer the just protection to which the infant industries of all the colonies of Australia are fully entitled. For my part, I am convinced that when the federal parliament in its turn comes to consider the question, it will be governed not merely by revenue considerations, but will also remember that these protected industries have ceased to be Victorian or South Australian, and have become national industries, and that it is its duty to protect national industries, and to conserve national interests. We all frankly admit what the Chairman of Committees has stated, that New South Wales possesses unexampled facilities for the development of native industries with the assistance of a protective tariff; we admit the enormous natural resources of Queensland, with an extent which dwarfs that of Victoria into insignificance; we admit the advantages enjoyed by the colony of South Australia, and the central situation of its capital for commanding the interior of the continent; we admit all that; but what we say in Victoria is that we are perfectly content, providing our industries receive that just protection to which they are entitled against the outside world, to rely upon the enterprise of our people to maintain the industries we have, and to let them stand their chance with the rest when Australia has become one nation.

Resolution, as amended, agreed to as follows:—

That the power and authority to impose customs duties and duties of excise upon goods the subject of customs duties, and to offer bounties, shall be exclusively lodged in the federal government and parliament, subject to such disposal of the revenues thence derived as shall be agreed upon.

Postponed resolution agreed to:

(2.) That the trade and intercourse between the federated colonies, whether by means of land carriage or coastal navigation, shall be absolutely free.

Resolution agreed to:

(4.) That the military and naval defence of Australia shall be intrusted to federal forces, under one command.

Preamble agreed to:

Subject to these and other necessary conditions, this Convention approves of the framing of a federal constitution, which shall establish—

Resolution proposed:

(1.) A parliament, to consist of a senate and a house of representatives, the former consisting of an equal number of members from each province, to be elected by a system which shall provide for the retirement of one-third of the members every years, so securing to the body itself a perpetual existence combined with definite responsibility to the electors, the latter to be elected by districts formed on a population basis, and to possess the sole power of originating and amending all bills appropriating revenue or imposing taxation.

Amendment (Mr. BAKER) proposed:

That the resolution be amended by the omission of the words "a senate and a house of representatives, the former," with a view to the insertion in their places of the words, "two chambers, the one."

Mr. GILLIES: I hope that we shall not omit those words. If we omit those words now, it appears to me to be an indication that the Committee disapproves altogether of calling the chambers a senate and a house of representatives. I think that the Committee will not disapprove of the use of the words "senate" and "house of representatives." I have not heard of any better term than "senate" to apply to the upper branch of the legislature when it is appointed, nor of a better term than "house of representatives" to apply to the other house; and if we now agree to omit those words it must clearly be an indication that the Committee approves of the omission of those words as indicating the respective houses. I do not think that we ought to do that.

Mr. BARTON: I do not think that the omission of these words, and the insertion of the others proposed, will be an indication that the Committee disapproves of the terms chosen; but that, in this important, though rather subsidiary matter, the Committee does not desire to come to a determination without leaving it to some sub-committee, as has been suggested, to consider the various names that might really express the ideas underlying those two bodies. It has always seemed to me that, inasmuch as it is proposed that both these chambers should have a representative basis — as the idea of the representation of the people in one way or the other is at the bottom of each of them—we should get rid of the distinction between the word "senate" and the words "house of representatives." I am not discussing the question now, but I am simply putting forward a view on which, at any rate, the Committee might well exercise its admitted power of choice, namely, that it will be better to get rid of the idea of a senate and house of representatives, because both those bodies are to be representative bodies, and that it would be a good idea to get rid of

the word "council," because, in some places, we have been accustomed to associate councils with nominee bodies, which neither of those houses is to be. Inasmuch as they are both to be representative, I may give one example of names that might be suggested to the sub-committee amongst others which they will consider. The idea of the federation—of the equal powers of the states—is to be embodied in one of these chambers; the idea of the national will as expressed by the national method of election by the people in the constituencies is to be embodied in the other. But, both being of a representative character, and, therefore, of the character of what we call "assemblies," why not call one the "federal assembly" and the other the "national assembly"? If you do that you express, at any rate, the idea that is at the bottom of the composition of both of them, namely, the idea of representation as we have been accustomed to express it by the use of the word "assembly"—and you express also the federal idea which enters into the composition of one, and the idea of the representation of the people as a whole, in their accustomed subdivisions of electorates, in the other.

Sir HENRY PARKES: Assembly No. 1 and assembly No. 2!

Mr. BARTON: Call whichever you like No. 1, and whichever you like No. 2; but inasmuch as No. 1 and No. 2 would be perfectly meaningless, and the words I have suggested would have a meaning, I suggest that the sub-committee would rather take my suggestion into consideration.

Mr. WRIXON: Would it not be well if we determine the powers of the bodies? The names could be decided afterwards. What does all this question of name, which is entertaining the Convention, matter? The real point is to determine the powers to give to the two houses. If we delay in discussing the names, we shall be some time in settling the really important matter that we have to determine.

Sir THOMAS McILWRAITH: I think there is something in the objection made by the hon. member, Mr. Gillies. If we strike out these words we really affirm that we disapprove of the names "senate" and "house of representatives." We do not want to do anything of the sort. It is better to leave the matter to the sub-committee with the words as they are.

Mr. BAKER: I originally rose with the view of seeking to amend the resolution by leaving out the word "senate" and inserting other words in lieu thereof, and I was proceeding to give reasons for the omission that I was about to propose, when I was met, I understood, by a unanimous wish on behalf of the Committee, to strike out all the words and leave the matter open. Therefore I gave up my original intention. If I am mistaken, and the Committee wish to discuss the matter now, I should like to give some reasons why I propose to leave out the word "senate" and insert other words in lieu thereof.

Mr. PLAYFORD: Thrash it out now!

Mr. BAKER: The reason why I wish to leave out the word "senate" and insert in lieu thereof the words "council of the states," is because I believe that when they go back to their own colonies, and to their own constituencies, it will facilitate hon. members of this Convention in explaining the federal compact to the people of those colonies. When we see the great difference of opinion which has arisen, even in this Convention, in reference to the powers that ought to be intrusted to the so-called senate, which I prefer to call the "council of the states," and when we see that that difference of opinion has, to a very great extent, arisen from confusion in the minds of some hon. delegates as to what the proper functions of the federal council of the states ought to be—when we see that they have confused them with the functions of a second chamber in a unitarian form of government—it will surely facilitate them in explaining to the people the federal constitution if we give the senate a name that is indicative of its powers and of its constitution. I do not say "states council." A "states council" is entirely a different thing from a "council of the states," which can exist only in a federal form of government; and it is indicative of the fact that that council of the states is composed of representatives from the different states. When the framers of the constitution of Switzerland formed their new constitution they had before them not only their own long experience in different forms of confederate government, but also the experience of America for fifty or sixty years, and they deliberately altered the name "senate," which was in use in America, to "council of the states," which is the term which is now applied to the upper chamber in Switzerland, and they used that term to indicate exactly what they meant. They used that term to indicate that the people of Switzerland were represented in that upper chamber by states—that the people who formed that council of the states were the representatives of the states. It is indicative of the federal idea, and I believe that it is a much better term than "senate." I admit that it has objections. It has two. In the first place, it is a little bit too long, although not longer than "house of representatives." In the next place, it contains the term "council," which some hon. members seem to think is not a term which is particularly beloved by the people, and some confusion may arise from the use of that word in the name; but when the term is "the council of the states," it seem to me to perfectly clearly express that which will be the body representing the states in this federal constitution.

Sir GEORGE GREY: I think the arguments used by the last speaker are forcible, so far as that name goes. Why not let that name stand, and call the other chamber the "house of commons," as representing the commons—everybody in the country?

Mr. BAKER: I shall first propose to strike out these words, and when they are struck out I shall propose to insert the words "council of the states," as the name for one branch of the legislature, and I understand that some other member of the Convention will ask to insert other words to indicate the name and nature of the second branch of the legislature.

Sir SAMUEL GRIFFITH: There are two quite different questions involved in this amendment—one whether the name of the two houses shall be a senate and a house of representatives, and the other whether we shall settle that matter now, or leave it to a committee.

An HON. MEMBER: Leave it!

Sir SAMUEL GRIFFITH: If we are going to leave it we had better simply say that there shall be two chambers; but it will be very hard for a committee, not knowing the views of the members of the Convention, to fix on any two names. On this point I do not suppose there is any settled division of opinion amongst hon. members. Each probably has his own idea as to what will be the best name. The question is, whether we should settle it now or afterwards.

HON. DELEGATES: Afterwards!

Sir SAMUEL GRIFFITH: What will the committee have to go upon then?

An HON. DELEGATE: They can recommend?

Sir SAMUEL GRIFFITH: Yes, they can recommend. We shall then have another discussion upon it.

An HON. DELEGATE: Settle it now!

Sir SAMUEL GRIFFITH: I am disposed to settle the question now.

Mr. GILLIES: Let the words stand. To alter the resolution may necessitate a series of amendments.

Sir SAMUEL GRIFFITH: The resolution might be passed as it is, on the understanding that the words used here are merely provisional names. In substance, one house will be what is generally known as a senate and the other as a house of representatives, and I think these terms may be accepted for the present. These words may stand unless some other words very strongly commend themselves to the members of the committee or the Convention.

Amendment negatived.

Dr. COCKBURN: I think that we ought to leave out the word "province," and use the word which has been already mentioned in the foregoing paragraphs. I move:

That the word "province" be omitted with a view to the insertion in lieu thereof of the word "colony."

Amendment agreed to.

Dr. COCKBURN: I cannot help thinking that it would be better not to refer principles to the committee but to leave the committee to work out details only. We have a blank as regards the number of years for which the senate shall be elected, and I think it would be well to leave the question open, and to insert the words "proportion of members" instead of "one-third." We ought not to fix the proportion, as that may be a debatable point.

An HON. MEMBER: Say "periodical retirement"!

Dr. COCKBURN: Yes; I would insert the word "periodical" before the word "retirement," and leave out the words, "every —— years."

Sir HENRY PARKES: Why?

Dr. COCKBURN: I think it better, as far as possible, to refer only questions of detail to the committee. The hon. member has admitted that by leaving a blank as to the number of years. I would leave open the whole question of the periodical retirement of members.

Mr. GILLIES: Another important point is whether the senate are to be elected by the electors or the states legislature!

Dr. COCKBURN: I take it that these words mean that it has to be done by the electors, not by the houses. The words go on to say, "with definite responsibility to the electors," and as long as there are any nominated houses in any of the colonies, there cannot be said to be definite responsibility to the electors.

Mr. GILLIES: Who are the electors? We must determine that!

Dr. COCKBURN: It cannot be the local legislatures, because there are certain of them with nominee upper houses, the members of which cannot be said to have any definite responsibility to the electors. But I will not press that point at present. I move:

That the word "periodical" be inserted before the word "retirement."

Mr. GILLIES: Before the amendment is put, sir, may I draw attention to a question which must be raised and ultimately determined? I do not desire to raise the question now, if it is understood that it will be considered probably by a select committee, and be determined on their recommendation. It is an important point, namely, whether the members of the senate shall be elected by the parliaments of the various colonies or by the general electors of the colonies under a franchise, perhaps under the franchise of the legislative assembly? I believe there is a strong opinion among hon. members that the elections to the senate should be made by the parliaments of the colonies.

Dr. COCKBURN: Nominee houses!

Mr. GILLIES: I do not desire to raise the question now; but if it is understood that it will be brought up subsequently I am quite willing to allow the resolution to go now with the amendment suggested.

Amendment agreed to.

Amendment (Dr. COCKBURN) proposed):

That the words "one-third" be omitted, with a view to insert in lieu thereof the word "portion."

Sir HENRY PARKES: I am not quite sure that I understand what is aimed at by these amendments. It is quite certain that they make the matter more indefinite and confused, whereas our object is to make it more definite and more clear, and whether we will or no, if we go on with this work, we must come to precision, not to indefiniteness. After these amendments are passed we shall have to retrace the ground, and try to come to some definite conclusion, and some precise meaning. I certainly cannot understand the wisdom of loosening things, of making them more scattered than they were, instead of trying to compress our meaning, and bring it to a point on which we can all agree, or at least express our reasons for disagreement. By proposing that it shall be a periodical retirement of a proportion of the members we really say nothing at all. We put the thing behind us again, instead of keeping it steadily before us. What we want to arrive at, if we agree to this mode of referring the members of the upper chamber to the people, is the definite number to retire periodically, and the definite period at which they shall retire. We must arrive at those two points. Do what we will we can but put it off. We may delay it, but we must come back to it. I do not know that this should be determined by a committee. I think it should be determined one way or the other by the Convention itself. I really cannot see that the amendments will help us in any degree whatever.

Mr. CUTHBERT: I think we ought to relieve the committee as much as possible of the heavy duties which will devolve upon it. I suppose the senate will be appointed for a term of, say, six years. In Victoria, a third of the members of the upper house retire every two years, so that in the event of any difficulties arising between the two houses, a fresh batch of members is brought in every two years. If we lay down the rule that a third of the members of the senate shall retire every two years—assuming, of course, that the term of their appointment will be six years—I think we shall be travelling in the right direction. However, as regards the number of years, a blank is left in the resolution. It may be very well left to the committee to say whether the period for which the senate shall be appointed shall be for six or nine years. I think the resolution is framed on proper lines. I shall be very glad to support it as it stands. I think the hon. member, Dr. Cockburn, will be wise if he withdraws his amendment, because I think we ought to relieve the committee as much as possible from any embarrassment.

Mr. BARTON: It might save time to point out that we have, to a certain extent, determined this matter already. We have inserted the word "periodical"—that is to say, we have made the resolution to read as follows:—

A parliament, to consist of a senate and a house of representatives, the former consisting of an equal number of members from each colony, to be elected by a system which shall provide for the periodical retirement of——

It might, of course, be advisable to leave the words "a third," or insert the words "a proportion"; but the number of years to elapse before the periodical retirement is evidently now a thing with which we have nothing to do. We cannot go back upon the word "periodical" without going through a cumbrous form. The insertion of the word is, so far, a direction to any sub-committee to fix the period at which the members are to retire—to fix the meaning of the word "periodical."

Amendment negatived.

Mr. BARTON: Consequent upon the amendment which has just been carried—it appears to me necessary—and I do not observe that any one else is

prepared to do so—to move another amendment. I move:

That the words "every ——— years" be omitted.

Their retention would be repugnant to the decision to which the committee has already arrived.

Amendment agreed to.

Mr. MUNRO: I desire to call the attention of the delegates from Tasmania—the hon. member who suggested the amendment, Mr. Bird, is not here—to an amendment of which I myself do not quite approve. But unless the amendment be moved now, they will be unable to bring it forward subsequently. I refer to the words "so securing to the body itself a perpetual existence." It was contended, I understand, that if these words were retained there would be no power of dissolving the body under any circumstances.

Mr. BURGESS: It was only an individual opinion.

Mr. GILLIES: When the bill is brought up it will be quite possible to make an amendment of that kind!

Mr. CUTHBERT: I should like to know if it is understood by the gentlemen present that the retention of the words "combined with definite responsibility to the electors" will leave it an open question for the committee to say how the senate is to be elected, whether by the electors or by both houses of parliament?

Mr. PLAYFORD: That will have to be provided for in the bill.

Mr. CUTHBERT: If it be left open to the committee to deal with the matter, I see no objection to the words; but if the committee will be bound by them to say that the elections shall be made by the electors of each particular colony, I certainly object to them. I think it should be left to each particular colony to say in what manner the elections for the senate shall take place, and that view, I am sure, will be in accordance with the view of the majority of members present. I understood that to be the tone of the debate generally.

Mr. FITZGERALD: There is no doubt about that!

Mr. BAKER: Let it be left open!

Mr. CUTHBERT: So long as it is left an open question to the committee, and they are not bound hand and foot by these words, I have no objection to them.

Mr. FITZGERALD: I apprehend that the only object of inserting these words is to declare that the committee is opposed to nominee houses. The senate may be elected either by the houses of parliament or by the people. In both cases they will be responsible to the electors, and that is all the paragraph says.

Sir SAMUEL GRIFFITH: As a member of the committee, I should interpret the word "electors" as being synonymous with the word "constituents." The words mean, in effect, "a definite responsibility to the constituents"—at least, that is what I understand them to mean.

Mr. CUTHBERT: Might they not mean the parliament?

Mr. DEAKIN: They relate to anything.

Sir JOHN DOWNER: I move:

That the words "and amending" be omitted.

My object in moving the amendment is with a view to insert afterwards a power of veto in whole or in part.

Mr. BARTON: But not a power of increasing burdens!

Sir JOHN DOWNER: No; a power of veto simply.

Mr. MUNRO: Would it not be well to leave that question in abeyance until we know what the constitution of the senate is to be? If we fix the question definitely now, it may have a serious effect upon what we are going to do. I think the resolution should be left as it now stands, with the understanding that the matter will be discussed after the constitution of the senate is determined. That would be the better course to take. The results might be serious if the matter were settled now without our knowing what the constitution of the senate is to be.

Mr. FITZGERALD: Leaving the words as they are would be a direction to the committee which we do not want to give them. I think the question should be left open.

Mr. MUNRO: That is what I am contending for. What I understand the amendment to mean is this: that whatever the constitution of the senate may be, it will have the power to amend money bills.

Sir JOHN DOWNER: I do not propose that!

Mr. BAKER: The hon. member does not say that; he simply omits the words!

Mr. MUNRO: I understand the resolution as it stands to give to the house of representatives the sole right to originate and amend all bills appropriating revenue or imposing taxation. The taking out of the words "and amending" will deprive that house of the sole powers to amend such bills, and will give the power of amending to the other chamber also. That is what it means.

Mr. BAKER: Not necessarily!

Mr. GILLIES: It indicates that!

Mr. MUNRO: If it does not mean that—and I will take the advice of the legal gentlemen of the Convention upon the point—if it does not necessarily mean that, I will sit down, and will not say another word on the subject. If the words do mean what I contend, I think it is imprudent to move the amendment at the present stage, or until we know how the senate is to be elected.

Mr. WRIXON: I would ask my hon. friend, Sir John Downer, not to press the amendment, because there can be no doubt that it raises the whole question.

Sir JOHN DOWNER: Hear, hear; I intend to raise it!

Mr. WRIXON: I submit that it would be better to raise such a serious question at a later stage. I have given notice of two resolutions that will raise the whole question, and which, I think, present what may be a solution of the difficulty. I do not at all despair of a solution, and I should be very sorry indeed if hon. members on either side were to take up such a position as to defy a settlement. But that is a greater reason why the question should not be decided upon this bare point of omitting the words "and amending." It would really be a direction to the committee before we have gone into the whole question. I think it would be better, therefore, to allow the resolution to pass, and to raise the question upon the two resolutions of which I have given notice, which may be found to contain a solution of the difficulty. It is too serious a matter to be passed in a hurry. Upon this question, no doubt, depends an important feature of the whole movement.

Mr. BAKER: There can be no doubt but that the amendment does raise the whole question; but I would point out to the hon. member, Mr. Wrixon, that he cannot move his two amendments until the words "and amending" are struck out, because if the words are allowed to remain my hon. friend's first proposition is unnecessary. Therefore, I think it will be consistent with the wishes of the hon. member himself if the amendment of Sir John Downer be agreed to. The whole question can then be raised on the amendments to which the hon. member refers. There can be no doubt whatever that this is the question upon which members of the Convention differ, and it is, moreover, a question which will have to be discussed and decided.

Mr. MUNRO: The question as to whether we are to have federation at all will be settled by the decision of the Committee upon the question raised by the hon. member's amendment!

Mr. CLARK: Do not say that!

Mr. BAKER: I would point out to the Committee that if we strike out the words "and amending" we do not affirm anything at all—we simply refuse to affirm that the senate shall not have the power to amend. We do not come to any positive conclusion; we come to a negative conclusion, the conclusion being that these words be struck out, thus leaving the matter open for further discussion.

Sir JOHN DOWNER: I may say that the amendment which I shall afterwards propose is not exactly in the form in which it appears as printed. I do not propose that the senate or upper chamber shall have authority to amend money bills. I only propose to give them what is called a veto in detail. Before the hon. member, Mr. Baker, rose it occurred to me that the striking out of the words as proposed would not be in the slightest degree inconsistent with the amendment the hon. member, Mr. Wrixon, himself proposes, while the retention of them would be inconsistent. If the amendment of the hon. member, Mr. Wrixon, is to be carried, the words ought to be struck out. If the clause were to simply stand as amended it might open a fruitful source of conflict between the two houses by analogy with what has occurred in other colonies, and with what is contained in the Canadian statute as to whether or not, by denying the upper chamber the power of originating money bills, you do not by implication reserve to them the power of amending such bills. But, of course, I did not move that these words be struck out with no intention of proposing the insertion of other words. I intended to ask the Committee to insert at the end of the clause the words, "and the senate shall have power to reject in whole or in part any such last-mentioned bills." Whether the amendment of the hon. member, Mr. Wrixon, or the suggestion made by myself be adopted, the proposed amendment will be inconsistent with the retention of the words which I have moved should be omitted.

Sir SAMUEL GRIFFITH: The hon. member, Mr. Munro, asked what would be the effect of leaving out these words—would it give the senate the power of amendment? That raises a very nice question. Most of the conflicts that have occurred between the two houses of legislature in Australia have arisen from the use of exactly that form of words—"the sole power of originating all bills appropriating revenue or imposing taxation." Those are the words in the Queensland Constitution. We have always maintained there that notwithstanding the use of those words, with no expressed reference to the power of amendment, our Legislative Council had no power of amendment, or that if they had the technical power, they had no right which they should be allowed to exercise. That position we maintained very strongly. The question was finally settled as regards Queensland by a decision of the Privy Council, who held—they did not give their reasons—that notwithstanding the use of this form of words the Legislative Council had not the right of amending money bills. Probably they decided on the ground that the Queensland Constitution was framed exactly upon the analogy of the English Constitution — an elective lower house and a nominee upper house. That very likely was the reason; but as they did not give their reasons, it is not of much use speculating as to the grounds which influenced them. But it is quite certain that in framing a federal constitution we cannot afford to leave any question of that kind to be fought out between the two houses, or to be referred to the Privy Council. We must make up our minds here what we mean, and say it, so that there shall be no question about it. If we leave in the words "and amending," there is nothing further to be said; there is no room open for any meeting between the two conflicting views expressed during the debate on these resolutions, and I think it would be a great misfortune if, at this early stage, we were to preclude that possibility by insisting upon the retention of these words. We all agree that only the house of representatives should have the power of originating money bills. If we approach this subject in a spirit of compromise, as was urged by the President and other speakers during the debate, I am sure that amongst the minds present some means will be found of giving effect to a view that will be satisfactory to all parties. I am sure that is not beyond our efforts if we seriously set ourselves to the work. Various suggestions have already been made. It is difficult to know what will be the one ultimately accepted; but I counsel hon. gentlemen to allow these words to be omitted at the present time. Let us consider various possible bases. Whether or not we come to the result of absolutely excluding any interference by the senate—and I do not think anybody insists upon the absolute exclusion of interference—we shall be in a position to frame the conditions, if any, upon which interference may be allowed with what may be technically termed money bills, although in substance they may be matters affecting great questions of public policy.

Mr. DEAKIN: While cordially agreeing with the hon. member, Sir Samuel Griffith, in his last remarks, I would point out that even if the present amendment of the hon. member, Sir John Downer, does not preclude discussion, at any rate, the amendment with which he proposes to follow it immediately will absolutely preclude discussion.

Sir JOHN DOWNER: That is not before us!

Mr. DEAKIN: That is true, but if the understanding were arrived at that the hon. member, Sir John Downer, would not at this stage move his amendment, and that my hon. colleague, Mr. Wrixon, should have an opportunity of moving his two resolutions at the conclusion of this series of resolutions, then we should be prepared to devote the whole of our attention to this subject singly, having then disposed of all other questions. If Sir John Downer would agree to forego his second amendment and discuss it in connection with the resolutions of the hon. member, Mr. Wrixon, we could pass the remainder of the resolutions, even with the omission of these words, and consider the whole question upon those two resolutions. I suggest this as a simple method of arriving at an issue.

Sir JOHN DOWNER: I am, of course, entirely in the hands of the Committee in this matter. If these words are struck out, nothing will remain in the resolution, on the face of it, to which I could refuse my assent, so that it could not be said afterwards that any of us agreed to something to which we did not agree. At the same time, we shall have to take this discussion at some time or other. The question was entered into at considerable length in the very interesting debate that took place in the Convention, and I am not sure that there will be any material advantage in sending it to a select committee, and then having to thrash it out afterwards.

Sir SAMUEL GRIFFITH: No one proposes that.

Mr. DEAKIN: No; take the discussion of the resolutions of Mr. Wrixon as soon as we have finished the others!

Sir JOHN DOWNER: I have no objection, if these words are struck out, that the further consideration of the resolution should be postponed until the others are discussed, if that is the sense of the Committee; but I did not understand that such was its desire.

Mr. DEAKIN: If these words are struck out, then the resolution, the hon. member says, will contain nothing that he does not agree with, and it may be allowed to pass. Nos. 2 and 3 of these subsections may then be dealt with, and we shall be face to face with the resolutions proposed by the hon. member, Mr. Wrixon, which directly raise the question. Then, if Sir John Downer does not agree with those resolutions, he can move an amendment

so as to bring the two views—that which he represents and that which Mr. Wrixon represents—directly before the Convention when we have settled every other question.

Sir JOHN BRAY: I would point out another view that might be taken. I am one of those who feel that the people's house must have the ultimate power to deal with money bills.

Mr. BAKER: Which is the people's house?

Sir JOHN BRAY: The people's house I take to be the one that represents the people.

Mr. DEAKIN: Directly!

Sir JOHN BRAY: The one which the hon. member, Mr. Baker, desires to call the "council of the states" I should not call the people's house. The point I take is this: I do not think we shall be able to give the senate the absolute power to amend money bills; at the same time I think we ought to make some provision such as I suggested when I spoke in the main debate: that is to say, we should provide that no matter shall be included in any money bill—not simply an appropriation bill—which the senate shall declare should, in the interests of any one of the colonies or of all of them, be dealt with in a separate measure. That is the view I shall bring before the Convention at a later stage. In the meantime I think the Committee should strike out the words "and amending." But I think it would be unwise on the part of Sir John Downer to proceed at the present time with the other amendment which he has indicated. The resolutions of the hon. member, Mr. Wrixon, do not appear to me to meet the case sufficiently.

Sir JOHN DOWNER: What the hon. member, Mr. Deakin, proposes is this: that we should strike out the words, "and amending," then pass the resolution as a matter of form, and go on with the other resolutions, and that then the hon. member, Mr. Wrixon, should move his resolutions, to which I should move mine as an amendment. I would ask the hon. member why should not Mr. Wrixon bring his resolutions forward by way of amendment to mine? It seems to me that we are simply asked to postpone a discussion that must inevitably take place, and that we shall be in no better position to consider the question when we have disposed of the other resolutions than we are at the present time. I am quite in the hands of the Committee; but it appears to me that it is open to the hon. member, Mr. Wrixon, to have his resolutions discussed on the amendment I intend to move, and this can be done now more conveniently than at a later stage.

Mr. DEAKIN: It would not be so convenient, because in the other case they could be brought in as separate resolutions!

Sir JOHN DOWNER: For my part, I can see no difficulty whatever in putting the amendment of Mr. Wrixon. The hon. member can move that certain words be omitted from my amendment with the view of inserting his own. It is more convenient to discuss this question at once, as it arises properly now, than to postpone it.

Sir SAMUEL GRIFFITH: A difficulty has arisen from the hon. member's connecting the present amendment with another which he intends to move afterwards, and which is not necessarily connected with it. No member of the Convention will go against any opinion he has expressed by agreeing to the omission of these words. Many hon. members cannot agree to the other amendment which the hon. member wishes to move. It is unfortunate that the two matters should be mixed up, because the omission of these words is a necessary preliminary to the discussion of the whole matter.

Amendment agreed to.

Sir JOHN DOWNER: I beg to move:

That the resolution be amended by adding the following words:—"The senate to have the power of rejecting in whole or in part any of such last-mentioned bills."

Sir HENRY PARKES: I would appeal to the hon. member, Sir John Downer, not to press his amendment now. The matter is one of great seriousness, and, if dealt with in this manner, may have an effect which the hon. member does not foresee. I am extremely strong in opposition to the amendment, and for that reason I want to see the matter dealt with with as much deliberation and circumspection as is consistent with economy of time. As this is certainly one of the most vital provisions of the whole intended scheme, we can well afford to think twice before we do anything in the matter. I am extremely anxious for the union of these colonies—I do not think any man living is more anxious—but I am by no means clear that I could set my hand to two houses of parliament having co-equal powers in dealing with money bills. I think it would lead to the utmost confusion, anarchy, and the disruption of the union sooner or later. I should be willing to safeguard the rights of the senate to the fullest extent consistent with the maintenance of what appears to be sound principles of government; but I do not see how two bodies can have equal power in dealing with matters, which, viewed however they may be viewed, are admitted to be the most vital questions of good civil government. There must be somebody to decide, and the great constitutional struggle in England, as I observed the other day, has been to see who shall decide, and they have decided that the people of England as represented in Parliament shall decide. With regard to the equally representaive character of these two houses, I am at a loss to conceive how any hon. gentleman can calmly reason and come to the conclusion that their representative character will be equal. One will not represent the people at all, except indirectly; it will represent in fact the states, and we should have to get a good definition of what the meaning of state is before we could say to what extent the members of this senate—or call it what you will—would have a representative character. I remember reading some six years ago, I think, a definition of what constitutes a state by a very illustrious Oriental scholar and a great judge—the late Sir William Jones. He says that the only thing that can constitute a state are men—high-minded men, who can see their rights, and, having a just conception of them, dare maintain them. It is not acres of area; it is not any species of property; it is not towered and ornamented cities, or even courts or armies, but a free people alone who can constitute a state; and that is my view of a state. I do not admit that there is any other element of national growth except an intelligent population. There can be no other element, and there ought to be no other element. When we give to South Australia—and South Australia, it must be remembered, has been one of the slowest of the colonies, although she has long had responsible government; from some cause or other, although we have been accustomed to regard the social strata of South Australia as better balanced, more happily constructed, than some of the other colonies, she has been extremely slow in the progress of the Australian peoples, and she stands now with a very small proportion of our population. I say if we are prepared to give to South Australia—leaving out of sight the youngest colony, because we cannot deal with her in the same free way as we may fairly deal with the old colonies—I, for one, and those who think with me, are prepared to give to South Australia just the same representation in the senate as we ourselves have. We are quite prepared to give her equal power in the general legislation of the country; but we say, "Some one authority must decide as to how the people are to be taxed, and as to how the product of the taxes is to be appropriated in the interests of the people." The issue of the great conflict in the mother country has been to leave this vast power exclusively with the representatives of the nation.

What I ask for now is, that this discussion may take place, and take place as thoroughly as possible. I am raising no objection to any man's view, or to the force of his argument. I prefer to hear his view fully stated, and his argument put at its highest force; but do not let us decide the matter in a hurry. There will be time enough to-morrow, when the resolutions of the hon. member, Mr. Wrixon, of which notice has been given, come on. We shall then know exactly what we are doing. I appeal to the hon. member, Sir John Downer, to let the discussion take place on Mr. Wrixon's resolutions.

Mr. WRIXON: Quite acquiescing in what the hon. member, Sir Henry Parkes, has said, I should be happy to move as an amendment on the amendment of the hon. member, Sir John Downer, the resolutions of which I have given notice, and that will raise the question at once. The sooner we discuss it, the sooner shall we be likely to arrive at some conclusion. I, therefore, move:

That the amendment be amended by omitting all the words after the first word "The" with a view to insert in their place the following:—

(1.) The senate shall have equal power with the house of representatives in respect to all bills, except money bills, bills dealing with duties of customs and excise, and the annual appropriation bill, and these it shall be entitled to reject but not to amend.

(2.) The act of union shall provide that it shall not be lawful to include in the annual appropriation bill any matter or thing other than the votes of supply for the ordinary service of the year.

I shall not detain the Committee very long.

Sir HENRY PARKES: The hon. member is not moving the amendment now?

Mr. WRIXON: Yes; as an amendment on the amendment of the hon. member, Sir John Downer.

Sir HENRY PARKES: I think it will be far better to leave it till to-morrow!

Mr. WRIXON: The question will be before the Committee as an amendment on the amendment of the hon. member, Sir John Downer.

Sir HENRY PARKES: It had far better be submitted as a new clause!

Mr. WRIXON: Of course, if the hon. member, Sir John Downer, will withdraw his amendment, I shall be happy to withdraw mine.

Sir JOHN DOWNER: Why?

Sir HENRY PARKES: I understood that the hon. member, Sir John Downer, had withdrawn his amendment!

Mr. WRIXON: If it is the wish of the Committee to deal with the subject by an independent resolution, I shall be very happy; but if it is desired to deal with it now in the form of an amendment, I am prepared to go on. We need not decide the matter to-night. We can discuss it now and decide later on.

Dr. COCKBURN: I would remind hon. members that we are now in the third week of our sitting, and we have had ample time to consider the issues. The whole issue before us now is whether we shall or shall not have federation.

Mr. MUNRO: That is quite true!

Dr. COCKBURN: Unless something in the form of the amendment moved by the hon. member, Sir John Downer, is agreed to, there will be no federation.

Mr. MUNRO: And if it is carried there will be no federation.

Dr. COCKBURN: The whole principle of federation is to recognise the co-ordinate power of the population and of the states. There can be no federation if you give all the powers to the popular assembly.

Sir HENRY PARKES: If the amendment is carried there will only be federation between South Australia and Western Australia!

Dr. COCKBURN: And if it is not carried there will be no federation at all.

Mr. MUNRO: Yes, there will!

Dr. COCKBURN: It is not the spirit of federation to say that the only thing is federation of the people.

Sir HENRY PARKES: If the amendment is not carried there will be federation between New South Wales, Victoria, Queensland, and Tasmania.

Dr. COCKBURN: That is very questionable. It would have been well if we had discussed a fortnight ago whether we should have federation or unification. It is no use giving representation to the states house if you emasculate that house by placing all power in the other house. That is not federation; and those who argue that that is what should be done are not arguing in favour of federation, but in favour of unification. But we have been sent here to discuss the question of federation—not the question of unification; and unless the amendment of the hon. member, Sir John Downer, or something to the same effect, giving the council of the states, or call it by what name you will, some sort of power of veto in detail, as well as in the whole, is carried, you place the whole power of the purse in the house which represents population, and you can have no federation whatever. If you give to that house which, irrespective of the boundaries of the states, represents only the people, you establish unification, and not federation. This question has been thrashed out in general debate, and why postpone it longer? If we have come here to discuss not federation, but unification, then the verdict of this assembly will be a negative one, though I hope it will not be so given. I think we have come here prepared to draw up a scheme of federation, in which the essential point is that the house which represents the states shall have some real power—not a mockery of power—and that the whole purse, which is government, shall not be taken from it. I do not think we should any longer refuse to deal with the question. Do not let us be afraid of the issue, which is: Are we going for federation or unification? If we are to have unification the sooner we get back to our homes the better.

Mr. DEAKIN: First of all, I would say to the hon. member, Dr. Cockburn, that our mission is to frame an adequate scheme for federation.

Dr. COCKBURN: Not for unification?

Mr. MUNRO: Just to all the colonies!

Mr. DEAKIN: The hon. member, I take it, was not entitled to interpret that phrase in the strict and narrow manner which he has attempted. Speaking for myself, what I, at all events, took as the meaning of the mandate, was that while the Australasian colonies recognised that they had not yet reached—and probably never will reach—a condition in which they desired absolute amalgamation, they had reached a condition in which they desired a closer union than has hitherto obtained. The hon. member, admitting so much, contends that this closer union was never on any subject, at any time, or in any manner, to sink what may be termed the individuality of the states: whereas the contention I would maintain would be, that while the colonies declared most distinctly and with an emphatic voice, which has found its echo in the first resolution moved by the hon. member, Sir Henry Parkes, that they would not part with their powers of local self-government on all matters with which local self-government was competent to deal. But they were prepared to part with their powers in relation to certain subjects on which they believed that the interests of each were the interests of all, and that the interests of all were the interests of each. They believed that on certain special subjects there were no longer two interests—that there were no longer state interests, but only national interests. They believed that on those special subjects it would be possible to safeguard all state interests, and to commit to a new parliament, to be entitled the federal parliament, the power of dealing with particular subjects within certain lines, as the people were in reality on those subjects one people with one destiny

and one interest. The argument which I have endeavoured to maintain from the beginning of this debate has been that, while there are certain state rights to be guarded, most of those rights, if not all of them, can be guarded by the division of powers between the central government and the local governments. The states will retain full powers over the greater part of the domain in which they at present enjoy those powers, and will retain them intact for all time. But in national issues, on the subject of defence, as people who desire to have their shores defended, and to see their resources developed by means of a customs tariff and a customs union—on these questions there are no longer state rights and state interests to be guarded in the constitution, but the people's interests are one, and they call upon us to deal with them as one. Do we need to repeat the commonplaces of every federation speech at every federation gathering, and every festive gathering, for many years, which remind us that we are one people, living under similar forms of government, that we speak the same language, and that we have the same general interests, bearing sway quite as much in one part of Australia as in another? Are we to say that while we are here for union, and to declare for union, we shall never have more union than can be obtained by the maintenance of our separate state rights in every particular; so that it shall not be possible for the union to deal with any question, except by means of the states, and through the states of which that union is composed? By the resolutions, that is not intended. Is it to be contended that union upon these particular subjects, within this narrow field, as it may be termed when compared with the broad field of general legislation, is not to be consummated, and that we are here to draw up proposals for a constitution which shall not only retain the state rights, but retain them in an absolute supremacy? We may feel perfectly certain from the outset that such preservation of conflicting authorities cannot work satisfactorily to the people of the country. Are we now, in the very inception of our undertaking, to endeavour to create on the one side an irresistible force, and on the other side an immovable object? Are we to place within the popular house, with all the authority which attaches to those who directly represent the people, responsible ministers, who are to hold their seats only so long as they can justify their actions to that chamber?

Mr. PLAYFORD: The hon. member, Sir John Downer, does not propose that!

Mr. BAKER: You are assuming that we are going to have responsible government!

Mr. DEAKIN: The request of the hon. member, Mr. Munro, that these questions should be settled first, so that we might approach the proposal of the hon. member, Mr. Wrixon—knowing exactly what the senate was to be, and what the form of government was to be—was refused; and although I admit that it is not settled yet, I am prepared to argue as if these contingencies were admitted, because they are at least most probable. The resolutions of the hon. member, Sir Henry Parkes, propose to adopt responsible government; and it is natural to assume, for the purposes of argument, that they will be accepted until they have been rejected. Therefore, if we are to create a house, with all the traditions, so far as responsible government and its authority is concerned, of the representative chambers which exist in these colonies and in mother country, and are then to introduce on the other side, clothed with equal power, a body entirely foreign to the British Constitution, and to which there is no sufficient parallel in the Australian Colonies, we shall be creating at the outset certain conflict and inevitable dead-lock.

Sir SAMUEL GRIFFITH: Why?

Mr. DEAKIN: I will tell the hon. gentleman why. The popular chamber receives, or believes it receives, a mandate from the electors to carry a certain measure, which we will suppose affects finance; or it may be an ordinary measure, but we will take it to be a financial measure. It is carried in that chamber by a large majority; it is sent to the upper chamber, which, we will take it, for the purpose of argument, does not represent the people directly, however much it may represent them indirectly. The second chamber rejects the measure. The popular chamber, through its government, passes the measure for the second time, and the upper house rejects it a second time. The government advises his Excellency to dissolve the popular chamber, in order that they may appeal to their constituents. They appeal to their constituents; they come back with a renewed mandate, given perhaps with stronger voice than before, directing them to pass the measure. They cannot pass it. They can never pass it, because the senate may always stand in the way.

Mr. MCMILLAN: How could that affect a money bill?

Sir SAMUEL GRIFFITH: Or any other bill!

Mr. DEAKIN: They come back with a stronger mandate than ever from the country to carry the proposal into law, and the second house rejects it again and again.

Mr. CUTHBERT: But would they do that?

Mr. DEAKIN: Well, if you will make a provision to the effect that they shall not be able to do it, if hon. members will propose a means by which we shall see an issue to the conflict, we shall be proceeding on proper lines, and we shall have something to assist us. But as the resolution at present stands we are to create a second chamber which may defy, for all time, the will of the people of the country.

Mr. CLARK: Nobody wants that!

Mr. DEAKIN: I hope nobody does want it.

Mr. BARTON: Cannot you make your check apply to all bills as well as money bills?

An HON. MEMBER: A body without any power!

Mr. DEAKIN: Hon. members are surely guilty of a fault which they would be only too ready to attribute to myself, when I say that this interjection is remarkably extreme. To say that the chamber which you are perfectly willing to endow with the power of rejecting a measure, or, if it be anything but a monetary measure, of amending it at need, of negativing for some years the direct mandate of the popular chamber, and that you only require them to cease to oppose the popular will when that will has been definitely and deliberately declared,—if you say that is not endowing them with power, then I say there is not a representative chamber in the world which possesses any power. It is only in a chamber like that of the United States Senate of America, which stands so far above the reach of popular opinion expressed through the ordinary channels, that such a course of conduct is possible without a revolution. And why is it possible? It is possible, because the executive in that case is separated from the legislature; because the executive is independent of the two chambers, and because the people look to the executive to carry out their will as far as administration is concerned. But in the constitution we are about to propose the executive will be mainly in the popular chamber of the legislature, and bound to obey the directions of that chamber. Therefore, you will have the popular chamber, guided by its government, and supported by the great majority of the people of this country, entering into a conflict with that house which you propose to make the guardian of state rights. I say that those who are taking this course, believing they are conserving state rights and conserving the union, are, to my mind, under a most serious misapprehension. I can conceive nothing more antagonistic to the continuance and maintenance of union than to set the bulk of the

population, their representatives in Parliament, and their responsible government, in perpetual conflict with an upper house supposed to represent the states. I say that the equal representation which the states demand must be conceded to them, that the power which the states require for their own protection must also be conceded to them. What I contend is, that it is not necessary, in order to obtain the adequate protection of all state rights, in order to secure absolute justice to all the smaller colonies, to endow the upper house with the power to amend money bills, or to pronounce an absolute veto on all bills. There are numbers of gentlemen present sufficiently experienced in constitutional government to be able to devise a means by which the wishes of the senate, as representing the states, should be given all the effect which can possibly be given to them, without bringing the constitution to disruption. It is perfectly possible to endow that chamber with the power of revision and review, to place them in such relation with their constituents that they may be in time of conflict sent back to them, whoever they may be, in order to receive from them a fresh and further direction. It may be possible to propose half a dozen schemes, with none of which I will at present delay the committee. It ought to be possible to propose one which should be acceptable to all reasonable men; which should endow the senate, or states house, with all the powers with which a second chamber can be endowed, without bringing the progress of legislation absolutely to a standstill—that is to say, without rendering it, not only possible, but probable, that legislation will be brought to a standstill. My hon. co-delegates from Victoria have been accused of introducing into this chamber the party conflicts that have been waged in that colony; but we should have been false to our obligations, not only to our own colony, but also to this Convention, if we had not warned hon. members of the rocks upon which we have been nearly shipwrecked. What we say is that to endow an upper house with these exceptional privileges and powers, and to provide no means for a solution of their difficulties with the popular chamber, is to invite contention and prolong deadlocks. We say at the same time that it should be possible to constitute an upper house so intimately in relation with public opinion and composed of men so highly qualified that it should exercise a very large and salutary power indeed in controlling legislation, and in controlling even the executive government. We say that all this is possible, and we admit that all this should be done; but what we do say is that this bald proposition of the hon. and learned member, Sir John Downer, commits us to the other extreme—to the absolute veto, to the equal control of money bills, which will lead to twofold discussion of the estimates in the second chamber—which will lead to the discussion of the minutest points of the administration of the executive government in a chamber to which that government is only indirectly responsible. If you are about to make this change you should go further. You should either not make this change, which is out of harmony with our existing institutions, and cannot be brought into harmony with a constitution in which there is responsible government rooted in a popular chamber; but if you do take this step, you should at once, and boldly, adopt bodily those foreign constitutions to which you have gone for precedents. If you want the Swiss Constitution, take the Swiss Constitution; if you want the American Constitution, take the American Constitution; but do not attempt to mix them with the British Constitution.

Mr. BAKER: Why cannot we have an Australian constitution?

Mr. DEAKIN: I have not the slightest objection to having an Australian constitution; but an Australian constitution that was begun by setting aside the political experience of the civilised world would have a poor chance of doing any good. Any constitution that is built up must be built on the experience gained of other constitutions in other parts of the world.

Mr. BARTON: To what experience of federal constitutions is the hon. member appealing?

Mr. DEAKIN: I am appealing in the first instance to the fact that there are radical distinctions between the American Constitution and those of these colonies. The radical differences are, that in America the executive is separated from the legislature; that the two chambers and the executive work all three independently; that, although the whole three are often, if not at war, entirely at issue, there is provision for carrying on the government notwithstanding. There is no such provision in the constitution which is sketched here. Here your responsible government is to be made responsible to the representative chamber.

Mr. BAKER: We have not agreed to responsible government yet!

Mr. DEAKIN: It is in this sketch; and if hon. members depart from the sketch let them do so on rational grounds. If they are about to take a new constitution, let them take one of which we have some experience, and not a hybrid—something from the Swiss, something from the British, and something from our own. They are taking irreconcilable elements that cannot be made to work in harmony. If hon. members desire to adopt the Swiss Constitution, let them adopt it. There they have no dissolution of the popular chamber, the government is elected from the two chambers, and the system forms a consistent whole. It may be worthy the consideration of the Convention whether we should or should not adopt that consistent whole. It may be worthy of consideration whether we should not adopt the American Constitution with perhaps a little amendment. But what I wish to say, in answer to the hon. and learned member, Mr. Barton, is that to introduce the American Senate into the British Constitution is to destroy both.

Mr. BAKER: It is not proposed!

Mr. DEAKIN: There would be an inevitable conflict. Either the responsible government and the popular chamber must rule, as in most English-speaking countries, or the senate of state nominees must rule, as the senate, in most respects, practically rules in the American republic. We should be aware of combining irreconcilable elements, and should not seek to import into this British Constitution a portion of another constitution, and expect it to work smoothly. Our experience teaches us that the dangers which we have run in the past have arisen entirely from the fact that we have created upper houses that claimed more authority than was their due, and have endeavoured to exercise it. The propositions which my hon. colleague has submitted are not propositions which any hon. member can honestly say take away too much from the senate of this country.

HON. MEMBERS: Oh, oh!

Mr. DEAKIN: They propose that the senate shall have equal power with the house of representatives in respect of all bills, except money bills, so that in every other matter that comes before the senate it stands as well equipped for dealing with legislation as does the popular chamber. There should be a tribunal to which it would not be too difficult to appeal in case of differences between the two houses on those measures; but, allowing that to pass, my hon. colleague excepts from the control of the senate money bills, bills dealing with customs and excise, and the annual appropriation bill. He does not say these may not be rejected, but he says that they must not be amended; he believes that the second chamber should only exercise its power with regard to money bills in such extreme cases as those in which it will be prepared to reject

the whole proposal put before it, but should not meddle with the financial affairs of the country by entering into the details of those proposals. The 2nd resolution says:

> The act of union shall provide that it shall not be lawful to include in the annual appropriation bill any matter or thing other than the votes of supply for the ordinary service of the year.

What this means is that every money bill, which may be a bill involving a question of policy, shall come to the second chamber independently, and the second chamber shall, if it please, be entitled to reject that measure, to challenge the opinion of the country upon it, and to say that until the opinion of the country is pronounced, that measure shall not pass into law. Are not these large and sufficient powers?

Mr. ADYE DOUGLAS: No!

Mr. DEAKIN: If not, show us how we may broaden them without taking the perilous leap to the other side of the stream proposed by the hon. and learned member, Sir John Downer. Surely there is some *via media* between the gift of these excessive powers and that of powers which should be sufficient, without making the senate equal with the house of representatives by clothing it with the same authority, although it has not the same mode of election, nor the same constituents at its back. Surely there is some *via media* to be found. Because we think the upper houses in our own states do not possess sufficient powers—that the new senate should possess more powers than the upper houses of our present states possess—and because we believe that state rights ought to be protected: surely we will not go to the other extreme, and say that the senates are to be all in all, and the majority of the population, no matter how great, is to be capable of being ignored on all questions of policy and the smallest detail on the annual estimates of the year.

Mr. BAKER: No one proposes such an absurdity!

Mr. DEAKIN: It could be done. What we ask the hon. member, who says that it is an absurdity, is to join with us in drawing a constitution that shall prevent that absurdity. He cannot deny that the amendment proposed by the hon. and learned member, Sir John Downer, admits of the possibility—I say it admits of the probability, if not the certainty—of that absurdity. I believe we are all at one in the object we seek to gain, which is the efficient protection of state rights, and surely they can be efficiently protected without allowing the senate to enter into the consideration of every £10 which it may be proposed to spend on a post-office or every £5 increase of salary proposed to be given to a civil servant. Surely there are a number of questions which can be dealt with by the popular chamber without trenching on state rights. Will the hon. members who consider that these proposals of the hon. and learned member, Mr. Wrixon, do not give sufficient power to the second chamber join us in endeavouring to frame a constitution which shall give them sufficient, but not absolute power—which shall say, as the hon. member, Sir John Bray, said in his most carefully reasoned-out speech, that, "In the last resort, and after the fullest consideration and delay, the will of the majority must rule"? Will thay admit that cardinal principle?

Mr. BAKER: We have always admitted that!

Mr. DEAKIN: Well, if hon. members admit it, will they take care to provide for it, because it is indisputable on the face of it that the proposal of the hon. member, Sir John Downer, allows the minority to rule in everything, if they please. We all know that minorities, as well as majorities, will be composed of reasonable men, and that what I suggest is not likely to take place frequently; but it is not our province, as the hon. member, Mr. Gordon, said, to rely too much on good-feeling without other guarantees. We must draw a constitution that is fair upon the face of it, and to be fair on the face of it it must provide against any abuse of authority by a minority. If the hon. member, Sir John Downer, will join us in providing against the abuse of power by a minority I believe he will find every member of the Convention with him. Let him give the states all just power, but let him for once protect the nation. Let us not frame a scheme of government expressly designed to provide for the rule of the minority, instead of that of the majority. If we are all agreed on that principle we can soon arrive at an agreement; but in its present form it is certain that Sir John Downer's proposal goes too far. Let us see if we cannot find a means of protecting state rights, and the rights of the majority of the nation at the same time.

Mr. McMILLAN: I think most hon. members will agree with me that the atmosphere which has predominated here since the beginning of our business has been an atmosphere of compromise—compromise, as long as we do not give up any vital principle. It seems to me that we ought, instead of getting into the absolute corner indicated by some members at the present time, to try and go, step by step, and see whether there is a possibility of agreeing, and whether, even with our apparent disagreements upon principle, there may not be some machinery that can be adopted, say, in a select committee, which may practically bring about what members on both sides of the question require. I find a little ambiguity in the amendments of the hon. member, Mr. Wrixon. I should be willing to allow the first amendment to go to a select committee with one alteration. It reads:

> The senate shall have equal power with the house of representatives in respect to all bills, except money bills, bills dealing with duties of customs and excise, and the annual appropriation bill, and these it shall be entitled to reject but not to amend.

I should be willing to leave out money bills and make it read thus:

> The senate shall have equal power with the house of representatives in respect to all bills except bills dealing with duties of customs and excise.

Mr. DEAKIN: Leaving out the annual appropriation bill!

Mr. McMILLAN: It depends upon what the appropriation bill is. To show my meaning I will read the next section:

> The act of union shall provide that it shall not be lawful to include in the annual appropriation bill any matter or thing other than the votes of supply for the ordinary service of the year.

But that does not do away with the question as to what money bills are. Furthermore, in your annual appropriation bill, besides dealing with the amount of revenue at your command—supposing certain changes took place in the constitution—you might deal with a larger amount than you had at your command, thus leading up to a further policy, which might be a fair ground for debate in the upper house. I do not think that hon. members who represent the smaller states would for a moment attempt to interfere with the ordinary appropriation bill of the year—that is the bill covering the salaries of clerks, and other necessaries for carrying on the government of the country. But I say, in spite of the opinion of my hon. friend at the head of the Government of New South Wales, from whom I am sorry to differ, that when we give to the people's house—first, the power of originating, which is a great power in itself; and secondly, the power of dealing with the ordinary finances of the year, we put them in a very superior position, and it seems to me that it would be a very cumbersome piece of machinery if, whilst the upper house had the right to reject certain bills, it could not by any possibility suggest an alteration in a bill. Suppose a system of taxation were introduced which would affect all the states connected with the federation; suppose any large question were introduced

which involved money matters, surely it might be fair on the part of the senate to say, "At any rate, your taxation shall be less," even if it should not say that it should be more, without going through the indignity of having to veto a bill altogether, or having it thrown aside in the lower house and then sent back, causing a certain amount of irritation. Surely there ought to be some mode of dealing with this class of money bills outside the ordinary appropriation bill. I am anxious that the discussion now should refer only to the ordinary appropriations for the year, leaving it to the finance committee to thrash out the question whether some machinery could not be employed to do away with the friction between the two houses. As far as the argument of the hon. member, Mr. Deakin, is concerned, that applies to every bill, and the only way of ending disputes of that kind is by the exercise of common-sense on the part of individuals. I do most earnestly press upon the hon. gentlemen from Victoria, and also upon my colleague, Sir Henry Parkes, the necessity of not drawing too strict an analogy between the position of the House of Commons in contradiction to the king and the House of Lords, in its historical episodes, and the position of a house of representatives or an assembly in contradistinction to a state senate with the bicameral principle in a chamber not made up of nonentities or accidents, but a chamber indirectly responsible to the people.

Mr. MUNRO: I do not know whether there is intended to be any compromise on the present occasion. If there is we had better understand it, and know where we are. I feel that if there is to be no compromise there must be a dissolution. There must be an absolute break up if there is no compromise. We received no mandate from our Parliament to come here with the view of enabling the minority of the people of the colonies to ride roughshod over two-thirds of the population. It is necessary to go into figures. The colonies of New South Wales and Victoria contain 2,250,000 of population. Leaving out New Zealand, which has about 600,000, the other colonies combined have about 900,000. And the proposal is that Victoria and New South Wales shall have two votes in regard to the finances, and that the other colonies shall have four votes—so that in dealing with finances, 900,000 people shall have twice the voting power of 2,250,000 people.

An Hon. Member: You are forgetting the assembly!

Mr. MUNRO: If the senate has this power to prevent a bill from becoming law, it is the master of the situation. It does not matter what power the assembly has, if it has not the power to carry its will into law. I am sure that we are acting very liberally towards the smaller colonies when we say that in the senate with regard to ordinary legislation, in connection with which great injury can be done to the people, the colony of New South Wales, with its population of 1,120,000, shall be on an equal footing with Western Australia, with its population of 45,000. It is an enormous concession. But at the same time, you say these 45,000 persons shall be at liberty to join with the 150,000 persons in Tasmania, and have double the voting power of New South Wales on the question of taxing the whole people of these colonies. Such a monstrous proposition as that was never before submitted to a free people. The proposition at the present time is that Tasmania and Western Australia, with less than 200,000 people, shall have double the voting power of New South Wales, with its population of 1,120,000 persons.

Mr. McMillan: No!

Mr. MUNRO: That is the proposition.

Sir Henry Parkes: Hear, hear!

Mr. MUNRO: And if you call it just or equitable, I call it by another name.

Mr. McMillan: The hon. member forgets the strength of the lower house!

Mr. MUNRO: It does not matter what the strength of the lower house is if the upper house has power to veto it.

Mr. McMillan: They have power to veto it now!

Mr. MUNRO: I did not interrupt the hon. member in his speech, and I think we should get on better if there were not so many interruptions.

Mr. McMillan: I apologise.

Mr. MUNRO: We will take this state of affairs: supposing a proposal is made by the ministry of the day, supported by the lower house, containing the representatives of all the colonies, to raise £8,000,000 by taxation through the customs, and a minority of the people equal to 900,000 says, "No; we shall not allow you to tax in that direction." Well, you are compelled to get the money, and, therefore, you must tax in another direction. What is that but giving them power to tax the people? I do not care in what form you put it, so long as you allow them to amend in detail you put into their hands power to say what the taxation of the people shall be; and the result will be, as I said before, that the minority of the people will have power to tax the majority. I, for one, have received no such authority from the parliament of which I am a member. I have received no authority to come here and agree that the people of the larger colonies shall be taxed by the votes of the smaller colonies, who will pay about only a third of the amount.

Dr. Cockburn: Not necessarily. Suppose the tax is on land; you have no land to tax in Victoria, whereas we have 3,000,000 acres!

Mr. MUNRO: The hon. member need not try to draw a red herring across the path. The hon. member knows that we have already passed a resolution which prevents the federal government from touching the land.

Hon. Members: No!

Mr. MUNRO: But we have.

Hon. Members: Where?

Mr. MUNRO: Have you among these proposals any proposal that authorises the federal government to tax the lands of the colonies? I say if you propose any scheme of that sort I, for one, will oppose it, because I do not believe that the federal government ought to have the right to tax the land.

Mr. FitzGerald: They will have full power of taxation!

Mr. MUNRO: They will not. If the hon. member has read the Constitution of Canada, he knows that the Dominion Senate has no such power. The constitution prevents them from having any such power, and I do not think we ought to give that power. I think we ought, and I, for one, want to limit the power of the federal parliament to a certain class of taxation, and not to allow them to intrude upon the various colonies and take away their means of taxation. I do not think that is intended; I do not think it ought to be done. I am as anxious as any hon. member to preserve state rights. I want federation only for purposes which we cannot carry on as well separately as we can combined. Although I came to New South Wales most enthusiastically in favour of federation, I am not going to sacrifice the interests of the community even for federation, and if this Convention is not prepared to act fairly and justly to the whole community then we had better remain as we are.

Mr. Adye Douglas: Much better!

Mr. MUNRO: Because if we are to form a constitution which, when it is examined into by the people of the various colonies, will not be accepted, we may as well say now we cannot accept it. We may as well at this stage say, "Oh, you are going to form a constitution which will be unjust to the majority of the people; we may as well stop at once and go no further." We have here an example of what will happen under the new constitution; we have here the representatives of the minor colonies joined

together, with one or two exceptions, against the representatives of the larger colonies—

Hon. Members: No!

Mr. MUNRO: That is what is being done.

Mr. Adye Douglas: Look at New South Wales!

Mr. Burgess: Look at Victoria!

Mr. McMillan: Look at the members for your own colony!

Mr. MUNRO: Yes; the members of the Legislative Council. I know what that means. We have experienced already the state of things which you are asking us to experience again. We are here, as well as in Victoria, the guardians of the rights of the people, and we are prepared to stand by them against every senate or legislative council. If you find the members of the legislative councils of New South Wales and Victoria going against the interests of the community that is not our business. It is our duty to protect the people. You have here, I say, an instance of what will happen if you give this power to the senate. You would have the minor colonies joining together and imposing taxation on the larger colonies, for government must be carried on; and if the ministry of the day cannot get a penny in one direction, and they are forced to go in another direction, then the minority rules. That is a thing to which we cannot consent. I am quite as willing as any man to assist in taking steps to protect the smaller colonies, or the less populous colonies, from any injury being done to them by the majority; but at the same time I will not go in the other direction and allow the smaller colonies to ride roughshod over the larger colonies. The best thing we can do is not to pass any resolution now; but to see how far we are prepared to meet each other. We are quite prepared—and I said so from the commencement—if you can show us an instance of injustice to the smaller colonies, to remove that injustice. But when we come forward and say we are prepared to give the same representation in the senate for 45,000 persons as for 1,120,000 persons, surely you cannot charge us with unfairness. Surely we are acting as liberally as we can be expected to act. But when you ask us to allow the smaller colonies to join together and defeat the larger colonies you are going too far. I think you ought to halt and consider the situation. If you are prepared to deal fairly with us we are enthusiastically in favor of federation; but we are not prepared to sacrifice the interests of the community for the sake of federation.

Sir JOHN BRAY: I think we are all extremely desirous of doing what is fair to Victoria and New South Wales, and if the wish to be dealt fairly with is the only thing which stands in the way of my hon. friend, Mr. Munro, I am quite sure that we shall be glad to meet him. But this is too important a question to be decided off-hand in this way. I quite agree with the suggestion that the amendment to strike out the words "and amending" having been carried, the other might fairly be left to the Committee, who probably will be able in some way to meet the difficulty; for there is not the least doubt that it is a difficulty. On the one hand, we have those who say that the senate should have power to amend all bills; while, on the other hand, we have those who as strongly contend that it should not have that power. I would point out that the hon. member, Sir Henry Parkes, simply defines in the resolution the power of the senate in reference to bills imposing taxation and appropriating revenue. But the hon. member, Mr. Wrixon, goes a good deal beyond that, and includes all money bills, and most of us know that a large number of bills come under the category of money bills. We may depend upon it that no form of federation for Australia will be permanently successful unless it provides for the rights of the people. I quite agree with the hon. member, Mr. Munro, that inasmuch as Victoria and New South Wales contain two-thirds of the population of Australia, the people of those colonies will have to pay something like two-thirds of the taxation, and it only stands to reason, as regards the manner in which they shall pay it, and the items on which it shall be paid, that their voice must prevail, and as population increases in other parts of Australia no doubt the division will be more equal. But I take it—speaking from my point of view—that we do not want the senate to determine the exact items that shall be subject to taxation; we do not, at least, I do not, and I do not think any one seriously wants the senate to determine the exact amount that shall be paid to each officer of the federal government. But we ask that they shall have the general right to say that no form of taxation, that no form of raising revenue detrimental to the interests of any one or more of the colonies shall be carried. Although the suggestion I made the other day was perhaps an imperfect one, yet I believe the Committee might be able to thrash something out of it. I do not move it now. But I feel the difficulty of getting the Convention to agree to many of these proposals until we have them definitely before us, and see what effect they will have in connection with other parts of the constitution that will have at the same time to be considered. My suggestion is in these terms:

> Provided that no matter shall be included in any money bill which the senate shall by resolution declare should, in the interests of the colonies, or any of them, be dealt with in a separate measure. And in case the senate shall pass such a resolution with reference to any matter included in any money bill such bill shall be returned with a message to the other house and such bill shall thereupon be laid aside.

That would be with a view to ensure the bringing in of one or more bills to deal with certain subjects if the senate thought fit. I would ask hon. members, however, to postpone their amendments now, to allow the resolution to pass in its present shape, giving to the house of representatives alone the power to originate bills imposing taxation or appropriating revenue. I think that after the discussion that has taken place, the Committee who will be intrusted with the duty of framing resolutions will see that it is necessary to provide some middle course between those who advocate the giving of full powers to the senate and those who advocate the giving to them of restricted powers. But I do say to hon. members who have come here to discharge an undoubtedly difficult task, that, although we may ultimately be unable to agree upon important details, we ought not to rush too rapidly to the point when these features meet us. Let us rather see whether it is not possible, without either side giving up the entire point in dispute, to take some middle course that will protect the interests of the people of their colony or colonies.

Mr. BAKER: I feel as much as does any member of the Convention the gravity of the situation, and I venture to suggest that we might do well to consider the course adopted by the Philadelphian Convention when a similar set of circumstances arose. When in that convention of great men, the members came to antagonism on, I think, the very point we are now considering, and were equally divided, the whole convention being on the point of breaking up, the difficulty was met by the appointment of a committee of compromise, consisting of one delegate from each state, whose duty it was to bring up some scheme which would endeavour to reconcile the antagonisms of the two parties. Would it not be a good thing for us to take that step now? Let one delegate from each colony be appointed to a committee to consider the matter, and let us see if they are not able to frame some scheme, or to come to some agreement or a settlement of the difficulty. I merely throw out this suggestion. I do not know whether it will commend itself to the older and more experienced members of the Convention. I

do not move any amendment, or make any motion on the subject, but I hope that the suggestion I throw out will meet with the approval of the Convention. I would suggest that if any such course were adopted, it would be well to appoint the delegates by ballot.

Sir THOMAS McILWRAITH: The Premier of Victoria says that he has a mandate from his constituents, and that he cannot go beyond it.

Mr. MUNRO: No; I said from the Parliament!

Sir THOMAS McILWRAITH: Well, from the Parliament. If that mandate be expressed in the speech the hon. member delivered to-day, I think there is a very dismal prospect so far as the federation of these colonies is concerned; because, if the hon. member lays down such straight lines, if he persists in saying that he will not stand such and such a thing, and others, perhaps a majority of the Convention, were to take exactly the same stand, a compromise would be impossible.

Mr. MUNRO: I offered a compromise!

Sir THOMAS McILWRAITH: A compromise has been made since the Convention met, because Sir Henry Parkes, in the propositions he put before us, took the whole power of initiating and amending money bills out of the hands of the senate, and put them exclusively in the hands of the house of representatives. The hon. member's colleague made a most graceful concession, which I thought would have concluded the whole matter so far as the representatives from New South Wales were concerned, when he told us distinctly that he believed in taking away from the senate power of initiating money bills, and that he would be perfectly satisfied with that concession. I myself would be perfectly satisfied with it. I think it is going about as far as we can go. But what does the hon. member, Mr. Munro, ask us to do? We had better not further postpone the consideration of this question. Let us understand what we mean. If it be the fact, perhaps it is better that we should know it at once—that in the present state of feeling throughout the colonies, as expressed by delegates, federation is impossible. Let us know what is meant. The hon. member, Mr. Munro, has strongly put his point of view as a Victorian delegate—let me put my point of view as a representative of one of the smaller colonies. I was invited to come here by the Premier of Victoria. I was not invited as a representative of a small colony which had only a population of 400,000. I was invited as one of six delegates to come here to meet delegates in the same number from every colony in the group. If I had been asked to come down on any other terms I should not have come, and I think no other colony would have responded to the invitation—and why? Because at the present time each colony has entirely within itself the power of legislation, and if it is to give up that power it must obtain something in exchange for it. With regard to the tariff, Mr. Munro coolly proposes that we should hand over the whole consideration of that subject finally to a majority of the gross population, to a chamber in which we should be represented, not as a state, but in proportion to our population. So far as this matter of tariff is concerned, we are at the present time in this happy position: that we can ourselves make a tariff as we like, and unless we can see some advantage in federation—federation involving the giving up of that right—we will not come into the federation at all. That is the position we take up. Having come to this Convention, we feel that we ought to obtain something in exchange for the power we are asked to surrender, and we could not be present on any other terms. Now, the hon. member, and, in fact, all the Victorian representatives, have persistently told us only one thing—that federation is a means to the expansion of the big Victorian Government. "Just let it expand," say they, "until it covers the whole of Australia." The idea of Sir Henry Parkes is pretty much the same, only his starting point is from Sydney, and the Government of his colony is also in its turn to cover the whole of the continent. We do not want that. We do not want to come in on the basis of population. We in Queensland have definite views of our destiny as a nation—as a part of a federation—not independently of it. I do not believe with one hon. gentleman that we should not take pride in our different colonies. I think we should all consider our interests as Australians. But in spite of all that is said, I take pride in being a Queenslander, and I shall endeavour persistently to forward her interests so long as I am identified with the country. When I see that her interests are about to be sacrificed, and to be put under the heel of the Victorian big majority, I shall decline to come into a federation.

Mr. MUNRO: So will we!

Sir JOHN BRAY: Let us see whether there is not some middle course!

Sir THOMAS McILWRAITH: The middle course of the hon. member is, I believe, to postpone the question to the popular majority. I do not believe in postponing it to the popular majority at all. What I have advocated has been the equal power of the two houses, because both of them represent the whole population, and each ought equally to be considered. The question had not arisen from the point of view now mentioned by the Victorian delegates. It has never come before us in the way in which it comes before us now. Those who brought the matter before us in our invitation to come here requested that we should meet together upon some common ground upon which each state should rank as a unit. We have met them on those terms, and are perfectly prepared to carry out those terms. But we must insist upon our right to an equal representation on the ground on which we came in, namely, that we should have exactly the same power as the great colony of Victoria, and that, as part of the whole nation, we should have equal representation in the upper chamber. It is useless to bring in the population argument, and say that because Victoria has a population of 1,100,000 as against Queensland with a population of 400,000 or 500,000, therefore Victoria should have larger representation in the senate. That would be all very well if you carried out the idea of a big national government that would spread out from Victoria and cover the whole land. But that is not what we are going to have, and the point is conceded by those who brought us together by the fact that they allow equal powers to the senate in everything except money bills. Why is this? There are a great many matters of considerable importance besides money bills in regard to which the power of the senate ought to be circumscribed if it is logical to circumscribe their power in relation to money bills. Why are these other powers given when the power to deal with money bills is denied? What are the reasons advanced? Every reason given has been one that has applied to the peculiar relationship of the lower house and the upper chamber in the different colonies; but not one of those reasons has been applicable to the relationship of the house of representatives and the senate, which we propose to create. In the latter case both houses represent the people and ought therefore to be equally considered. The Premier of Victoria strongly enforced the doctrine, which had the acquiescence of all the Victorian members and everybody else, that the majority must rule. That is a proposition which as applied to the present case I do not think the delegates will concede. We say, not a majority of the people, but a majority of the people and a majority of the states. We cannot accept the hon. gentleman's definition of popular government in that sense. And I must insist upon his trying to regard the senate, not simply as representing the wealth and property of the colonies, but as representing the population of

the colonies. I do not like the suggestion made by the hon. member, Sir John Bray. I believe that what we refuse in the strongest way to concede here, we shall very likely be obliged to agree to in consequence of an agitation which will be carried on until the senate is deprived of the rights now asked for. The only compromise we ought to make—and I do not see the use of federation at all unless it is on something like that basis—is to give to the house of representatives the power to initiate money bills. There is one view of the question we ought to consider. I do not think from what I have read in the newspapers—and I have been accustomed to read the Victorian newspapers for a long time—that the Premier of that colony speaks the will of the people of Victoria.

HON. MEMBERS: Oh, yes!

Sir THOMAS McILWRAITH: He speaks the will of the majority who have not thought much about the subject; but even these when they commence to see how their interests are affected, will turn round and rend the hon. member. They will not understand the case at all from his point of view. I believe the hon. member could make such a speech as he has made and be applauded right throughout; but when the people of Victoria begin to realise that the carrying out of those ideas will have the effect of blocking Victoria from further intercourse with New South Wales and Queensland, they will not allow the hon. member to be Premier many months longer. I would caution hon. members to remember that we have a work before us perhaps more difficult still than that on which we are now engaged. It is a very difficult thing to effect a compromise. I have a notion to-day that very likely we may come to a compromise. But the most difficult task before us will be to get our constituents to agree to the constitution we may frame. I do not disguise from myself the fact that most of us—and I include myself in the number—do not agree with the majority of our constituents on this point. I believe that on the point I have insisted upon my constituents—I speak of course of Queensland—go a great deal further than I do myself, and that even the compromise to which I have yielded will not be accepted without a great deal of work on the part of those who are interested in seeing federation brought about. I believe that the delegates generally are ahead of the constituents, and I am quite sure that the outside colonies will look with great suspicion on any proposal that is made. We are taunted sometimes with having suspicion of one another's motives. Suspicion is not a bad element in an affair of this sort. It is an ugly word to use, but perhaps it is the proper word after all. We have to regard the interests of the colonies we are here to represent. We are bound to do that and, call it suspicion or anything else, in looking at those interests we may of course be considerably biassed. What I wish to draw attention to is this: We ought to try to frame something that will be accepted by the different constituencies that we represent. I claim to understand Victoria a great deal better than the Premier of Victoria can possibly understand Queensland, and I am much astonished at the attitude which has been taken up by the Victorian delegates. The immediate advantages to Victoria and New South Wales are so plain to everybody that I cannot understand why a dead legal technicality, only kept alive by the strong fights which take place between the lower and upper houses in Victoria, should have been introduced as one of their principal arguments. I believe myself that they will give way; but when the constituents understand that it is only a fight as to the constitution of the upper and lower houses, as to whether their manufactures shall spread over the whole of Australia, they will demand a different mandate from that which the hon. member, Mr. Munro, gave us just now.

Colonel SMITH: I should have been very glad if the hon. gentleman who has just resumed his seat had answered one point which was made by my hon. colleague, Mr. Munro. That hon. member pointed out that New South Wales and Victoria, with two-thirds of the population of Australia, are offering to the other four colonies the same representation in the senate that they claim themselves; in other words, if there are nine representatives from each colony, New South Wales and Victoria, with two-thirds of the population, will have eighteen members, and the other colonies combined, with one-third of the population, will have thirty-six members. The doctrine has been laid down by the hon. member, Sir John Downer, and those who support his view, that in the senate which is to be placed over the house of representatives the thirty-six members shall govern the eighteen who represent two-thirds of the population of the whole group. If that is to be so; if this body is to be created, having greater power than was ever exercised by an upper house in any individual colony; if its hands are to be strengthened, and deadlocks made inevitable, I shall be very much surprised. The hon. member, Sir Samuel Griffith, did not explain to the Convention the difficulty he recently had with the Legislative Council in Queensland; and the hon. member, Sir Thomas McIlwraith, also failed to give any information on the subject. How do he and his colleagues propose to get over difficulties of that description, if there should be a deadlock between the senate and the house of representatives? The house of representatives, representing the bulk of the people, might, by an overwhelming majority, pass a certain measure. This powerful senate, however, might say, "We shall not pass this measure, no matter how large the majority in favour of it may be. We shall overrule you." I am not prepared, and I am certain the colony of Victoria is not prepared, to strengthen the hands of the senate and make it more powerful than the Legislative Council of that colony is at present. Rather than do that it would be better for us to pack up and go away to-morrow. It is perfectly useless for this Convention to go on unless some fair and reasonable concession is made with respect to this subject; for instance, that a measure should be assented to by the senate if passed by a majority of two-thirds of the house of representatives. The Legislative Council of Victoria now represents a very large constituency —130,000. The lower house represents 200,000. Even now we have conflicts between the houses. Yet we are coolly asked to-day to strengthen the hands of the senate, so that it can defy the decision of the people and reject a measure, no matter whether it be a money bill or any other bill.

MR. FITZGERALD: No one denies the legislative councils that power!

Colonel SMITH: The hon. member knows what took place in Victoria, and I will not be a party to creating a more powerful body in the federal parliament than the Legislative Council is in Victoria. If this proposal be carried, New South Wales and Victoria will have to endeavour to reduce the representation of the smaller colonies in the senate. Otherwise they can overwhelm us and do as they please. If we propose a tax which they do not like they may say, "We shall not have that tax"; and we shall have created a body which will really be an oligarchy, independent of the wishes of the people. You will create a body more powerful than the representatives of the people in the lower house. I was astounded to find the hon member, Dr. Cockburn, supporting this proposal. If we could be certain that the senate would act as the Legislative Council of South Australia acted when a difficulty recently occurred there —that is, meet in committee with the lower house and settle the difficulty—it might be all right. We have no guarantee whatever that such a thing would be done. If the smaller colonies, to whom we give

twice our representation in the senate, want to overrule the representatives in the lower house, so far as Victoria is concerned it will prefer to run alone. It will be wise for New South Wales to run alone. The speech delivered to-day by the hon. member, Sir Henry Parkes, completely covered the ground, and I was astonished when his Colonial Treasurer, the hon. member, Mr. McMillan, got up and differed with him on that point. We might as well dissolve at once, and go back to our homes, if we are going to decide that we shall create a body to over-ride the representatives of the people. The hon. member, Sir Thomas McIlwraith, was good enough to say that he knew the colony of Victoria better than its Premier did.

Sir THOMAS McILWRAITH: No. What I said was that I knew the colony of Victoria better than the hon. member, Mr. Munro, knew Queensland.

Colonel SMITH: I believe that is the case, and that the hon. member, Sir Thomas McIlwraith, was originally a Victorian. I find that the hon. member is not the only member of the Convention who represents another colony, but who began his career in Victoria. I am very sorry, however, to say that when hon. members leave Victoria their sympathies do not always remain there. I can assure the hon. member, Sir Thomas McIlwraith, that the people of Victoria are thoroughly conversant with everything that takes place within these walls, and they are just as capable of forming a sound judgment on any public question as most hon. members are. I am certain that I am expressing the sound convictions and honest sentiments of the people of Victoria, when I say they will not submit to having the senate made so strong that it can overrule the popular chamber, or to make the senate stronger than are the legislative councils in the various colonies. If this resolution be carried in its present form, without any modification providing that the people, as represented in the lower chamber, should ultimately prevail after reasonable delay, our labours will be perfectly useless. Seeing that the smaller colonies are to have an equal representation in the senate with that of the large colonies, it is not fair, just, or equitable to expect that the great colony of New South Wales, or that the smaller colony of Victoria, with its large population, will assent to the proposal now before the Convention. I ask the representatives of the smaller colonies in common fairness that they will agree to some proposal giving a guarantee that the will of the people shall ultimately prevail. There is no such power given here. The hon. member who has made this proposal has shown us no way out of the difficulty which I refer to. If this proposal be carried, there will possibly be a deadlock between the two houses. But the hon. member who has moved this amendment has shown us no way out of such a difficulty. I feel surprised at the attitude taken up by gentlemen who hold leading positions in the different colonies, who know the difficulties which have arisen from time to time between the various legislative assemblies and legislative councils. I am not surprised that members of the Convention who are representatives of upper houses, should advocate this proposal. They have always advocated it, and probably always will advocate it. How often has it taken place in Victoria, that the members of the Council have sent the lower house to the country to be punished, for no fault of their own! Time after time have the Council had the lower house dissolved, and they have come back by the voice of the people at the ballot-box in overwhelming numbers, and then, because they cannot be punished, the hon. gentlemen in the upper house have thrown the measure out again. If the hon. gentleman had said, "Dissolve the upper house if it rejects a measure a second time," the case would have been different.

Mr. GORDON: But the decision would not be altered. The same state representatives would come back!

Colonel SMITH: In Victoria these hon. gentlemen would not come back, because we have not a nominee house there. It is an elective house. If the upper house are put in a position in which they can be punished, if they can be sent to their constituents in the various colonies, and if the body is given a liberal character, I venture to say that they will hesitate a long time before they will throw out a popular measure. It will be a long time before they will submit themselves to punishment by throwing out a measure that has the sympathies and the approval of the entire body of the people. They will rather meet the popular will, accept it, and make the best of it. I regret very much the indisposition shown by the smaller colonies to meet us in a magnanimous way, when we offer them equal representation with us, so that they can outvote us in the senate. They could do so if they were only in a bare majority; but we give them a majority of two-thirds. It comes with not altogether a good grace from hon. members representing those colonies to stand up here and to propose to give to the body with whom we propose to deal so liberally the power to veto the unanimous voice, it may be, of the whole of New South Wales and Victoria. That is the power proposed to be conferred, and I am very glad the proposal did not come from either of the larger colonies. I came to this Convention, as did my hon. colleagues, with a thorough determination to bring about federation if it were possible to do so on anything like fair terms; and the resolution which the hon. member, Sir Henry Parkes, proposed in the conference at Melbourne, asking us to federate in a way that would be just to each and all of the colonies, carried out the views of all. But I say that this is a proposition that is not just or equitable. It gives to a section what ought to belong to the whole; it gives to one part of the population—no doubt the wealthier part—the power of vetoing the decision of the representatives of the people in the lower assembly, and I must say that I am intensely surprised to find hon. members who are members of lower chambers in the various legislatures advocating anything of this description; it surprises me above all things that the hon. member, Dr. Cockburn, should come here and propose an extremely conservative measure of this kind. I thought he was a man of a different character—that his instincts were liberal, and, in fact, almost democratic and socialistic. But the hon. gentleman is now backing up the most intense conservatism that could possibly be conceived and proposed in this chamber.

Dr. COCKBURN: It is quite the other way!

Colonel SMITH: I know that the hon. gentleman thinks so; but I am satisfied that if he had gone through the conflicts which I have witnessed, and taken part in, in Victoria, he would not talk as he has done. I hope hon. members will meet over this point. I am sure that the hon. member, Sir John Downer, does not mean his amendment to be so extreme as it is, and I think he will be prepared, and I hope the hon. delegates from Queensland will also be prepared, to endeavour to meet this difficulty as it ought to be met, so that the will of the people, after it has been properly ascertained at the ballot-box, and from their representatives in the lower chamber, may prevail.

Mr. ADYE DOUGLAS: As a delegate from one of the smaller colonies which have been referred to, I am astonished at the arguments used by the hon. member from Victoria. We never knew Victorian delegates, either here or elsewhere, to enter into any arrangement that did not suit their own particular purpose, and their own particular pockets, and upon the present occasion their conduct is the same as that which they have pursued heretofore. What does the hon. member, Colonel Smith, mean by making a comparison between the legislatures of

the several colonies, and the proposed legislature which this Convention is trying to bring about? When any proposal in the slightest degree objectionable is made to the hon. delegates from Victoria, they turn round with an extraordinary amount of effervescence, and tell us that if we do not come round to their views and ideas they will give up the thing altogether.

Mr. MUNRO: The hon. member said the same thing!

Mr. ADYE DOUGLAS: We say that we are anxious to come to some arrangement, if possible.

Colonel SMITH: If the hon. member and his friends get what they want!

Mr. ADYE DOUGLAS: It would be very easy to meet the opposition that is being created here with regard to the senate by carrying out the rules that are carried out in America when a deadlock arises. Hon. members say that the federated colonies are to have no power in the senate. But will they have any power in the house of representatives? They will be deprived of all power, because a colony like Western Australia would, in all probability, have only about two votes to fifty or sixty in the house of representatives.

Mr. MUNRO: That has not been settled!

Mr. WRIXON: The contrary has been said!

Mr. ADYE DOUGLAS: I say that in the house of representatives they will have no power.

Mr. WRIXON: Yes, every power!

Mr. ADYE DOUGLAS: They must have power somewhere, and the only place where they can have it is in the senate. Why do you have an equal number of representatives from each colony in the senate if it is not simply to balance the overwhelming power of the large and unequal representation in the house of representatives? But why do you call that body the house of representatives? The word is inexplicable and inappropriate. The senate is just as representative as the house of representatives, or whatever you choose to term the popular house. Hon. members are talking of the people. They are afraid to do anything that does not concur with the will of the mob. That is the principle hon. members adopt. They are afraid to go and speak their real opinions if they do not suit the mob.

Mr. MUNRO: We have no mob in Victoria!

Mr. ADYE DOUGLAS: I have known Victoria longer than the hon. member. I was there before they had representative institutions at all, and when the hon. member comes to talk here he must not think that he is going to win us over by his blarney. The hon member thinks that the *vox populi* is the *vox Dei*.

Colonel SMITH: So it is!

Mr. ADYE DOUGLAS: No doubt it is in Ballarat.

Colonel SMITH: It is in Tasmania, too!

Mr. ADYE DOUGLAS: We have representatives in Tasmania who care very little about what is termed popular opinion. Are the several colonies to have no power at all in the senate, or whatever you may choose to call that body? Each member will represent the whole of his colony, not a mere section of the people, while in the lower assembly the smaller colonies will only be represented by a few people. There must, in order to create a union of the colonies, be a counter-balance somewhere. Otherwise, why not limit the senate to representatives in proportion to population? You are only creating one thing to smash it down with another; and you are saying, "You may appear there; but we will clip your wings and give you no power in any shape or form, excepting that which the larger colonies will allow." It will be much better for us to know exactly the position in which we stand. The position taken up by the hon. member, Sir John Downer, is only one link, as it were, of the chain. It can easily be met by providing that if a bill is carried by a certain majority in the house of representatives, and also by a certain majority in the other house, it should become law without further delay. To say, however, that the colonies represented in the senate are to have no power to deal with, say, a bill to construct a railway—because when you use the phrase money bills, I take it that bills providing for the expenditure of money on railways and other works are included—will be to create a despotic government. There can be no doubt that the difficulty is one which can be easily met, and there is no occasion for the display of all this violence on the part of Victoria. One hon. member has even said that they will not join the federation—that they will pack up and go away without trying to come to some arrangement. I am astonished that gentlemen representing a colony like Victoria should talk in this manner, that they should not appeal to the reason, but to the fears and cowardice, of those who represent the smaller colonies. We know very well what Victoria is; we know very well what faith we can place in her Government; we know what faith we can place in her people. They have got the start, and they have been so long in getting it that they want to stick to it. We shall be very careful, I hope, not to allow one colony, because it has a large population, to take advantage of another colony which has not so large a population. We know the difficulties attached to what is termed "responsible government." Those difficulties can be easily met without this noise and bustle. Federation can be carried out if we are determined to carry it out, if we are each inclined to yield to a certain extent; but we must not be browbeaten by representatives from Victoria saying they are not going to have anything to do with it unless their particular views are carried into effect. If we are moderate in our views, federation can be carried out. It is said that we are to adopt the English Constitution. Why? Because it seems to me to meet the views of the people of Victoria. It is not, however, at all applicable to us. We cannot imitate the House of Commons. That is a term which cannot be applied to us; there is only one House of Commons proper. In New Zealand they term the members of the lower house "representatives," because the members of their upper house are nominees; but in South Australia the upper house, or Legislative Council, is elective. Therefore, the word "representatives" is not applicable to what may be termed the house of the people. The senate will represent the people just as much as the other house, and the senate must have some counter-balancing influence against the power of the large colonies in the house of representatives. I trust we shall be able to carry out some scheme of federation, at any rate to submit some scheme to the various colonies, knowing that it rests with those colonies afterwards to accede or not to what may be placed before them. We are only asked to draw up a scheme of federation, and I have no doubt that it will be drawn up in some shape or other, especially in view of the fact that we have gentlemen present who have been in the habit of expressing their views and opinions on constitutional government. I feel sure that we can safely place the formation federation of Australia in their hands, without necessarily adopting any particular constitution now in existence. We cannot follow the Dominion of Canada; we cannot follow the United States; we cannot follow the Constitution of England, because it is a continually changing one, and it is necessary that the gentlemen composing this Convention should in some way or other devise a plan which would be applicable as far as possible to the interests of the people of Australia.

Mr. THYNNE: We have had some warm discussion this afternoon amongst various representatives; and it seems to me that we might now, after the heated debate which has taken place, advantageously hark back a little, and cast about to see whether we are

really protecting the interests that we have been sent here to protect. We are present as representatives of various parliaments, and I may be permitted in all humility to suggest that it is our duty to preserve as far as possible, not only the functions, but the interests of those parliaments, except in regard to those matters which we must give up to a federal government. If we look across the water to the United States of America, we find a very rigid constitution as originally framed, and we find the position of the states and the states legislatures very strongly guarded according to the written Constitution; and yet we find that even that rigid protection which they have received has not been sufficient to protect those states in the complete exercise, not merely of their functions, but of their influence on the bodies attached to them. In the states we have found, first of all, some of the powers taken away by judicial decisions, and vested in the federal government on the one side. We have found them taken away under stress of exceptional circumstances—statutes passed and adopted limiting the powers of the states; and now we find, on the other side, that the influence of the states is being gradually diminished and taken away by the growing influence and powers of the local bodies—by what we may call the municipal government, until at the present time the position of the states is far different to what it was originally intended to be. If that is the case in a constitution like that of the United States of America, where there is a popular representative house, and where there is also a senate having all the powers which extreme advocates of a senate here have advocated—of amendment of money bills—if, with these precautions, we see the state influence decaying, what can we expect here? If we constitute a house of representatives with great power, and reduce the protecting power which is given to the states through their representatives in the senate, the effect will be that in the course of a few years even the Parliament of Victoria and the Parliament of New South Wales will be shorn and stripped of their power and influence; and instead of having the representatives direct from the people, enabling them to legislate effectively for their own affairs, they will be sent from their state parliaments for the most important matters to the unified parliament, which would undoubtedly grow from the great power which the hon. member, Mr. Munro, and other hon. members from Victoria, advocate giving to the house of representatives. I do not like quotations very much, but I will give a few lines from a recent publication upon the relative position of the state governments in America and the federal governments, and I do so because I think the words are words of warning which hon. gentlemen here ought to bear in mind in relation to their functions as to their individual parliaments:—

> The commonwealth government is now but a sort of middle instance. Too large for local government, too small for general, it is beginning to be regarded as a meddlesome intruder in both spheres—the tool of the strongest interest, the oppressor of the individual. This has been its history in other lands and other times, and the mere fact that it professes to be popular here, whilst it has been princely and aristocratic elsewhere, will not save it from the same fate.

I ask the hon. gentleman, the Premier of Victoria, is that the condition to which he wishes the Parliament of Victoria to descend? Does he wish to promote the stripping of the Parliament of Victoria of its power and influence over its own people? I ask the hon. members for New South Wales, do they wish to see the Parliament of New South Wales in the same way stripped of its power and influence, and relegated to the position which is merely accorded under the present system to local municipalities? I think that this is a very important matter, and one to which I trust I am not out of place in calling the attention of the Convention.

Mr. KINGSTON: I think we must all recognise that we are approaching a very critical stage in our deliberations, and that we have arrived at a time when it behoves us to act with the utmost circumspection, lest our efforts in the direction of federation should prove a failure; and I trust that nothing that I may feel it my duty to say will even in a slight degree tend to dissipate that atmosphere of compromise to which reference has been made by one hon. delegate, and which at the present moment does not appear to lead to any very practical result. I have listened with a very great amount of attention to the arguments which have fallen from the various hon. delegates from Victoria, and it appears to me that those arguments, if pushed to their legitimate conclusion, amount to this: that we have made a very great mistake in providing in the resolutions which we have carried for a bicameral system—for a system consisting of two houses, one representative of the people and the other of the states—and that we should rather adopt a single chamber constitution, in which the people only will be represented, and the will of the majority will rule.

Colonel SMITH: None of us have said that!

Mr. KINGSTON: None of the hon. delegates from Victoria said it in so many words; but it seemed to me, listening with the greatest attention to their utterances, that that was the logical result of the arguments which they advanced. I remember particularly the utterances of the hon. member for Victoria, Mr. Wrixon, who is now, in common with other members who think similarly with him, striving to limit the powers of the senate on the subject of finance, whilst he tells us at the same time that finance is government and government is finance. I have come here with every desire to assist in bringing about a fair and reasonable scheme of federation; but I thought that the idea that underlay the federal scheme likely to be proposed was that though of course we were only to confer on the federal government the power of dealing with national questions, still, as regards national questions, it was not to be simply that the will of the majority of the people should prevail, but that in order that there should be federal legislation on any particular subject, there should be a concensus of opinion in two chambers—a majority of the people and a majority of the states. I venture to think that it is a principle which will commend itself to most of us; and, speaking particularly of the colony which I with others have the honor to represent, I know that in South Australia there is a pretty general feeling that whilst willing to join in a scheme of federation conceding due weight in the shape of extra representation to extra population, we are not prepared altogether to sink our state individuality, but we think that there should be two chambers — one in which the claims of extra population to extra representation will be fully recognised, and the other in which each state will be regarded as an individual unit entitled to equal representation. I go further; and I put the matter in this form: that the system to be effective must concede to the senate practically co-ordinate powers with the more popular branch of the legislature. What is the good of erecting a senate in which the states are equally represented if you are not going to give them any powers worthy of the name? What is the good of giving equal representation to different states in a body which, according to the utterances I have already quoted, will have practically no power at all in matters of finance—in matters which are really the essence of the government of the whole of Australia!

Mr. DEAKIN: Power of rejection, but not power of amendment!

Mr. KINGSTON: Power of rejection is some power, no doubt. Is the extra representation which is conceded to extra population in the lower chamber no advantage? Is it not a sufficient advantage in

favour of the populous states? Is the power of initiation of no importance whatever?

Mr. BAKER: I thought it was enormous!

Mr. KINGSTON: Does it not go to the whole gist of the matter as regards the origination of the more important measures? Confining the powers of the senate simply to rejection is all I am contending for—rejection in detail. It seems to me that if we are going to have a senate which, whilst nominally created for the protection of state rights, is really and practically shorn of all powers in that direction, we should be dealing more fairly with the states themselves if we were to say: "We require that the majorities of the people should rule—that there should be practically one chamber—and we do not propose to have a senate at all." I would infinitely prefer, in order that it may be fairly appreciated by those whose duty eventually it will be to judge of the advisability of this scheme, that we should go back and propose to them one chamber rather than be charged with the duty of recommending to them the adoption of a system which, whilst calling into existence a senate charged nominally with the protection and preservation of state rights, has no real power or influence in that direction, but is simply a sham, a delusion, and a snare. I hold strong views on the question of the propriety of giving the senate the power of rejecting money bills in detail; but at the same time I recognise that there is a very strong difference of opinion on the question, and that we should strain every effort for the purpose of arriving at some compromise agreeable to all; and I do trust that in this matter—a matter of the most vital importance—we shall continue the practice we have successfully adopted hitherto, of avoiding all divisions—of avoiding the necessity of taking the sense of the majority of the Convention on the subject. I am satisfied also that there is such a desire to come to a compromise that we shall be able to do something in that direction. As laid down in the resolutions carried by the Melbourne Conference, and since repeated in our instructions by our various legislatures, we are charged with the duty of arriving at a conclusion just and fair to the several states, and I am sure that we are all here actuated by the one desire. Of course, it is difficult to say what is fair and right under the circumstances. At the same time, I am very much impressed with the mode in which the matter is sought to be dealt with by the amendment indicated by the hon. member for South Australia, Sir John Bray. The senate is created for the purpose of protecting state rights. Refuse, if you like, to the senate the power of amending money bills generally; but when state rights are involved, and matters dealing with them are mixed up with others in money bills, let the senate have the right by resolution to require that the matter shall be dealt with in a separate bill. And if it is so dealt with the simple result will be that the senate by the rejection of that particular measure will accomplish all that is sought it should have the power to accomplish by giving it the right of veto in detail. I am satisfied that whatever may be the strength of our opinions on the subject we shall do all that we can to come to a fair arrangement. Undoubtedly it would reflect the highest discredit on all of us should we spare any pains to come to an amicable understanding on the matter, and I cannot contemplate the possibility of such a disastrous result.

Captain RUSSELL: If we are anxious for a compromise, it is a great pity that we did not adopt the suggestion made by an hon. member, to adjourn an hour ago, because we find in everyday life that when the atmosphere is sultry it is an advantage to change our locality, and get the fresher breeze. There has been a great deal of warmth imported into the debate this afternoon, more particularly by the Premier of Victoria—more warmth than light. I confess that at the end of that hon. gentleman's speech I had found out much that he would not do, much that should not be done, and that he was inclined to pack up his portmanteau unless his particular wish was given effect to. But that is not compromise. We are advanced no further by it. We do not know what Victoria wants, except that her whole wish should be conceded. I think it would have been a good thing if we had adjourned. But whilst I am on my feet, I will say a few words on the subject Here I would allude to the impression which was made upon me by Colonel Smith when he spoke of the magnanimity with which the senate was to be treated, inasmuch as the smaller colonies were to be given equal representation therein. But the hon. member did not carry his magnanimity much further. It was to have the nominal power of two votes, but it was not to exercise them. The hon. member's magnanimity stopped there.

Colonel SMITH: Not on money bills!

Captain RUSSELL: I think that the Convention is rather setting up a wooden image—an image in which there is really nothing. There is ample room for compromise, and when we go carefully into the matter we shall find that we shall apparently give up a great deal, while in reality, we sacrifice nothing at all. What is this great power of amending money bills? I venture to say that, by giving the senate power to amend money bills, we should take power away from it. That may seem paradoxical; but I believe it is the case. In former days, no doubt, there was a great deal in the power of vetoing money bills. It originated in the old days, when the Crown was the sole power, and when the Crown and the House of Lords really taxed the people and spent the money as they choose. All that has passed away. It is the people now who say how the taxes are to be raised, and how they are to be expended. They put governments in, and turn them out, on questions of finance with the utmost ruthlessness, and there is no danger that any power you give to the senate will affect the financial policy of the federation. I said just now that though it may seem paradoxical, I believe that to give the senate power to amend money bills would be in reality to take power from it, because the general opinion apparently of the Convention has been that the senate shall have a perpetual existence and a right of veto. It you give the senate the right of perpetual existence and the veto, you will be giving to it absolutely autocratic power which it would not put into force. If you give it the power of amending money bills, because its existence is perpetual, and its power of saying "no" also perpetual, you place in the hands of a comparatively irresponsible body, a much greater power than that of amending a bill. I do not think there is any reason why an amendment similar to this proposed by Mr. Wrixon should not be given effect to. To me it seems a matter of little consequence whether the senate has the power to originate money bills or not, or whether it has the power of amending them. I maintain that the question of the financial policy is not now what it used to be, that the people themselves are more interested in social questions than formerly, that the whole legislation of the next ten or twenty years will be, not upon £ s. d., but on the social rights of the people. It will be a general social legislation. These are questions that the people are properly jealous of; these are questions which they will watch with the greatest interest, and the power of expenditure is as nothing in their eyes compared with the labour and other social problems which will have to come before the parliaments of the various colonies. Therefore, on that point I maintain that the amendment of money bills is a matter of comparatively little moment. But are we sincerely anxious for federation? Do we want to bring about the unification of Australia? Do we wish to bring the detached

colonies of Australia into a federation? Believe me that unless you leave absolutely autonomous powers to those outlying districts, and allow them to believe that their representatives in the senate will be real entities and not nonentities, it is hopeless to talk on the subject. It has been said that the delegates are far ahead of their constituents in their knowledge of the subject, and their desire for federation, and I say that unless you give to the delegates such a position that they can go back and show to their colonies that they will not surrender any autonomous powers—unless you can show to them that there will be a distinct gain by joining the federation—unless you can show them that the state representatives will not be mere nonentities—it is hopeless to talk any more on the subject. I believe there is as strong a desire throughout the Convention as there will be throughout Australia that there shall be a federation of the colonies. But it will commence by the adoption of the spirit of compromise, not by our trying to insist that we shall have everything we desire for ourselves; but by sitting down with a resolute determination that we will not leave Sydney until we have brought about federation. If we once set to work in that spirit, with the hope and belief that genuine work will be done, we shall have accomplished a great deal. It cannot be done by lengthened sittings, and heated debate, but only by calmly discussing amongst ourselves, perhaps outside, the points on which we can compromise.

Mr. RUTLEDGE: If I were inclined to take a pessimist view of things, after the debate which has taken place this evening, I should be disposed to think that federation had received a serious blow. After the speeches of Mr. Munro and Colonel Smith, it seems as if we should accomplish nothing at all. We must approach the consideration of the great question that is engaging our attention in a different spirit from that in which it has been dealt with by those two gentlemen. I do not think it is the way for hon. members who have strong convictions to endeavour to secure the adoption of their views, and effect anything like concessions from those who with equally strong convictions, hold different views, by saying, "I am prepared to take this stand, and I shall not budge an inch from the ground which I now occupy."

Mr. MUNRO: Who said that?

Mr. RUTLEDGE: The hon. member did not say so in so many words, but unless I misunderstood him very greatly, that was the effect of what he said.

Mr. MUNRO: Oh, no!

Mr. RUTLEDGE: Unless the hon. member had his views given effect to in regard to the rights of the popular branch of the legislature, he was prepared to pack up his traps and go back to Victoria to-morrow.

Mr. MUNRO: I said nothing of the sort!

Mr. RUTLEDGE: I do not think we ought to approach the discussion in a spirit of that kind. We are here, as the President admirably stated in the course of the speech in which he moved the resolutions, to endeavour to give and take. I certainly cannot understand how any hon. gentleman can expect the Convention to arrive at any definite conclusion at all unless we are prepared to give as well as to take.

Colonel SMITH: We are to give everything and get nothing!

Mr. RUTLEDGE: It is unfortunate that hon. gentlemen should endeavour to pit the house of representatives against the senate, and to suppose that there will necessarily be a spirit of antagonism existing between the two bodies. I do not think there is any likelihood of a spirit of antagonism existing between those two bodies as such. They will not be two bodies animated by a spirit similar to that which now animates the two branches of the provincial legislatures. That was pointed out at very great length by the various speakers who discussed the question in open Convention the other day; therefore, I need not refer to the subject again. But there is all the difference in the world, as was pointed out, between the constitution of the senate, as we hope to frame it, and the constitution of the upper house to which we are accustomed in the several colonies. Why should there be any antagonism between those two bodies? The hon. gentleman seemed to assume, and it strikes me as being very fallacious to assume anything of the kind, that on any great question which comes before the federal parliament there will necessarily be a ranging up of all the smaller colonies on the one side. Why should that be so? Many questions may come before the senate for consideration which may have the greatest possible interest for, say, Tasmania, and which the representatives of that colony may like to veto; but in which they will not have the sympathy of Queensland or the sympathy of Western Australia; and, therefore, it strikes me as being wrong altogether to assume that on every great financial question that comes before the senate all the small colonies will necessarily go together like a flock of sheep, and all their representatives will vote one way. It is a very poor estimate, I think, to form of a body such as we hope the senate will be. I do not think we can do better than adopt the suggestion made early in the afternoon, namely, to appoint a select committee, consisting of, say, the premiers of the several colonies, and probably the ex-premiers—two members from each colony—for the purpose of reconciling, as far as possible, the differences which at present separate hon. members on this great question, and of suggesting to the Convention the most suitable form of compromise which, in their opinion, ought to be adopted.

Sir JOHN DOWNER: Before the Committee adjourns I wish to say a few words on what appears to be a misapprehension as to my motive in moving the amendment. Many hon. members, particularly the hon. members for Victoria, have complained of the unprecedented character of the motion. These hon. gentlemen appear to have entirely forgotten that it is not the motion, but the antagonism, which is unprecedented. No confederation has ever been formed on substantially any other principles than those which we are advocating now. The very essence of federation is the enunciation and enforcement of principles such as those which we seek to set up—the preservation of the entity of the states as well as the recognition of the voice of the individuals in the whole federation. An hon. gentleman who comes from Victoria endeavoured by a false analogy—which, by the way, does not seem to have worked very well—to show that because in Victoria, for instance, the upper house has no power to alter money bills, therefore no such power should be given to the representatives of an utterly different character, of the different states. Even in Victoria, where the franchise is so low that the Legislative Council represents not merely the richer classes, but all the worthy of the poorer classes, one would have thought that there ought to be much greater power in the legislative council than it possesses at the present time. But whether that be so or not, it is clear that the analogies which the hon. gentlemen who have objected to the amendment have endeavoured to draw between the motion and the ordinary responsible government in force in the colonies really do not exist at all. I do not propose to address the Committee at any length. It is to be regretted, I think, that any hon. members should have said that, unless their views are carried out, federation, as far as they are concerned, is at an end. Neither do I think that any hon. member is in a position to make any such declaration. I am certainly not in a position to make any such declaration myself, nor do I believe that any of my colleagues are. I am also equally willing to believe that the Premier of Victoria does not altogether speak the voice of Victoria when he

states that unless his extraordinary and unprecedented condition is introduced into the federation —a condition such as has never been known in any body of the same kind—Victoria will stand out, and this Convention will break up.

Colonel SMITH: The hon. member is proposing the extraordinary condition, not we!

Sir JOHN DOWNER: That is where the misunderstanding comes in. The condition when the present American Constitution was formed ———

Mr. MUNRO: Does the hon. member propose to have a similar constitution? Let us understand what we are doing!

Sir JOHN DOWNER: It was formed on what is known as the Connecticut compromise. Under that compromise, in which the smaller states thought they had conceded so much, there was not merely the power of vetoing, either in block or in detail, but the power of amending money bills, as well as other bills—of amending by increasing, as well as by reducing. Although it was said by an early writer that an arrangement was made which seemed to be illogical, so far as our finite intelligence can be applied to the subject, still the logic of history and subsequent events is much more convincing than the intelligence we can bring to bear on any given subject at a moment's notice; and we know as a fact that instead of the object being to preserve the co-ordinate power of the two chambers, that authority has been preserved by the method adopted, and that instead of the most extraordinary and unsatisfactory result, coupled with universal discontent, which ought to have logically followed, as the hon. member, Mr. Baker, said at an earlier stage, the body in the state legislature which is admired and revered by the people of America is not the people's house—the House of Representatives, as it is called—but the Senate, which is supposed to be raised to a lofty sphere, which the people can neither see nor understand. Another misunderstanding running through this debate is this: it has been said that the voice of the people must be heard. Of course it must be heard. The voice of the people will be heard in the senate as well as in the house of representatives. It will be as powerful, practically, in one chamber as in the other. The electoral body that will return one will practically be the same as the body returning the other, with this difference: that whereas the whole federation returns the house of representatives, it will be the body of electors in each state that will return members who will represent them in the senate. The American experiment, which, as I have said, was a compromise, has worked wonderfully well. Now, the smaller colonies which have been so much reflected upon, and who are supposed to be endeavouring to arrogate to themselves power and authority to overwhelm the larger colonies, ask for less than the smaller states of America asked for in their time. They ask for the power of veto in detail instead of in the whole, without any reference to the power of making amendments by way of increase or reduction. I can only say, as Clive said on a celebrated occasion, "I am astonished at our own moderation." I think that the more my hon. friend, Mr. Munro, comes to think the matter out, the more he will disabuse his mind of false analogies, and the more he will come to the conclusion that he was mistaken in the somewhat hasty and impetuous view he expressed in his utterances of this afternoon, when he said that he spoke for the people of Victoria.

Mr. BARTON: I move:

That the Chairman do now leave the chair, report progress, and ask leave to sit again to-morrow.

Motion agreed to; progress reported.

Convention adjourned at 5·35 p.m.

TUESDAY, 17 MARCH, 1891.

Address—Federal Constitution.

The PRESIDENT took the chair at 11 a.m.

ADDRESS.

The Secretary read the following telegram:—

To Sir Samuel Griffith, Vice-President, Federal Convention, Sydney.

Copy of resolutions posted by the Committee of the Brisbane Chamber of Commerce.

1. That the Australian Federal Convention, now sitting in Sydney, is a marked event in the unfolding of Australian national life.

2. That "one people, one destiny" is the idea of a noble aspiration, which in the hands of men already distinguished by great public services, inspires a loyal confidence that it will find practical expression in a lasting Australian constitution.

3. That these resolutions be signed by the chairman of the committee, and transmitted to Sir Samuel Griffith, with the request that he will be good enough to hand them to the veteran statesman and President of the Convention.

J. P. DE WINTON,

Vice-President, Brisbane Chamber of Commerce, and Chairman of the Committee.

16 March, 1891.

FEDERAL CONSTITUTION.

In Committee:

The CHAIRMAN: The question, as amended, is:

(1.) A Parliament, to consist of a senate and a house of representatives, the former consisting of an equal number of members from each colony, to be elected by a system which shall provide for the periodical retirement of one-third of the members, so securing to the body itself a perpetual existence combined with definite responsibility to the electors, the latter to be elected by districts formed on a population basis, and to possess the sole power of originating all bills appropriating revenue or imposing taxation.

The hon. member, Sir John Downer, proposed to amend this question by adding the following words:—

The senate to have the power of rejecting in whole or in part any of such last-mentioned bills.

It has since been proposed by way of amendment by the hon. member, Mr. Wrixon:

That the amendment be amended by omitting all the words after the first word "The" with a view to insert in their place the following:—"senate shall have equal power with the house of representatives in respect to all bills, except money bills, bills dealing with duties of customs and excise, and the annual appropriation bill, and these it shall be entitled to reject but not to amend. The act of union shall provide that it shall not be lawful to include in the annual appropriation bill any matter or thing other than the votes of supply for the ordinary service of the year."

Mr. BARTON: I was much struck by the quotations from Mr. Gladstone made by the President the other day. Speaking of the English Constitution, the President quoted him as saying:

More, it must be admitted, than any other, it leaves open doors which lead into blind alleys, for it presumes more boldly than any other the good sense and the good faith of those who work it.

Sir Henry Parkes went on to say:

The success of any constitution framed by man, the success of every constitution, call it what you may, must depend upon the good sense, self-restraint, and good faith of those who work it.

That is the interpretation—it is, of course, the only fair interpretation—which the President has put on the words of Mr. Gladstone. That quotation struck me when I read it. I did not hear the address, but I read it as soon as possible afterwards. In relation to this question of the powers of the senate, that quotation has appeared to me to be an argument which applies with singular force to the whole of the views which are held on each side of this question. If the British Constitution itself, so elastic as it is, is only a workable and smoothly working

machine, in proportion as those who work it are self-reliant, self-restraining, and discreet, of course it is not to be expected that any other constitution labouring, as any subsequent constitution must labour, under the misfortune of being partly written, will work with thorough satisfaction unless subject to the same—shall I call them—lubricating influences. But I take it that there is a great deal more than that in the meaning of this quotation, because, turning again to what the President said:

> Whichever way we frame our constitution the rule of discretion and good sense that guides us must inevitably be the same.

Although the argument appeared to be put forward mainly in laudation of the British Constitution and to a certain extent in disparagement of the propositions that have been made—that is, which had been then made in debate and which have now taken a more specific form in this Committee—still the force of the argument ought to be the same whichever way we frame our constitution, and the words themselves uttered, I think I may fairly say, the strongest rebuke to all those, whichever place they may come from, who have made threats that they will leave us in our deliberations. Surely if that is the rule under which constitutions are to be worked, it is the rule under which they are to be made. According to the prescience which the experience of Mr. Gladstone, as here denoted, gives us, it is with that prescience we know that, however we may err in allotting too much or too little power to this or that body, we still have the good sense of an English-born race to carry us through, and we ought, at any rate, to exhibit that amount of good faith in each other which should forbid us from saying if you do not accept this or that proposition we will leave the Convention. It does seem to be scarcely a worthy, and scarcely a dignified, position for any body of representatives, sent here for the purpose of assisting to frame a constitution, to take up, to resent, as some appeared to resent, the investigation of their arguments. Surely it is for the investigation of arguments that we are here before we decide. And when gentlemen tell us, when we investigate their arguments somewhat more closely than is agreeable to them, that the next thing we shall have to investigate will be the appearance of their carpet bags, it does seem that they are, not making too large a demand on our patience; but exhibiting a spirit at variance with that spirit of compromise which they have all professed to have so much at heart.

Colonel SMITH: The compromise is all on one side!

Mr. BARTON: It is like the Irishman's reciprocity—it is all on one side.

Colonel SMITH: We are to do all the compromising!

Mr. BARTON: The hon. member says he does all the compromising. I do not think that is so; but he may have compromised his case to some extent yesterday by his speech with which I will deal presently. Any other idea of compromise does not seem to have entered his head. If we are to start on what has been called the *do et des*, or give and take principle in forming our constitution, I venture to say to this Convention we are beginning to make threats a great deal too early, and I, for one, having the great confidence that I have in our hon. friends from Victoria, and other hon. members from elsewhere, have not the least expectation, until the Convention has done its labours, of seeing the pattern of their portmanteaus. Now, there was another portion of the President's address which seemed to me to throw a good deal of light upon the manner in which the adjustment of the powers of the two houses of the general government should be proceeded with. The President told us that in the senate

> we seek to create as lofty, as dignified, an upper chamber as we can, and we seek to create it as nearly on the British model as we can.

Whether the latter portion be entirely accurate or not, I shall not undertake to say for the moment, because I see certain amendments on the business-paper as to which I may have to express an opinion at a later stage, and which may throw some doubt on the statement. We are also told that a senate ought to possess the "elements of a moral and just conservatism," and the President interpreted those elements in this way. He said that they were

> those elements arising from experience, from matured judgment, from public probity, from steadfastness of purpose, and from the trust which is imposed in certain individuals as the growth of time.

That is a collocation of a large number of the very highest attributes that could repose in legislators, and it being the high ideal which our President has, what struck me as being, at any rate, the subject of some speculation, was this: Why, after having created such a body as this for the avowed object of conserving state interests among other things, should we propose to degrade this body by refusing them in the greatest emergencies the right to stand by those very interests? If you do this, you will have either an altogether degraded senate—a senate which will not be the object of any man's ambition—or, if you call to that senate, if you succeed in getting into it men such as the President has so worthily and eloquently described, what will be the result? If they are a body of mature judgment and experience, if they are a lofty and dignified body, is it a spectacle for a free constitution that we should at any time see them sitting with folded arms while the interests which they were elected to guard are passing away for ever? Surely it is not making a constitution if we proceed in that way. If we proceed to work up to and to realise an idea of this kind, and then, having created almost the *summum bonum* of legislative power, knock the very power out of its hands by a couple of words in a federal constitution, surely we rather mock than make a constitution. That is the view which struck me as one which was, at any rate, tenable from the remarks made by the President. After all, it comes back to the quotation from Mr. Gladstone. The working of any constitution will depend upon the discretion and good sense of those who frame it, and live under it, and it is not because that discretion and good sense have had to be invoked countless times for the preservation of a constitution—I use the term with the utmost reverence—of the loose character of the English Constitution, that we are to argue, that when we make a constitution of a more defined character that good sense will fly away if you import a federal government. Surely that is not a good deduction from a knowledge of the race to which we belong, or from the work which we ourselves have done in the making of constitutions. But we are told that we are now attempting to create two houses having an equal power to deal with money bills as they think fit. I venture to say, however, that none of us are in any way seeking to confer with respect to money bills, an equal power on the two houses. Those who have been strongest in their advocacy of this conservation of state interests to the mutual satisfaction of the parties to this compact have admitted all along that there is an ultimate power which will vest in the hands of the people. They begin with the power of origination, which in itself, as any one's experience of parliamentary procedure will tell him, as a sole power involves practically the ultimate control. But it has not been contended by the strongest advocate of state rights here that under all circumstances and in all events the veto which the senate may impose in whole or in part is to be immovable and unchangeable.

Mr. MUNRO: Yes!

Mr. MOORE: No!

Mr. BARTON: It has not been contented.

Mr. MUNRO: Yes, by every one on that side!

Mr. BARTON: I say that it has not been contended—at least that is my view. Every one of the speakers, so far as I can understand his meaning, seemed to couple his strong assertion of the necessity of guarding these interests with the allowance that when matters came to a deadlock or a crisis, there must be some mode of settlement, and most of them concurred in saying that in the ultimate resort there must be some method provided by which the people could decide either directly or otherwise.

Mr. WRIXON: That was said only by the hon. member, Sir John Bray!

Mr. BARTON: It is the impression which I have gained from the debates, and I think that if the hon. member, Mr. Munro, had listened to and read these debates with, perhaps, a little less of the idea that hon. gentlemen opposite were attempting to make some fixed and immovable thing which would have been as hard to get rid of as one of Cleopatra's Needles, if he though for a moment that those who were opposed to him were nearly one and all conceding that there must be at any rate some means of removing friction and terminating deadlocks, I think we should not have had this recourse to carpet bags instead of argument. It is a very great mistake to say that we are attempting to constitute two co-equal houses. There is no one here whose remarks I can interpret in that sense at all. Certainly, strongly as I endeavoured to express myself on the subject, I have no consciousness of having attempted to assert that any such unalterable position should be taken up, nor have I gathered the same from the remarks of any one else who has taken part in the debate. And now I would ask those who have given utterance to something like extreme intentions on a supposition such as I have described, to pause a minute to see whether there is not amongst us some means of arriving at a reasonable conclusion which will not be all giving on one side or all taking on the other. It is not, as it has been described, a new-fangled proposal that has been made. It is not, as it has been described, something entirely un-English and utterly opposed to the development of constitutional government, because, although I, for one, agree with the President in saying that we are not here to make any mere transcript of the American Constitution, I think that we must concede that it was a highly English population which framed the American Senate; and we must all concede that that constitution was framed with an intimate knowledge of the constitutional history of the country from which its authors had sprung, and with, so far as it might be, a desire in what they considered safe limits to imitate the model that existed for their emulation and their wonder. But it is not proposed to set up the American Senate as part of the constitution now to be framed. The American Senate has powers very much wider and very much larger than any that are attempted to be given by any proposal that has been made in this Convention. To begin with, the limitation of the co-ordinate rights of the American Senate is purely with regard to bills for raising revenue, that is to say, taxation bills; and with regard to bills of appropriation of the expenditure—as far as the constitution is concerned, there is absolutely no limit upon their originating or co-ordinate powers. That has never been proposed or suggested for a moment, nor has it been suggested that the senate should be the depository of these very large powers which accompany its existence in the American Constitution. I refer to certain rights with regard to impeachment, and to certain other executive rights which here there is no intention and no dream of conferring upon such a body. But it is sought to be shown that where the citizen has to be represented, first through the national assembly, and next through another chamber, that where his representation in those two bodies is the sum total of his representation, to take away any portion of that full sum of representation is not in furtherance of the spirit of democracy, but it is a lopping down of the representation to which the democracy ought not to consent. That is the position—and it is not an "extremely conservative" position—which those who contend for a fair measure of power in the senate are now occupying. If a citizen is to be represented—and we have it on high authority—the authority quoted the other day, of Sir William Jones—that the only men who can constitute a state are high-minded men, who can see their rights, and, having a just conception of them, dare maintain them—if that is the definition of a state, then the representatives of such a state are representatives of such men, and if the representatives of the state in the senate are the representatives of such men, and such a body as the President has described them, then it is wresting some of the citizen's power of representation out of his hands to say, "As much as the house of representatives may do anywhere else, it shall do and may do here; but, as much as under any other federal constitution you know of the other chamber may do, it shall not do." That is not giving his full sum of representation; it is taking something away; so that, after all, the whole process that is proposed has nothing un-English about it, because it is an attempt to confer a full measure of representation, instead of taking any of it away. That also lets some light upon another branch of the question, because it has been said that there is some analogy beetween the senate proposed and other upper chambers; and my hon. friend, Mr. Deakin, said something about the experience of constitutions in British countries. Now, the experience of constitutions in British countries, with the exception of Canada, is not the experience of federation at all, and so far as it applies to Canada there are provisions in the Canadian Constitution which tend at present, and may tend strongly ultimately, to convert that constitution more into an amalgamation than a federation, to minimise the powers of the states, and to exalt those of the general body. Now, it seems to be an accepted concession on all hands that the powers to be given to the federal body by his Convention, so far as it can induce the concurrence of the respective parliaments, are to be, without speaking of the American or Canadian system at all, rather those powers which are expressed as necessary and incidental to the purposes of federation, and not those which come within the large range of powers included in such a clause as exists in constitutions giving the residuary power to the general body. If that is the intention, you cannot carry it out without giving adequate power to both your houses, because, by so much as you depart from that, if you give too much power to the senate, you tend to exalt the federal idea to the suppression of the national idea; and if you do the converse, as the hon. member, Mr. Deakin, I am afraid, wishes to do, you tend to exalt the national idea in the direction of unification or amalgamation, to the destruction of the federal idea. That, I am sure, is not the mandate which hon. members bear from their respective parliaments; it is not the mandate which any one of our parliaments has given us. We are told in that mandate—reading behind the words in which that mandate is couched—we are told that the kind of federation which Australia will tolerate, the kind of federation which I hope it may grow to love, is that which does not suppress or tend to minimise the powers of the several states beyond those matters which are expressly taken away from them. Then, I submit that by so much as you diminish that portion of the sum of representation of a citizen which lies in the senate, you will exalt the national and diminish the federal principle; by so much as you topple over on the other side you are doing precisely the converse. Then, what you have to do is to see that you do justice, and to do justice in this matter can never be consummated by bringing

about such an engrossment of power into the hands of a national body as would result in the minimising of the states who have never given any such mandate to their representatives. On that ground we are entitled and bound to report a strong senate to our parliaments as a desirable provision in the constitution. I submit that if we take away from the senate the power of vetoing money bills, unless they veto them altogether, we shall so cripple that body, that we shall not be able to report to our parliaments that which I believe they want. It is all very well to talk about the struggles that have taken place. It has been said that the whole of the struggle in England has been "to wrest from irresponsible power the right to deal with taxation and the revenues of the country." There is no endeavour to give to an irresponsible power the right to deal with taxation and the revenues of the country. If there is anybody who doubts that I would refer him to the resolution which we are considering, and which, referring to the senate, says:

> So securing to the body itself a perpetual existence combined with definite responsibility to the electors.

The doctrine of the denial of interference in any way with money bills springs out of the maxim that taxation and representation shall go hand in hand. Where you have two representative bodies, then to the extent of the proportion of representation which you give the second chamber, you are entitled, having faith in that maxim, to give it the power of interference with money bills. Now we are told that such a provision as this cannot be grafted on to any constitution in a British land. I would ask the hon. member, Mr. Clark, what he thinks of that, because if I remember rightly, there has been a power of amendment in the Constitution of Tasmania; and although there may have been little tiffs, as there are sometimes between married people, still, the constitution of that country on the whole has worked well. There has been no deviation from the principle of responsible government, and it exists with a power in its upper chamber—to large a power, perhaps, to confer on an upper chamber under the circumstances—which has not tended to the subversion of responsible government, and which has certainly not been any impediment to the smooth and constitutional working of it. Therefore, if we appeal to experience, we have, at any rate in this direction, one clear experience.

Mr. BURGESS: It has been for the general good!

Mr. FYSH: South Australia also!

Mr. BARTON: In South Australia there is a degree of experience in the same direction; but I am not going to enter into that matter. In Tasmania there is a perfectly well-defined experience in the same direction, that is, as connected with the working of responsible government, and that of itself seems to solve a great many of the difficulties which hon. gentlemen have felt when they have suggested that the giving of powers of amendment or veto in detail to a second chamber is incompatible with the working of responsible government. It cannot be so. We have proved that it is not so in the working of the matter.

Mr. MUNRO: Would the hon. member say that the South Australian upper house can alter the details of an appropriation bill?

Mr. BARTON: I was not saying anything of the kind. I was appealing to the Constitution of Tasmania, which contains the power of amendment.

Sir JOHN BRAY: Does the hon. member say that it expressly contains the power of amendment?

Mr. BARTON: I believe that there is some power in that direction.

Sir JOHN BRAY: Does the hon. member say that the constitution expressly vests the power of amendment in the council in Tasmania?

Mr. BARTON: In Tasmania, if I recollect.

Mr. FYSH: The power is an implied one, but the practice is such!

Mr. BARTON: The point is not a very important one, because the question is as to the working of responsible government where the power of amendment is exercised, and if the upper chamber in Tasmania has been in the habit of exercising the power of amendment—sometimes the upper house have done it even here, and have survived, notwithstanding all they have heard by way of withering denunciation of themselves ——

Colonel SMITH: That is the worst of it—they do survive!

Mr. BARTON: That is a matter of opinion. I always notice that the time of practical politicians generally comes when they have done representing such places as Ballarat, and take a seat in the nominee or upper chamber; and we always find that on those occasions there is a singular silence on subjects of this kind.

Colonel SMITH: We have no nominee chamber there. It is elective!

Mr. BARTON: I know it is, and I recollect that a very popular leader, under whom my hon. friend served, has found occasion of late years to sigh for a nominee chamber in the interest of democracy.

Mr. MUNRO: I would not allow him!

Mr. BARTON: I know that my hon. friend, Mr. Munro, would not allow him if he could help it. My hon. friend, Mr. Munro, when we were yesterday discussing, and he was saying something on the subject of those powers, said, "We have, the representatives of the larger colonies joining to insist on this." Some one made an interjection with reference to the delegates of New South Wales, and his answer was, "Those others are members of the Legislative Council."

Mr. MUNRO: In Victoria!

Mr. BARTON: I thought with regard to New South Wales too.

Mr. MUNRO: I said nothing about New South Wales!

Mr. BARTON: It does not matter whether it applies to New South Wales or to Victoria; but I should like to know whether my hon. friend, Mr. Munro, is under the impression that the argument of a member of this Convention, duly sent here under powers which he recognises, is weakened by the fact that he belongs to either a nominee or an elective upper house. If he thinks that the argument is weakened, and thinks less of it for that reason, I ask whether he imputes a motive to those who belong to nominee chambers?

Mr. MUNRO: I was not talking of nominee chambers at all!

Mr. BARTON: I will say with regard to elective chambers. Has the hon. member found that the advocacy of the principle of representation of the states in fair strength in the federal senate is confined to members of the elective house in Victoria? Has he found that in his reading, or that the large body of authorities who have dealt ably with this question, and whom one cannot read too closely, are strongly in favour of the granting of such powers to second chambers where the federal principle prevails, and have added their own meed of admiration of the ability, the vigour, and the touch kept with the people on the part of the Senate of the United States. Without talking of making any mere transcript, let us look at this one fact—that, with a people perhaps the most democratic in the world, we find that their veneration and respect for that chamber, their confidence in it, is not only as great as it is for what is called the popular chamber, but is even greater. That is a sufficient answer by itself to any argument based on the mere question of the support of a certain conviction by a member of an elective upper house. But, going back from that, I come now to what was said

by my hon. friend, Colonel Smith. My hon. friend expressed a great deal of dread as to what would happen if the smaller colonies were intrusted through their representatives in the senate with the powers here claimed; and he pointed out that, with respect to other matters, he was in accord with the resolution, which offered them equal representation on the senate; but he wished to confine their powers with regard to money bills. Well, if he has confidence in their patriotism in this regard, and if he admits that under the resolution to which he has assented, or a portion of which, at any rate, may be said to have passed its second reading, they are to be representative bodies—representative of the states which send them there—why should he for a moment decline to place in their hands with regard to money legislation some modicum of the power which he would give them with regard to general legislation?

Colonel SMITH: A modicum, but not the whole!

Mr. BARTON: The hon. member is willing to give them that which is practically of no effect. I may as well point out now what is so frequently the result. I am not going to argue from what I am about to say that upper houses elsewhere should have these powers of amending or vetoing in detail money bills, because that is beside the present question. But we have found that where that power is denied the friction is greater than where the power is granted, and the necessity of the case points out why the friction is greater—because, where the power is denied, the immense probability in a large class of cases of money bills is that, where there is a matter of principle involved, affecting rights which they think should be conserved—this is a very important matter when you come to consider it with regard to a federal senate—the result of confining the power of veto to veto *en bloc* is this: either a good measure of public policy is lost, because without rejecting it the second chamber cannot preserve the rights which it has in its keeping, or the measure of public policy is passed for the sake of its policy; and in passing it, the right or principle which should be conserved for the public safety is utterly sacrificed. That result cannot be good, for in seeking federation there would be sacrifice either of the public policy of the nation or of the interest of the state, and if there is a way out of the difficulty by which that sacrifice need not occur, why should we not adopt it? I do not say any more than the hon. member, Sir John Bray, says, that this power of veto should be final and conclusive. Let us set our ingenuity to work; let us appoint a committee on that subject, if need be, to find out some means of accommodating this conflict. But do not let us talk about packing our portmanteaux the first difficulty we see. When people see lions in the path the best thing for them is to drop their portmanteaux and not to pack them.

Colonel SMITH: The hon. member cannot get over the carpet bag.

Mr. BARTON: I cannot. When I have heard my genial friend, Colonel Smith, speak of his enjoyment of his stay in Sydney the idea of his taking flight in that way causes me more astonishment than I am prepared to express. There is one thing I should like to instance as throwing considerable light upon this question. Supposing that some of the threats we have heard were fulfilled. Supposing, for instance, that a jot too much power in the estimation of my hon. friend, Mr. Munro, and his colleagues, were conferred on the federal senate—that jot which was a little bit too much for them—and that this exodus did take place, and we were unable to form this federation from the want of our hon. friends? What would be the result of that? It cannot be supposed that these colonies would keep apart always. I am not going to threaten my hon. friend, Mr. Munro, as a certain other colony was threatened yesterday, with the formation of another and an outside federation. But I am going to suppose this case: that thinking better of the policy of entire isolation some five or six years hence—I hope, of course, he will still be in office, and that there will be a coalition ministry including my other two hon. friends—Victoria has always been supposed to be the colony most eager for federation; and supposing that it became again ready for federation with New South Wales, after the sudden death of the principle in its heart, after the space of five years, what would happen then? By that time, at the present rate of increase in the population of the respective colonies, the population of Victoria would be 1,250,000, and that of New South Wales, as nearly as possible, would be 1,500,000. A popular assembly, formed at the ratio of one member to every 25,000 persons, would give sixty representatives to New South Wales and fifty representatives to Victoria. Now, supposing the two colonies came to terms, and had a little convention of their own, just as we are holding our Convention to-day, but on a much smaller scale. We should then have the question of the powers of the senate taken into consideration. It would, of course, be conceded by New South Wales, as it is conceded to-day, that the representation in the senate should be equal; but if my hon. friend, Sir Henry Parkes—supposing him then still to be leading the cause of federation, as we all trust he may be if it is not accomplished in the meantime—said, as he would say to-day, "Your senate may have the power of rejection. The senate in which we are equally represented may have the power of rejection; the house of representatives shall have the sole power of origination, and there shall be no power of amendment," what would be the retort of Victoria? "Your sixty representatives in the lower chamber would swamp our fifty, and where should we be?" I imagine, whether my hon. friend remained in office until then or not, we should have a very prompt recognition—not only a recognition but a very prompt and sturdy assertion—of the principle of state rights as far as it is involved in giving the power of veto in detail.

Mr. MUNRO: Not a bit of it!

Mr. BARTON: My hon. friend thinks not. Let him wait until he comes to that position, if he ever does. I would suggest to him that instead of raising that difficulty, he should accept a reasonable solution of this question. Let us appoint a select committee ——

Mr. MUNRO: Let us have it!

Mr. BARTON: Let us inquire calmly into the matter, and let us have no more talk of catching the express in a hurry.

Mr. MUNRO: No one talked about that but the hon. member and the colonel!

Mr. BARTON: I have not the least doubt that the colonel is a remarkably faithful representative of his colleagues. I therefore submit, taking this matter as a whole, that while reasonable compromise should be acceded to, there should still be preserved that in one of these chambers which will represent the federal principle some power of dealing with money bills to such an extent as will arrest the course of legislation, if need be, in favour of state interests, and in the course of arresting it will not cause the friction, the irritation, and the jealousy which will result from the losing of large measures of policy for the sake of an amendment. I do not throw this out as a suggestion; but suppose that the power of veto in detail were not exercisable after the specific matter on which it was exercised once had been made the subject of a general election, so that after the ascertainment of the popular will a bill were sent up again involving the same matter. I do not suggest it as the best way of settling the difficulty, but it is one suggestion which no doubt will present itself to a committee. Suppose it to be accompanied also by some provision of this kind: That lest the non-intervention of a general election should cause continued friction there

should be no veto in detail for a greater number of times than twice. I do not say that would settle the question. I do not say that, on thinking it out, it is a proposition to which I should be ready to accede. I say it is one of a number of propositions which might well engage the attention of the Committee, and that, therefore, we ought not to be keeping our backs too stiff upon this matter. Sir, we ought to entertain a reasonable probability, when we are taking this matter a step further, which we may well very soon do, that a compromise will be effected which will enable us to deal with other lions in the path, and will not force us to go back to those who have sent us here to tell them that we have falsified their hopes and met with a failure disastrous in itself, and all the more ignominious because it arose from mere irritation and jealousy.

Mr. WRIXON: I think the Convention is very much indebted to the hon. and learned member, Mr. Barton, for his temperate and able speech, and I shall certainly endeavour to emulate him in his temper. I thoroughly agree with him that we should all be covered with discredit if we were to go back to our different parliaments without arriving at a solution of the difficulty which is now presented to us. I think I can assure the hon. and learned member that he has taken somewhat too seriously the allusions that were made, if they were made, to portmanteaux. I am not aware that they were seriously made on one side; but if they were seriously made on one side, I certainly have some little recollection of a similar reference on the other side, and that some hon. members on both sides seemed to say that unless their particular views were secured they would be likely to depart. If it was seriously said, all we can say is: "Brothers, we have both been in the wrong." I think we are all agreed that we must come to some solution of the question. The anxiety which has been shown by my hon. colleagues from Victoria on the question of finance and state rights, I hope the Convention will excuse when it bears in mind the fact that while we represent the states or the colonies of Australia, we do not in this Convention really represent the peoples. The smallest province in Australia sends to this Convention precisely the same number of representatives as does the largest, and, therefore, if we think we notice, or if we fear we see any tendency to ignore the views of great masses of men, we must be excused when it is remembered that those great masses of men are not adequately represented here. I am sure that will not in the least detract from the fairness and consideration which every hon. member will give to the problems submitted to the Convention. But we are now sitting like the senate of the future constitution, as opposed to the house of representatives. A very different tone and a very different complexion of the difficulties presented to us would prevail here, I imagine, if we had here 100 representatives representing all the peoples. Therefore, our anxiety is that we are here, as it were, merely representing the states. We should not run away too much with the one view and ignore the other, because we must bear in mind that we cannot carry this thing, as we are resolved, I trust, to do, unless we have behind us the support of the masses of the people. No support of large territories will do it. We must be supported by the masses of the people in this country. If we display any heat at all it is because we are anxious that we should not now come to a conclusion or settlement which afterwards would not be approved by the public generally, and which, therefore, would not be carried through. Now I thoroughly agree with the hon. member, Mr. Barton, that we must settle this question, and I think he left open a very important avenue for settlement when he made this concession —which I must beg leave to say all the advocates on that side have not made—that he admitted that the final power in all matters must rest with the house of representatives. I think if that position be taken, if it be accepted, there can be but little difficulty in our being able to work out a solution. Because that is all that we say. We do not claim that the house of representatives should be able at once, and in a hurried way to enforce its view even in the case of money bills; but all we say is that the ultimate decision upon all bills—money bills of course included—must rest with the representative house; and in so saying I claim the opinion expressed by the hon. member, Mr. Barton, as bearing out that view. Now, the difficulty into which we are led, with regard to the claims of the senate to amend money bills, arises from the fact that we do not sufficiently recognise the difference between money bills and general legislation. You will observe that it is agreed on all sides that we are not about to adopt the American Constitution. That is not proposed. If it were proposed, one result, of course, would be that the government of the day would be elected directly by the masses of the people, and in such a case you may do as you like with legislation between the two houses. In such a case you will observe that the states, for whose rights many of us are now so anxious, would have comparatively little to say in the election of the government, because they would be elected by the masses of the people. If you do not propose to adopt that form of government, you propose to keep to the English form—the system of responsible government, and when you talk of giving an equal power to the upper house with regard to money and other bills we think you do not recognise the difference between financial and general legislation. It has in fact been denied by an eminent authority that finance is legislation at all, because it is concerned with the carrying on of every-day government. It cannot wait; the government must go on. Money must be found, and the body that really controls finance unquestionably controls the government. Our difficulty is that if you give up to your upper house, under this English system, the right not merely to reject any money bill—a right to be exercised in some great emergency—but also the right to eliminate items, you are giving them a right that will be inconsistent with the carrying on of the system; because, by so doing, you would make the upper house really masters of the government. I put it to any hon. gentlemen who have held office in their own colonies, whether they would be willing to carry on government with a similar right on the part of their upper houses—a right, you will observe, specially given by the proposed bill to your senate for the purpose of vindicating the rights of the states? It would be not merely the right, but the duty of the senate, to exercise their power of revising the appropriation act, or any money bill, in every case in which they thought the interests of any state were concerned. I ask hon. gentlemen who have carried on government in their provinces, whether they would be willing to carry on the English system of government with the same powers in regard to money bills on the part of the lower and the upper houses.

Mr. GORDON: There is no analogy!

Mr. WRIXON: There is an analogy if you attempt to work the English form of government; because what I say is this: that if you attempt to carry on that form of government, it will be impossible to retain this power on the part of the senate. In the proposed dominion act you would go out of your way to give special power to the senate to eliminate any item from a money bill—say it was a customs bill—to which it objected. I ask whether you could carry on government satisfactorily upon such a footing? Would not the house having that power really control the government? Remember, it is to have the power of finally saying what shall be done as to this and that item—items all of which may be necessary for the carrying on of every-day

government; and I ask again—could government be carried on satisfactorily by a body of men responsible to the lower house, and yet liable to have their financial measures dealt with in such a way by the upper house? The scheme would not work. We heard just now about Tasmania and South Australia. All I can say is that I am not aware that any such right as this has been exercised, and it undoubtedly will be exercised if it be given in this instance. If you give to the senate under your new constitution the power and right to protect the states, as it is suggested, it will unquestionably be exercised frequently and freely, and I do not say that it ought not to be so exercised, if given. I am not aware, I repeat, that such a power has been exercised in South Australia or Tasmania; but even if it has, I doubt whether although it may be exercised in smaller communities, it would be followed in the case of the big government and community formed under our new constitutions. Therefore, I think we ought to be slow to seek to grant final powers of this kind to the senate. Here, I find myself coming very near to the hon. member, Mr. Barton, because if he admits that this power of checking on the part of the senate whether it be by eliminating or amending—however you like to put it—if he admits that that power is to be exercised only temporarily, and that final power is to rest with the house of representatives—if he admits that it is only a matter of detail as to how we shall work the matter out, because we do not claim for the house of representatives power to pass anything it likes at once and without demur or hesitation. What we want is some assurance that the final power of control with regard to finance shall not be vested in a house which certainly would not represent the people of the community, for however you may put it, however you may desire to preserve state rights, you must recollect that state rights can only be the rights of the people living in the state. When you have Queensland and Western Australia—as you will probably have them—cut up into smaller states, you will have a large number of small states represented in the senate, but their representatives will, at the same time, represent a very small proportion of people indeed. Therefore, if you are willing to give them this control over finance, which is the engine of government, you will be handing over the control from a large majority of the people to a very small minority. Now, I will not go into the question of whether the suggestion thrown out by the hon. member, Mr. Barton, would be the best to adopt. I think it is a very valuable suggestion. I may say that, in consultation with some of my friends from Victoria, the idea had occurred to us, although I think there is not merely that way, but many other ways which I need not now particularise, in which we can come to a solution, if we would only accept the platform of the hon. member, Mr. Barton, that finality must rest with the house of representatives. If we accept that platform, I think the machinery can be easily worked out, for we never contended for anything more than that the house of representatives should have its way as to these matters after a decent and reasonable interval. With regard to the ordinary appropriation bill required for every year's service, that of course does not admit of delay. I will not detain the Convention, but I ask hon. gentlemen, who wish for state rights, and who are anxious to see them carried out, not to insist too far or too strongly upon views such as some of their advocates have put forward. You ought to take either one course or the other. If you are not satisfied with the English system of responsible government and boldly profess to adopt the American system, then I can understand the position—and I think there is a great deal to be said for that; but if you do not propose to do that, I submit it is a mistake to seek to get greater control for the states by giving them power to interfere irrevocably and perpetually with the finances of the day. I would venture to repeat the suggestion I made before, that you ought to look for strength for the small states—and I would not wish to see them over-borne by the larger states—but there are directions in which you can get greater weight and authority for the states than by following the American model, which would not suit and would not work with our constitution. For example, I would be quite with you in giving the smaller states a larger proportion of representation in the lower house—of course, up to a certain limit. With a larger number of smaller states, having a considerable representation, you would soon have constituted in the lower house an important party which no government could afford to disregard; because the position in the dominion parliament would be that of a government seated on the ministerial benches, anxious to retain office, anxious to carry on successfully, and how could they do that except by acting justly to the people of the whole dominion? There would be an important party representing the smaller states—though, of course, not so large as that representing the larger states—and the idea that the two larger states would be united together against the smaller states is evidently erroneous, because the two larger states would have their rivalries between themselves which would prevent them from uniting and harassing the others. I, for one, though I have heard many disapprove of the idea, should not be sorry to see some proposal adopted to the effect that not more than a certain number of ministers should be chosen from the larger states, so as if possible to secure in the ministry the presence of representatives of the smaller states. But if we are going to retain the responsible system of government, I would urge hon. members not to insist upon this power of finance which has been claimed by some delegates, though not by the hon. member, Mr. Barton. I would ask them not to insist upon that, but to join in meeting us in a compromise of this difficulty which will do what Mr. Barton has said he is willing to do—leave the ultimate power in the hands of the house of representatives.

Sir GEORGE GREY: I listened with very great pleasure indeed to the speech made by the hon. member, Mr. Barton, but on some points I thought he was hardly sufficiently diffuse. He pointed out to us very strongly that it would be unjustifiable under any circumstances to say that any members should leave this Convention in a state of hopelessness of achieving anything. But he admitted one point. He himself raised a question the other night which made it very doubtful whether members would not be justified under certain circumstances in withdrawing. I understand from him that it is, in his opinion, extremely doubtful if we have any power to provide a federal constitution for the states. We were distinctly told that we were to provide a federal constitution generally, and in addition to that we are told by our own resolutions that we are to provide a federal parliament—to really constitute a separate federal legislature—and that there our powers end, and that in point of fact the various states are to be left under their present constitutions to achieve such form of government as those constitutions will permit them to attain. That is nothing more or less than to say that we are forbidden to give to Australasia at large a federal constitution suited to the states and to the federal government. If we have no power to give such a constitution to the states, I say we have been deprived of the most essential power of all, for it must be admitted, I think, that the majority of the states, at least at the present moment, are under constitutions which are not of such a liberal character that their people have a fair hope of achieving such a constitution as is their right, unless we in this Convention have the power of recommending—because that is our sole power—what the federal constitution of the states

should be; and to say that we are not to be permitted to recommend such a thing as that is to say virtually that we ought not to sit here, and that we have no power at all, for I am sure that no one but an enemy to what I should call human freedom, such as the world sighs for at the present day—no person but an enemy to that freedom would contend that we ought to insist upon setting up a federal constitution of a kind which excludes the consideration of the states. I think that the great error we are making throughout is this: that we have not sufficient confidence in one another, and in the work to which we are called. If we have confidence in one another, then, I say that we should not fetter the coming legislature by any conditions that we can possibly avoid; we should simply give them an entirely free constitution, freer, perhaps, than has ever before been given, and then leave them to work out the details of the constitution under which they find they can properly fulfil their duties. Can any one believe that in the present state of the world, when one of the greatest movements which has been in existence since the time of the reformation is sweeping in waves over every country—can they believe that a time has not arrived in which men should arise to lead that movement forward, to make it beneficial to mankind, and not to incur the least risk of letting contests, feuds, and wars arise from the movement which is in existence? It is in our power now to give an example as to what should be done in this respect. It is in our power by having confidence in ourselves, in our ability to achieve a work of this kind, to do that which may really benefit the whole human race; and I would remind hon. gentlemen of this, that it has been invariably found, in times of great movements of the public mind, such as I speak of, that there do arise men, and I believe such men sit here, who are capable of guiding and directing a movement of the kind. A nobility seems to be given to human nature, a greatness to human thought, a persistency to human labour, which breeds up and brings out men fitted to meet great waves of movement of the kind which are now going on in the world. If we attempt to fetter the federal parliament which we are creating, by depriving them of any powers whatever, we shall be dealing unjustly with them, and we shall be dealing unjustly with ourselves, for we shall not be fulfilling those great duties to which we have been called. I say, let us not attempt in any way to define their powers where we can avoid doing so. Let us not attempt to impose any fetters upon them where we can possibly avoid doing so. Let us with generosity trust that in this new federal parliament which we wish to call into existence there will be found those natural leaders of men whom the circumstances of the time will undoubtedly call forth. I, therefore, certainly shall, as far as my vote depends, give it in favour of giving to the senate all powers which are proposed to be given to them now, not to limit them in any respect whatever, and to believe that amongst that senate will be found men of sufficient nobility and greatness of character to use their powers solely for the public good; that they, benefited by the examples given by quarrels between the two branches of the legislature in some of our colonies and in other places will avoid quarrels of this kind; that they will feel a new epoch has arisen; that new laws are required; that new customs should prevail; that they do not wish to follow the English system; that they do not wish to follow the American system; but that they wish to create an Australasian system suited to a new country, a new climate, with a new race of men made up of many nations. Such is the case with the inhabitants of this country who have obeyed laws of a new nature and new kind, and who have given examples to the older nations of the world. Let us give to the men who are to represent such a people, called together in such times, every power that we possibly can, and trust and believe—I am sure our trust and belief will be justified—that the coming men will use the powers given to them wisely, and we shall only do harm if we try to fetter them in the way I have heard proposed by many. I, therefore, shall vote for those who will give all powers to the coming federated parliament, and who will do their utmost in no way to fetter them or control their line of action.

Mr. PLAYFORD: If we give all powers to the members of the senate because we believe that they will act fairly and do their duty to the state, cannot the same argument be applied to the house of representatives? Cannot we say that we shall equally trust them, because they will be men who will do their duty, and do their best for the interests of this great country? With regard to the amendment now before us—that of the hon. member, Sir John Downer—hon. members have argued as if he intended to couple responsible government with his amendment. He proposes that the senate should have powers almost equal to those of the house of representatives; but he does not propose that these two houses shall be worked by an executive under responsible government. He proposes to adopt the Swiss system in framing the constitution, and, therefore, the arguments brought forward, that he is proposing something that cannot be worked under responsible government, falls to the ground, because he does not propose any such foolish thing. He considers that if we give two houses coequal powers, we must have another kind of government in place of the British constitutional form of government—the responsible form of government. The hon. member, therefore, proposes that, under the federal constitution, we shall have an executive elected by both houses, and then it may possibly work. In my first speech on the resolutions as a whole I pointed out that it appeared to me almost impossible to work responsible government with two houses practically cocqual in power; that the ministry of the day would be bound to obey and be responsible to one house only. We have trouble enough now to carry on work for any length of time with responsibility to only one house. If we had responsibility to two houses, the ups and downs would be much more frequent. I have heard nothing to shake my belief that if we have two houses practically coequal in power, we shall not be able to work responsible government with them. It is said that the houses will not be coequal, because money bills can only be initiated in the house of representatives. I would point out that that is a very small power indeed. In carrying on the government of the country, money bills must be introduced, money must be got somewhere, and although the money bill originates in the lower house, it must, as a matter of course, go before the senate. If the senate has the power of amendment, it has practically the power of deciding what shall be the form of taxation under which we shall live. Therefore, the argument that the two houses will not be coequal, because the power of initiating money bills will be confined to the lower house amounts to nothing. It has been said that we have been working under a system of responsible government in the little island of Tasmania, and also on the mainland in South Australia where the legislative councils have the right to amend money bills. I do not know what is done in Tasmania, but I know that in South Australia the Legislative Council has no right to amend money bills, and the Legislative Assembly has never allowed them to do it under any circumstances. I believe the same words are in the constitutions of both colonies, and also in the Constitution of Canada at the present time—that is that only in the lower house shall money bills be initiated—nothing more is specified. But what has been the practice? We contend that under the constitutional form of

government which we bring from the old mother country, although all money bills must be initiated in the lower house, and although it may be argued that that does not take away the right from the upper house, to amend money bills, yet the analogy of the House of Lords and the House of Commons must be carried out in this country. The lower house has denied the right of the Council to amend money bills, and there was a very severe struggle over it. The result was a compromise. The Assembly said, "If you (the Council) feel strongly that you would like to amend any particular bill which comes before you, you can send a message to the Assembly stating what you desire, and suggesting the amendment which you would like to see made; and the Legislative Assembly will then say whether or not they agree with the suggestion."

Mr. GORDON: If they do not agree, what happens?

Mr. PLAYFORD: Then the Council generally pass the bill, and do not trouble themselves much about it.

Mr. FYSH: What provision does your special act of Parliament make if such circumstances arise?

Mr. PLAYFORD: It is simply a standing order, and not an act of Parliament. There is a special standing order providing the mode in which these measures shall originate in one house and be sent up to the other.

Mr. FYSH: Here is the act of Parliament!

Mr. PLAYFORD: This has nothing to do with amending money bills. It is simply an act to issue writs for the election of members. We have a provision that when in two sessions of Parliament the Legislative Council refuses to pass bills which the lower house has passed, we can dissolve a certain portion of the Council, and send them to their constituents.

Mr. FYSH: This act was passed because of their interference with money bills!.

Mr. PLAYFORD: We have the power, when the lower house for two sessions running pass a measure which is rejected by the upper house, if an election has intervened, of dissolving the whole of the Legislative Council, and sending them to their constituents, or of dissolving a part of that house, or of asking the constituencies to elect eight new members.

Mr. FYSH: That relates to money bills, as well as to other bills!

Mr. PLAYFORD: That is not the point. The point on which I am arguing is that we do not allow the Legislative Council to amend money bills. We only allow them to make suggestions, which is a very different thing, indeed, from the right of amendment.

Mr. CUTHBERT: Would the hon. member allow the senate to make suggestions?

Mr. PLAYFORD: Yes, I should not have the slightest objection to the senate making suggestions to the house of representatives—in fact, I know that a bill has been drafted by the hon. member, Mr. Kingston, in which the right of the senate to make suggestions if they like is preserved. But there is one point which we must not overlook, and which it would be well to decide before we consider the powers to be given to the senate, and that is, who are to elect them?

Mr. MUNRO: Hear, hear! That is the serious point!

Mr. PLAYFORD: It is a very serious point, because if they are to be elected in the way in which I think they ought to be elected, and that is, not directly by the people, but by the elect of the people, I believe that we cannot follow a better course than that which has been adopted by the Americans with regard to their Senate. In the election of members to the American Senate, each state by their own legislators elect their representatives.

Dr. COCKBURN: Those elected by nominee houses could not be elected by the elect of the people!

Mr. PLAYFORD: There is little trouble there, but even in that case we must leave the colonies themselves to decide whether they will or will not have nominee houses. If the great mass of the people are opposed to the principle of nominee houses they can soon get rid of them; but if they are willing to put up with them, I do not know that it is for us to dictate to any colony the form of local government which it shall adopt. Therefore, if we say that we will give the states the power of electing, through their local representatives, the representatives to the senate, we shall have to give the nominated houses in New South Wales and in Queensland a share at all events along with the house of assembly in the election of those members as we shall give to the elective upper houses in the other colonies, their right to elect them. But I contend that if they are to be elected by the people and by districts you may almost work your federal government with one house, because the one house would simply be a reflex of the other, and you do not want an absolute reflex in your senate of the house of representatives. I think, therefore, that we had a great deal better decide how the senate is to be elected before we decide what powers we shall give it. If its members are to be elected directly by the people in the various states, they will only reflect to a very considerable extent the people's voice, and you may give them more power than you would if they were elected by the state legislatures. If they are to be elected by the state legislatures, I think you might give them less power. My own idea is that the resolution moved by the hon. member, Sir Henry Parkes, so far as state rights and state interests are concerned, gave all necessary power to the senate, except that it did not provide against that most objectionable practice by which upper houses have been attempted to be, and sometimes have been, coerced—that is the tacking on to money bills a number of measures to which the lower house knew that the legislative council very seriously objected, and of which they would not otherwise approve. I think that if we protect the interest of the states by giving them equal representation in the senate, no matter what their population is, and if we give the senate the right to reject any money bill they may receive from the lower house, surely, with the majorities they will have there, the rights of the smaller states throughout Australia will be sufficiently protected. If we give larger rights to the senate than have been proposed by the hon. member, Sir Henry Parkes, we shall make the difficulty of responsible government greater and greater in proportion to the extra powers that we give, until we make the upper house co-equal, or practically co-equal. I can tell hon. members that we shall not be able to work the ordinary form of responsible government with two houses having such powers. I think if something in the shape of the suggestion made by my hon. colleague, Sir John Bray, were adopted, it would meet the case. That is, if the senate say that in the introduction of certain measures something is joined to them which they would like to consider separately, apart from these measures, they can pass a resolution stating that, in their belief, it interferes with state rights and interests, and they can ask that the matter be introduced in a separate bill. That will prevent the tacking on, it may be to a loan bill, of a number of heavy items which would have to be expended in different parts of the dominion, and some of which might trench somewhat upon state rights and state interests. The senate will have the right to say, "We desire that a certain portion of this bill should be sent up to us as a separate measure," and that measure will be considered upon its merits without any connection with the other portion of the loan bill. I contend that so long as you preserve the senate from the liability of having to consider an appropriation bill or any other measure on to which

are tacked certain objectionable matters which they would like to consider separately, and so long as you give them the right to say, "We should like to consider these matters separately," they have all the right, and all the power for which they ought to ask, and which they ought to expect, unless the Committee are prepared to go the whole length of the proposition of the hon. member, Sir John Downer, and to say, "Give them all rights, do away with responsible government, and work the government on the lines of the Swiss Confederation." And, mind you, there is a great deal to be said for the Swiss Confederation. It has worked well since 1848. They elect the ministry from the members of Parliament after the general election. It has a life of three years, and no two members of it are to be taken from one state.

Mr. MUNRO: They have altered it very much since then!

Mr. PLAYFORD: They have altered it in one or two directions, but not very much. It has been altered more in regard to the referendum. In the first instance, a referendum was only allowed with regard to the alteration of the constitution, and not with regard to general subjects; but they have enlarged the power of referendum, and they have given some powers of initiation which were not in existence before. But the main features of the executive and legislative were there before. They have two houses, which when they meet together after a general election choose a ministry for three years. These ministers retire from Parliament and form what, I think, is called the general council. Other men are elected in their place. Ministers have the right to speak, though not to vote, in either of the two branches of the legislature. The ministers meet together and decide upon the measures which they will introduce: and, considering the difference in race and in religion which there is amongst the members of that federal state, the constitution has worked admirably. They have worked it exceedingly well, and to the admiration of every writer I have read who has written on the subject; and there is a great deal to be said in favour of the proposal of the hon. member, Sir John Downer, in that direction. I believe, however, that the people of this country are not prepared for that; they will be more likely to give their adhesion to a constitution upon old and familiar lines, in preference to one upon lines with which they are not so familiar. I only trust that we shall be able to arrive at some compromise by which the people, through their representatives, will be, as they ought and must be in every democratic country, the final arbitrators in any conflict between the two houses. I understand that the hon. member, Mr. Barton, is quite prepared to allow the people, in the long run to decide. He has given way to that extent: therefore, I do not see why we should not be able to arrive at some compromise by which we shall preserve, on the one hand, the rights of the individual states, so that they shall not be ridden over roughshod by any combination of larger states, and on the other hand preserving for the populous states rights and powers in the lower chamber in which they will be more largely represented. I feel certain that, whatever form of constitution in that direction will be devised, some system of compromise will prevail, and that we shall find that what appear to be difficult problems will be more easily solved than we at present imagine. We shall also perhaps find, as the Americans found in connection with their constitution that those parts of it which were regarded with the greatest pride, and as the most perfect—that of the principle of electing the president, for example—will in their working, turn out to be those about which we shall be least proud. I certainly trust that we shall arrive at some arrangement whereby we shall preserve, on the one hand, the rights of the states, so that they shall not be trampled upon, and on the other hand, the rights of the people, so that they shall not be curtailed.

Sir SAMUEL GRIFFITH: The hon. gentleman who has just sat down referred to what he understood to be a suggestion by the hon. member, Mr. Barton, to the effect that in the case of a conflict between the two houses, the difficulty should be settled, in some way or other, in accordance with the wishes of the house of representatives. I did not understand the hon. member to make any such suggestion. I understood him to say that any question of that sort must ultimately be decided by the people. Of that there can be no doubt.

Mr. PLAYFORD: That will be by the people's representatives!

Sir SAMUEL GRIFFITH: Who are the people? The people are the people of the whole of Australia. In the event of there being such a strong divergence of opinion between the people of the smaller and the larger states that they cannot agree, and no compromise can be arrived at, there will only be one alternative; they will separate.

Mr. GILLIES: That is not what the hon. member, Mr. Barton, conveyed to the Committee!

Sir SAMUEL GRIFFITH: If the settlement of that question is left entirely to the majority, in the sense in which the hon. member uses it, that is, to a majority consisting of the people of the larger colonies, it means that in the event of a conflict, the opinion of the larger colonies is to prevail.

Mr. PLAYFORD: Not necessarily; they may be antagonistic!

Sir SAMUEL GRIFFITH: It means that. That is, of course, equivalent to saying there is to be a revolution. No system of constitution which we can frame will provide against a revolution, or against the colonies being so unfriendly that they will not work harmoniously together. We must face that difficulty. As has been pointed out by the hon. member, Sir Henry Parkes, all difficulties must be settled by mutual goodwill. I am afraid we are at at present at cross purposes; and I am anxious to know what are the differences of opinion between us. I think the confusion has arisen very much from talking about money bills. There is no doubt that this idea of money bills is a fetish peculiar to Australia. It is a fetish which is not worshipped in any other part of the world; it is not worshipped even in the United Kingdom. The circumstances there are of course quite different to what they are here. The House of Lords is a very peculiar institution—it is peculiar in its constitution and in its history; and there is every reason in the world why it should not interfere with the taxation of the people. There is no similar house in the whole world. This fetish about which we have been talking for so long a time is peculiar to Australia. How many constitutions are there in America? There are forty-two different states which have various constitutions; but they all agree in giving the senates or second chambers power to deal with money matters. There is no such fetish worship there. They have the English system in Canada; their upper house is as nearly as possible a reproduction of the House of Lords, and there the powers of the senate are naturally and properly restricted. We find responsible government working with two equal houses all over the continent of Europe. It is only in Australia that this fetish has been set up and worshipped. It reminds me of a story I once heard about a celebrated New Guinea fetish, which the Hon. John Douglas had great difficulty in discovering. It was found to be in an outer wrapper as large as a good-sized carpet bag. After a great many unwindings, it was found to consist of an extremely small pebble. Nobody had ever seen it before or knew what it was. I wish to get at the heart of this trouble in regard to money bills. The term "money bill," is a most confusing term.

Colonel SMITH: Would the hon. member allow the senate to alter an appropriation bill?

Sir SAMUEL GRIFFITH: Is it the annual appropriation bill, containing the ordinary supplies of the year, which is sought to be withdrawn from the senate?

Mr. PLAYFORD: That is one!

Colonel SMITH: Would the hon. member allow them to alter a customs bill?

Sir SAMUEL GRIFFITH: If it is the annual appropriation bill which is sought to be withdrawn from the senate, I do not think the matter is worth discussing. Nobody would want to alter it, unless the house of representatives were to attempt to coerce the senate by putting in improper or unusual items. I want to get at what we are quarrelling about. So far as the ordinary items of an appropriation bill are concerned, I do not think the subject is worth half an hour's discussion. But those who have had experience of conflicts between the two houses know how the lower or representative house refuses the right to the upper house to deal with money bills, to make amendments, to alter the duration, incidents, or conditions of a tax or charge, even in the smallest degree. They may not even improve the machinery or correct obvious errors in the method of collecting a tax, or the expenditure of money.

Sir JOHN BRAY: The machinery ought to be contained in a separate bill!

Sir SAMUEL GRIFFITH: But the machinery is not always contained in a separate bill. No advantages are gained by this restriction, so far as I can see. Even a very useful amendment is not allowed to be made. Why? Because, under our constitution, the upper house have only certain powers, and they have been trying to exceed them, and friction has arisen, not because they were exercising powers which they possessed, but because they were trying to exercise powers which they did not possess. This discussion has proceeded to a great extent on the assumption that if second houses had these powers, they would always be exercising them, and always bringing things to a deadlock; but the history of all the world, without a single exception, shows that that is not what happens. The only deadlocks that have occurred have been deadlocks in Australia when the upper houses have been trying to exercise powers that they did not possess. Where upper houses have been exercising powers that did exist, there have been no deadlocks, or if there have been deadlocks, it has been because things had become fit for revolution. I am anxious to know what are the points on which such power should be withheld from the senate?

Colonel SMITH: Would the hon. member allow them to alter a customs bill?

Sir SAMUEL GRIFFITH: With respect to altering a customs bill, I can see great inconvenience in allowing them to alter a customs bill. On the other hand, there might be inconvenience in preventing them from doing it.

Sir THOMAS MCILWRAITH: A great deal more!

Sir SAMUEL GRIFFITH: As far as the ordinary appropriation bill is concerned, I do not think that the matter is worth fighting about. Most of the argument used has been made to apply to money bills generally—a class which none can describe in a few words, for almost any sort of bill can be made into a money bill. Most of the argument has been applied to these in order to show that the ordinary machinery of government could not go on if the senate could interfere with money bills. Why? If that means that the ordinary machinery of government could not go on, if the senate interfered with the appropriation bill, I could understand the argument. But it must be remembered that it is not proposed to deny the senate the power of veto. Surely if the senate wanted to stop the machinery of government the way to do that would be to throw out the appropriation bill. That would effectually stop the machinery of government. I, for my part, am much inclined to think that the power of absolute rejection is a much more dangerous power than the power of amendment; yet it is a power that must be conceded. We all admit that; and in a federation there is much more likelihood of that power of rejection being used than there is of the power of amendment being used. It is said that the upper houses in the Australian colonies are coerced by putting things in the appropriation bill. So they are in the United Kingdom. Why? Because they are part of the same community, living in the same place, and elected by or chosen from the same class of people; but let it be borne in mind that in the federal constitution the members of the senate would come from different parts of Australia, and be charged with the duty of protecting the rights of their own states, and if they saw that those rights could be protected only by rejecting a measure absolutely, and not by any smaller or milder action, I am sure that they would not hesitate to reject it and take the consequences.

Dr. COCKBURN: You could not bring any public opinion to bear on them!

Sir SAMUEL GRIFFITH: As the hon. member implies, the only public opinion that you could bring to bear on them would be the public opinion that approved of their action. So I think that the power of rejection, although a much greater power, is more likely to be used to the detriment of the general welfare of Australia, than is a reasonable power of amendment. I have no objection on my part to restrict the power of amendment on certain lines, but hon. members who represent the other view must bear these facts in mind. In respect to making both houses finally amenable to public opinion, that will of course come about; but, still, you cannot lose sight of the fact that the public opinion to which the two houses would be amenable would not be the same public opinion. The public opinion of the majority of the house of representatives——

Colonel SMITH: Contains the whole!

Sir SAMUEL GRIFFITH: The public opinion of the majority of the house of representatives is the whole, and is the public opinion of the majority of the whole. The public opinion of the other house is of the majorities of different parts of the whole, which may be quite a different thing. There is, however, no danger of the senate being out of touch with the people of its own state, at any rate not for long, unless you make their term of office too long, because, as has been pointed out, suppose the senators retire one-third every two years, by the time any serious difficulty has been going on for two years there will be a fresh election, and the men that come in will represent present public opinion—there will be one-third representing the latest phase of public opinion, and another third will be soon going for re-election, and they will at any rate trim their sails to what they believe to be public opinion. So there will always be two-thirds of the senate working in direct touch with public opinion. There is, therefore, I think, no danger of its being irresponsible or unimpressionable in that respect; but to provide for anything like dissolution, or its being coerced by a majority of the other house, would amount to what I said just now—the larger states would be in a position to coerce the smaller ones.

Mr. DEAKIN: No!

Colonel SMITH: The very reverse!

Sir SAMUEL GRIFFITH: They can do that only if they are strong enough, and if they are strong enough *vis ultima ratio*—force is the last resort in all matters. Our business is to frame a constitution that will work without resort to force—at least I thing so.

Mr. MUNRO: Tell us how this is to be done!

Sir SAMUEL GRIFFITH: How what is to be done?

Mr. MUNRO: How are we to have a constitution so framed as not to cause collision between two houses.

Sir SAMUEL GRIFFITH: It is absolutely impossible to frame a constitution that will not allow of conflict between two houses. Every constitutional government consists of two or more parts, each one of which can put the machine out of gear. That is the essence of constitutional government. The only means of avoiding collision is to have autocracy. Constitutional government includes a great many forms. Any sort of government in which different bodies act as a check on others is constitutional government. Constitutional government is not by any means the same as responsible government, and responsible government is quite a different thing from party government. Constitutional government simply means the existence of the checks of the different bodies on one another. Responsible government practically has come to mean a government which is turned out of office when it does not command the support of the legislature; and party government is a thing of which we have had some experience in Australia, but which I am afraid is becoming somewhat discredited. There are one or two colonies in which party government, as described in books on the subject, has almost ceased to exist. This is a digression. From what my hon. friend, Mr. Munro, has said, I take him as perhaps an extremist on this particular point. I therefore ask him what are the particular subjects in detail which he wishes to withdraw from the senate?

Mr. MUNRO: The appropriation bill and the customs bill!

Sir SAMUEL GRIFFITH: For my part, if that is all we are quarrelling about, he and I would not be very long in coming to a conclusion.

Mr. DIBBS: That is surrendering something!

Sir SAMUEL GRIFFITH: We are all here to surrender something. The general term "money bill"——

Sir JOHN BRAY: Sir Henry Parkes does not say "money bill," but "appropriating revenue or imposing taxation"!

Sir SAMUEL GRIFFITH: But bills appropriating revenue include a large number of bills. Taxation bills include a large number of things besides customs.

Mr. PLAYFORD: Very few bills appropriate revenue except the ordinary appropriation bills!

Sir SAMUEL GRIFFITH: Many bills besides the annual appropriation bill appropriate revenue.

Mr. PLAYFORD: Not in our colony!

Sir SAMUEL GRIFFITH: If we knew the contention on the other side, we should be closer to a solution of the difficulty; but when arguments are applied in different senses, and when an hon. member, speaking from one point of view, is answered by another hon. gentleman using the same words in a different sense, we are not likely to approach the termination of the argument; but if we can narrow the matter down, we may very soon come to a conclusion.

Mr. MACROSSAN: I am not at all surprised at the great difference of opinion that has arisen amongst the members of the Convention on the subject now under discussion. It has arisen very much through a mistaken idea of the hon. members from Victoria, chiefly, and of the Premier of South Australia. They cannot get out of their minds the idea of a legislative council such as they have in their own colonies. They do not seem to appreciate, or to realise thoroughly, the conditions under which we are here to try to form a federal constitution. We are not here, in any way, to reproduce a constitution exactly like the constitution under which the different colonies are now working, and, indeed, we could not do so in carrying out a federal constitution. We are here, representing different states or colonies, and our mission is to federate these colonies into one united body, to exercise power over the whole of Australia. We cannot do so on such lines as we are working on at present in our several colonies, and if hon. members will simply get rid of that idea, I think we shall very soon arrive at a satisfactory conclusion. There is another matter also which has helped to confuse the minds of hon. members, and that is the idea of small states and large states. Now, we are not here as small states and large states. We are here as representing sovereign and independent colonies—independent and sovereign from each other as much as we are from any other portion of the world. If hon. members would simply realise that fact, they would much sooner come to an understanding with each other than they seem likely to do now. We are here, as I say, representing independent and sovereign communities, and in representing those communities we expect, of course—in fact, we shall be obliged—for the purpose of forming a federal constitution, to surrender certain sovereign rights which we now possess. But we are here to adopt a federal constitution, and surrender as few sovereign rights as possible in doing so, and all we can be expected to do in reason is to surrender as much as will be necessary to carry out federal government in Australia. This idea of small states and large states is not a democratic idea. It is purely an aristocratic one. It does not exist in any federal democracy in the world. If we begin with the great federal democratic states of America, and look at the populations of the states there when they adopted their present constitution, we shall find that two states actually dominated eight others as far as population was concerned. The states of Pennsylvania and Virginia had more population than eight other states had, and the question there arose of small states and large states, but it was amicably settled by the method which is proposed here—by the senate representing equally every state. As far as my reading of American history goes, the question has never arisen as to small states dominating large states in the Senate. They have always worked amicably together, being reasonable men, and, as many hon. members say, we must expect to have reasonable men elected as our senators. Well, having worked together under circumstances which have been more difficult I believe than any we shall have to work under in Australia, I think it is reasonable to expect that with people springing from the same race, and having exactly the same traditions, and having the same experience of the British empire to go by, we shall work equally as amicably and without friction between the two houses.

Mr. MUNRO: There were none of them as large as ours, or as small as ours!

Mr. MACROSSAN: I beg the hon. gentleman's pardon; there are some of them as small as ours now.

Mr. MUNRO: Not one!

Mr. MACROSSAN: The hon. gentleman is not thoroughly acquainted with the subject.

Mr. MUNRO: I am. I challenge the hon. member to cite a single state at the commencement of the Union as small in numbers as Western Australia, or as large as New South Wales.

Mr. MACROSSAN: One speech at a time. The hon. gentleman will have an opportunity of speaking afterwards. But it really does not affect the question in the least whether any state in the American Union had a few thousand more or a few thousand less than Western Australia has at present; the principle is the same exactly. We cannot get states that are equal in population and equal in area unless we cut Australia up, which we do not intend to do. We intend to retain the autonomy of the states as they exist at the present time. Therefore, the population of, say, Rhode Island, or Maine, or

Vermont, or any of those small states at that time has nothing whatever to do with the question now. But there is a state now in the American Union which has two representatives in the Senate. It has not had for years enough population to entitle it to one representative in the House of Representatives; still, it sends two members to the Senate, and its population is smaller than Western Australia's at the present time.

Mr. MOORE; That is a territory.

Mr. MACROSSAN: There are several other states which are only a little above that. But at the present time there is one state in the American union which has actually more population than twelve or thirteen states. That state has never raised the question, as far as I have heard or read, of being afraid of being injured in any way by the power which has been given to the senate; I refer to the state of New York. I picked out this morning from the "American Almanac" fourteen states that have less population than the state of New York. There are now forty-four states in the Union, and those fourteen states send twenty-eight members to the Senate, out a total number of eighty-eight members. Surely they can dominate New York and other states if they choose to do! But they are reasonable men, as we, I hope, are here, and as we expect our senate and our house of representatives to be. I need not follow that argument, as far as America is concerned, any further. The same thing exists in Switzerland. In Switzerland one canton—Berne—actually has double the population of eight other cantons. Each canton sends two members to the council of the states. No question has arisen there the same as it has arisen here with us. We are actually fighting a a shadow I believe. We must remember that there is no country in the world where democracy rules so perfectly and so uninterruptedly as it does in Switzerland, and has done for a very long time. Therefore some hon. members are not carrying out the democratic idea at all, as they think they are doing, by arguing in the sense in which they have been arguing. They have been carrying out the aristocratic idea far more than the democratic. I would like those hon. gentlemen very fairly to undertake the question from the democratic idea, and not from the aristocratic one.

Mr. PLAYFORD: Democracy and state rights are synonymous terms!

Mr. MACROSSAN: We are here to preserve our state rights. We are not here to make a senate which shall be a counterpart of the House of Lords.

Colonel SMITH: Hear, hear!

Mr. MACROSSAN: The hon. member from Ballarat says, "Hear, hear"; but that is what he really wants. Our different constitutions, as far as the legislative councils are concerned, have been framed more or less upon the lines of the House of Lords, and upon the idea which has prevailed in England for the last thirty or forty years, or probably longer, that the House of Lords shall have no real power in the constitution whatever. If the hon. gentlemen from Victoria and the Premier of South Australia want a counterpart of the House of Lords, I think that that would be a constitution for the senate which would never be adopted by the people of Australia. It is a well-understood fact that the leading members of the two historic parties in the House of Commons in Great Britain have agreed long ago that the House of Lords ought to be reconstructed. A third party, which is coming into existence very rapidly, promises that when it does come into existence as a party it will reconstruct the House of Lords out of the world altogether. Is it these that these hon. gentlemen want us to adopt?

Mr. PLAYFORD: Certainly not!

Mr. MACROSSAN: It certainly is.

Mr. PLAYFORD: Certainly not!

Mr. MACROSSAN: I say we would resemble the House of Lords if we adopted a constitution for the senate such as has been advocated here. It would resemble the House of Lords in nothing so much as its feebleness and want of authority. That would be the real result of it. Now, the question, I think, has been very well put by my colleague, Sir Samuel Griffith, as to veto in part and in whole, or a veto in part alone. Hon. members from Victoria and the Premier of South Australia are quite willing to give the senate the power of rejecting the whole bill. They are quite willing to give to that body the power to throw the whole legislative and administrative gear of government out of action; but they are not willing to give to it the power to cut out one or two lines to which they may object. Is there not an absurdity in that? The Premier of Victoria went so far as to deny that the greater included the less—we all know that he meant only politically. These gentlemen are quite willing to give to the senate the power to deal with questions which, in my opinion, are much larger and of much more importance than the question of cutting a £10,000 or £20,000 line out of a loan or appropriation bill. There are a great many questions which are coming to the front not only here, but everywhere else in the world—important questions that will soon come to the front as questions of practical politics. Yet these gentlemen are willing to give to the senate the power to deal with these questions—I mean the labour question, and social questions—compared with which the mere question of amending a money bill sinks into insignificance. Here, then, is another absurdity in the arguments of hon. members. I myself think that we are in reality splitting straws. One of the delegates from Queensland has pointed out that the senate as constituted would be far more likely to reject bills as a whole than are the present legislative councils. That being so, it would be amenable to public opinion in the particular district in which the senate held its sittings. I think, therefore, that gentlemen who are opposed to its exercise of the powers of veto in part are really splitting straws, and that it would be more judicious on their part, if there is to be a compromise, to give way upon that point. For my part, I do not see how a compromise can be effected. I do not believe in any compromise which gives up the power of rejection in part. If it can be brought about in some other way which will render the proposal more acceptable to gentlemen from Victoria, who object to it in its present form, I shall raise no objection; but I do object to any compromise giving up the power of amendment in part by the senate. I think it is an indispensable power for them to possess, not only in the case of money bills, but in the case of all other bills. Then there is a question which I think hon. gentlemen have overlooked, which will in a great measure modify the action of both the senate and the house of representatives. Do not let us forget the action of party. We have been arguing all through as if party government were to cease immediately we adopt the new constitution. Now, I really do not see how that is to be brought about. The influence of party will remain much the same as it is now, and instead of members of the senate voting, as has been suggested, as states, they will vote as members of parties to which they will belong. I think, therefore, that the idea of the larger states being overpowered by the voting of the smaller states might very well be abandoned; the system has not been found to have that effect in other federal constitutions. Parties have always existed, and will continue to exist where free men give free expression to their opinions. Parties exist in the American Senate, and if there were any disposition on the part of the smaller states in America to combine in any way to act unfairly towards the more popular states, party influences would intervene,

and the same thing would take place in our senate, and it will take place also in our house of representatives. I have not the slightest fear of the two more populous colonies—New South Wales and Victoria—combining to do anything to injure the less populous states as such; neither have I any sympathy with the idea that ministers should be selected from any particular state or group of states. I think that the member of the house of representatives who is called upon to form a ministry should be at perfect liberty to select what members he pleases, no matter from what state they may come; and I am quite certain they would act as they do now under our present constitutions; they would act fairly towards each part of the federal union, just the same as ministries act now towards each part of the colonies they govern. In this matter we have forgotten entirely the action of party. It will act as a powerful solvent to prevent unfairness either in the house of representatives by the more populous colonies, or in the senate by the less populous colonies, and I hope hon. members will not forget that. A question has been raised on this particular subject as to the nomination of senators. I believe entirely in the American system of nomination—nomination through the legislature. I know that my hon. friend, Dr. Cockburn, from South Australia, has an objection to this, because certain houses are nominated instead of being elected. That is an objection which exists in my mind also; but, nevertheless, I do not think it is one which should stand against the election of senators by the legislatures, because the senate above all things is supposed, and will be supposed, to represent the states. The colonies as they exist now, or the states as they will be in the future, are represented in their sovereignty at present by their legislatures. Whether the upper house is a nominee or an elective house makes no difference. It is the legislature that represents the sovereignty of the state, and that which represents the sovereignty of the state, in my opinion, should have the power of nomination to the senate. I hope, therefore, that the idea of electing senators from the body of the electors will be given up. It is not a sovereign idea at all—quite the reverse. Besides there are objections equally as strong as that of which I have heard some hon. members speak. As to the ministry being responsible to both houses, I think that is an utter impossibility. I do not see how a ministry can be held in any way to be responsible to both houses of parliament, especially as one of those houses is to have a continuity of existence. If the senate was to be placed on the same footing as the house of representatives, and was to be dissolved on the same occasions, there might be something in the proposal. But as it will have a continuous life, and as whatever definite responsibility it may have will be through the nominations of the legislatures of the different states, I do not see how a federal ministry can be responsible to any house but the house of representatives. Then comes in the question of public opinion. Hon. members are afraid, seemingly, that the senate will get beyond the opinion of the people of Australia. I have no fear of that whatever. I do not believe that the senate, which will be elected by the different legislatures, will ever get very far beyond the force of public opinion in Australia. They may probably do so on some questions for a short period; but as has been pointed out by the hon. member, Sir Samuel Griffith, the continuity of existence applies to the house, and not to the members of that house. The members of the house will be continually renewed, and they will be acted upon, I have not the slighest doubt, by the public opinion which they represent; and whatever objection they may have to certain measures or to the policy of ministries who are responsible to the lower house, public opinion will have a certain force upon them, and compel them ultimately and without any statutory enactment whatever to give way to the force of public opinion throughout the colonies when it is properly expressed. I trust that we shall make our senate a strong and a powerfel senate—a senate which will have dignity and authority, and one which will not only be respected by the states whom it will represent, but respected also by the people whom it will represent in a second degree. Because it is not true to say that they will not be representatives of the people. The Senate of the United States of America and the States Council of Switzerland represent respectively the people of those two countries as much in a secondary sense, and in some cases more in a primary sense, than does the lower house. The Senate in America is looked up to with the greatest respect; in fact, it is the ambition of capable and eminent men to become members of the Senate; and I hope a similar ambition will exist in Australia owing to the power and dignity which our senate will possess. I have no fear of the senate ultimately becoming the master of the house of representatives as it has become, to some extent, in the United States. In the United States it has other powers and authorities delegated to it, entirely apart from legislation. It is as much a part of the executive as is the President himself. This has given an amount of influence to the Senate in America which our senate can never hope to possess. Therefore, I do not think we need be at all afraid of the senate overbearing the house of representatives by its superior influence. But I hope it will tend in that direction by its superior ability, being the elected of men who are themselves elected for their ability by the different states. I heard a proposal mooted this morning by an hon. delegate from Victoria, Mr. Wrixon, which rather astonished me. That gentleman is so much opposed to giving a veto in part in respect to money bills to the senate that he would prefer to destroy the very root and basis of the representation of the people by giving a greater number of representatives to certain individual states which do not possess a large population at the present time. I hope the members of this Convention will not agree to any such proposition. The smaller states, such as Tasmania, Western Australia, Queensland, and South Australia, will be so thoroughly protected in the senate that it will be a crime against the proper representation of the people to give them additional representation in the house of representatives beyond what they are entitled to. Each state must stand upon the basis of its own population as far as the house of representatives is concerned; but in regard to the senate the states will be thoroughly protected by the equal number of representatives that each will have in that house. The idea of the hon. member, Mr. Wrixon, is a most undemocratic one, and strikes at the very root and basis of popular representation. Just fancy 40,000 or 50,000 people in Western Australia having five or six representatives, when the same number in Victoria or New South Wales would only have one or two representatives! It is right enough to do that in representing the sovereignty of the state where all are equal, but in the representation of the people each unit of the people should have his full and equal share. I trust that no such proposal as that mentioned will be entertained. I am quite satisfied that we shall come to a satisfactory conclusion on this question. I am not at all afraid of the Convention resulting in disunion, and members going back to their different colonies without having done anything. I do not mind very much the expression made use of by the Premier of Victoria, or by others, and to which Mr. Barton this morning made a jocular allusion—I allude to the reference to "carpet-baggers."

Mr. MUNRO: I never said anything of the sort!

Mr. MACROSSAN: I know the hon. member did not say that he was a "carpet-bagger"; but the hon. member, Mr. Barton, said as much.

Mr. MUNRO: It was the hon. member, Colonel Smith, who said that—I did not!

Mr. MACROSSAN: I do not mind that very much. When I recollect the history of this very question in the Philadelphia Convention, I am thoroughly convinced that we are arriving quickly at a satisfactory conclusion. The discussion of this particular question occupied five weeks, from the beginning of June until the middle of July, in that convention. We have almost arrived at a satisfactory conclusion in two days. Therefore, I have every confidence in the ability and wisdom of the members of this Convention to thoroughly thrash out this crucial question, so that members on each side may be thoroughly satisfied with the conclusion we arrive at. Even if the hon. members from Victoria did take up their carpet-bags and go, I do not believe that they would stay away. I believe that the public opinion of their colony would drive them back again, because I have come to the conclusion that, although federation is a very desirable thing for Australia, there is no colony in the group for which it is more desirable or necessary than the colony of Victoria.

Mr. J. FORREST: I should like to make one or two remarks with reference to the speech of the hon. member, Mr. Macrossan, who would deny to the large colonies having a small population a larger amount of representation than they would be entitled to according to population. I would remind him that the proposal to deal with such colonies in an exceptional way is no new idea. When British Columbia joined the Canadian federation she had only a population of 60,000, but she was allowed six representatives, which was a larger number than she would have been entitled to on the basis of population. Unless you can give some special advantage to colonies with immense area and small population they will have no inducement to join the federation. The colony which I have the honor to represent is separated by an immense distance from the other colonies. She has no manufactures, and I have been considering during the last few days how I can urge upon the people of Western Australia that she will gain anything by federation. I have been unable to see how she will gain anything, although my sympathies are entirely with the desire that she should be an integral part of a united Australia.

Mr. GORDON: What about defence?

Mr. J. FORREST: I cannot see that, even with regard to defence, she will be a gainer by federation. We are separated from the other colonies by 1,000 miles of unoccupied territory. That part of Australia has no naval defence, and for many years to come we must look for our defence to the power of Great Britain, which is the only power able to defend us from enemies coming across the sea.

Mr. MUNRO: The federal government will have a navy!

Mr. J. FORREST: It may have in many years to come. Those hon. members who have spoken with reference to the constitution of the two houses have been too apt to look at the matter from the point of view of the colonies which they represent. As has been said by several other hon. members, the constitution of the two houses under a federal form of government will be very different from the constitution of the two houses in any colony. Under a federal form of government there will not be so many local interests and feelings as there are in the parliament of a colony of limited area, where popular feeling runs high. Another point has been overlooked which is certainly an argument in favour of the proposition that the senate should not have the power of amending money bills. We have been apt to consider that the representatives of the colonies in the upper house would be all of one mind, whereas we must not forget that there will always be a strong opposition in the house of representatives, among the members from the great colonies of Victoria and New South Wales. Therefore, I do not think that the influence of the numerous representatives of those two colonies will be used to the disadvantage of the smaller colonies. There seems to be an impression that the nominated upper houses in some of the colonies should not be allowed to exercise the same power as elected houses in selecting members of the senate. I cannot see any objection to their doing so, although it has been strongly urged by the hon. member, Dr. Cockburn. The senate will be selected by the legislatures of the different colonies, and will not be elected directly by the people. The nominated upper houses in the colonies of Australia are not in the strict sense of the term nominated, because they are appointed by a species of election. They are appointed by the representatives of the people, the ministry, who represent the whole country; and therefore it would not be right to say that there is not a system of election in their selection. Therefore I cannot agree that there is a vast difference between the upper houses of Queensland and New South Wales and those of other colonies where they are elected, and I do not see why they should not join in electing members of the senate. The sooner we bring this debate to a conclusion the better. If we appointed a select committee to frame a bill in accordance with the views which have been expressed by hon. members, that would be the wisest step to take. We have had sufficient discussion to enable the members of the committee to know the views entertained by every member of the Convention. I hope that, whatever may be our views, we shall not separate without framing a bill and passing it through this Convention. I do not think that it matters whether different sections of the Convention are or are not able to accept this bill; but it would be a great pity—I think it would be a misfortune—if we were to separate without framing a bill for the federation of these colonies in accordance with the views of the majority of the Convention. Whether that bill is or is not accepted by the different colonies hereafter, it will be a guide in the future to those attempting to frame a federal constitution; whereas if we were to separate without coming to a conclusion which would record the views of the majority of hon. members, I think we should feel that we had wasted our time. I hope, therefore, that whatever we do, whatever our opinions, we shall, before we conclude the sittings of this Convention, frame a bill which shall, at any rate, represent the views of the majority of those present.

Mr. BAKER: I do not think that time will be wasted in thoroughly discussing this point. It is perfectly true that most of the arguments which have been hitherto adduced have been repeated by different speakers and put into different forms; but it often facilitates the understanding and the settlement of the real point at issue to hear the same arguments put in another form, because they often carry conviction to the mind the second time that they are heard, although they did not do so the first time. There is one matter, it seems to me, so intimately connected with the respective powers which we ought to give to the two branches of the federal legislature that, in my own mind, I cannot dissociate them; and although it is, perhaps, quite correct that we should first of all fix and define the respective powers of the two houses, and then fix and define what the form of the executive should be, there has been an assumption throughout this debate that we are bound to have what is commonly called responsible government—that we are to have our federal executive framed in the same manner as the executives in the different colonies. That is an assumption to which I cannot agree, and for which I think there is no warrant, and I wish to say a few words on the point, because those who have entertained that assumption have argued that we must give, not only the preponderant

power, but nearly all the power to the national branch of the legislature. Now, undoubtedly, if we are going to have an executive formed on the same principles as the executives of these colonies, one branch of the legislature must have nearly all the power. Executive government has entirely risen up, and been created solely by the assumption and arrogation of all power in one branch of the legislature. What is the British Constitution? It seems to me —and I sweep away the theories on the question—that in reality the British Constitution is the House of Commons with appendages. The House of Commons does all the legislation of the country, and by a committee of its own the Ministry performs all the executive functions. Is that a form of executive which will fit in with the federal form of government, which we are trying to frame? I do not think it will; I think the two things are inconsistent with each other. We have been told that we ought not to try experiments. We have been told by the hon. member, Mr. Gillies, that we ought to follow the beaten path. Well, if there were any beaten path to follow, I should be exceedingly glad. But it seems to me that we are cutting a new path through a jungle, and that there is no beaten path to follow. It will be as great an experiment as it is possible for us to try, to apply the responsible system to a federation in which the two branches of the legislature will represent the whole of the people grouped in a different manner. I am very sorry that we have to try the experiment. I am one of those who are exceedingly loath to try experiments; I believe that any political system ought to be of gradual growth—that the idea ought to be engrained in the minds of the people, and that, if it has grown up with the people, its chances of success are very much greater than they would otherwise be. I am, therefore, one of those who are exceedingly loath to try experiments, and more especially so in this case, because if we try an experiment which fails, that failure will be put down to the system of federation, and the whole system will be discredited. If I could be convinced that we are not trying an experiment by grafting on to the federal form of government the British form of executive, I, for one, should entirely agree with the President upon the point. But it seems to me that this is an experiment, and that the two things are entirely inconsistent with each other. And I will quote the opinion on that point of a writer who is celebrated not only as a man of letters, but also as a politician and a statesman—Mr. J. R. Lowell, who was the American Ambassador in Great Britain. In the *Fortnightly Review* of February, 1888, he wrote an article on "English and American Federalism," in which he contrasted the aspirations of a portion of the British people for imperial federation, with the aspirations of some Americans to abandon their present form of executive, and to adopt the British form of responsible government. Having first made some observations about the American form of executive, and the idea that the English form of executive could be grafted on to American institutions, he says:

> If a strong and responsible government be established, individual and local rights will disappear, and a highly centralised representative democracy will arise upon their ruins.

There are some members of this Convention who want a highly centralised representative democracy to be framed to start with. Mr. Lowell continues:

> In England the case is precisely reversed. A highly centralised representative democracy exists already, and it is desired to import into this form of government some of the advantages of a federal constitution, and some safeguards for individual rights and privileges, to adapt some of the modern conveniences of a written constitution to the stately old fabric that has been building ever since the dawn of history. The attempt is utterly useless. The former building must be pulled down, and the new building begun at the foundations.

I entirely agree with those sentiments. And in commencing this new building at the foundations, let us build those foundations in such a way that we can erect upon them a superstructure that will be consistent within itself. If we are to try an experiment, and I think we must do so, let us try that experiment in the form that is most likely to work. In a quotation concerning the British Constitution, which was made by the President the other day, and which has already been quoted to-day, Mr. Gladstone having referred to the fact that without good sense, discretion, experience, and statesmanlike qualities in those who worked the British Constitution, it would be utterly unworkable, goes on to say, that "this boasted constitution of ours is nothing more nor less than a heap of absurdities." Well, why should we adopt a heap of absurdities with the sole view of calling out those qualities to which the President so eloquently alluded as necessary to the success of any form of government which relies upon the discretion of the members of the two branches of the legislature? It has been said that sensible shareholders and a sensible board of directors can work any deed of settlement; but is that any argument why a deed of settlement should be badly drawn? Let us draw up our deed of settlement, which we are here to draw up, as well as we possibly can. I am perfectly willing to admit the argument which has been adduced to the effect that unless we assume all those qualities which have been alluded to as existing, not only in both branches of the legislature, but in the executive in whatever form it may be appointed, the form of government we are about to frame will be entirely unworkable; but do not let us advisedly leave more to their discretion than is absolutely necessary. I hope I am not departing from the point under consideration, because it seems to me that this idea that we must take either the English or the American form of executive is totally unwarranted. There is another form of executive which has been alluded to once or twice—the Swiss form, in which the executive are chosen for a fixed period by the two houses. Why should not we adopt that form? It is a form admirably suited for a federal form of government. The ministries nowadays are appointed nominally by the Crown, but we all know that they are really chosen by one branch of the legislature, and why is it impossible to work out the representative form of government by both branches of the legislature directly choosing the executive, who will be responsible to them, and who will not be turned out at a moment's notice on some party question? Has this system of party government worked so well that we cannot improve upon it?

Mr. GILLIES: That is dealt with in the next resolution!

Mr. BAKER: I know it is; but it seems to me to be so intimately connected with the question under discussion, and the assumption so often made, that we must adopt the responsible form of government, has been so mixed up with the question of what shall be the relative powers of the two houses, that it is pertinent to refer to it now. I, for one, think that the people of these colonies—I am not now talking about the parliaments—would hail with satisfaction a departure from the system under which ministries are now appointed. If there is one thing with which the people of these colonies find fault in our existing forms of government, it is the fact that two-thirds or one half of the time of parliament and the ministry is taken up by the quarrels between the "ins" and the "outs"; and if anything could do away with that state of affairs—if ministries were enabled to devote the whole of their time and attention to carrying on the business of the country, and the framing of wise measures, if they were not obliged to fight day after day simply to retain their seats, and were not obliged to bring in measures which they would not have

brought in were it not for party purposes—the people would be much better satisfied with that form of executive than with the form under which we now live.

Mr. GILLIES: That could be done by abolishing the "outs"!

Mr. BAKER: Well, if the hon. gentleman was one of the "outs" he would not like to be abolished. I apologise for having, in the opinion of some hon. members, referred to a question which will come up for discussion at a later stage. As I said before, it seemed to me that the two questions were so dependent on one another that I might appropriately say a few words upon them now.

Mr. THYNNE: I think the question whether the executive should or should not be responsible to parliament is one which we can leave for full debate afterwards. In passing, I may say that it seems to me to be right that parliament, which has the power of the selection of ministers, should also have the power of dismissing them. I did not rise, however, to enter into any long discussion on this question, but to make a suggestion which occurred to me this morning while the debate was proceeding. There seems to be a disposition on the part of a good many members—especially the members for Victoria and one or two others—to think that the senate, as proposed to be framed by a majority in the Convention, would not work satisfactorily with the house of representatives. If hon. gentlemen are still impressed with that idea, I think I may well make the suggestion which I have submitted to several of my friends, and who desired me to mention it this afternoon. It is this: that if either house of parliament should, by a specified majority, pass any measure in two successive sessions, and the other house should refuse to pass it, a simple mode of settling the question would be to refer it to the direct vote of the people in the same way as measures are submitted in Switzerland; and if the answer is given in the affirmative by a majority of the whole of the people and also of a majority of the states, that the bill should become law. I do not think my hon. friends from Victoria can question the proposition as being one not framed on sound democratic lines.

Mr. DEAKIN: Hear, hear!

Mr. GORDON: It does not matter whether you snuff out the states by a vote of the people, or by a vote of their representatives. It is as broad as it is long.

Mr. THYNNE: A bill under such circumstances would not become law unless adopted, first, by a majority of the whole of the people, and, secondly, by a majority of the states.

Sir THOMAS MCILWRAITH: Not a majority of each of the states!

Mr. THYNNE: A majority of the whole of the states. The answer should be received from a majority of the separate states; in fact, it is the old democratic principle of a majority of the whole of the people and a majority of individual states. I think that is a suggestion well worth considering, and one which should relieve those gentlemen, who are so very much opposed to the proposal to give the senate such large powers, from any great difficulty. I do not anticipate that such a provision would be likely to be brought into use for many years. I have sufficient confidence in the class of men who will be elected to the federal parliament to believe that they will conduct their business as reasonable men. But, if that should not be the case, there would be a remedy provided—a threat held over them which would prevent them at any time from acting in an unreasonable fashion.

Sir JOHN DOWNER: Having listened with great interest and much instruction to the speeches which have been made by hon. gentlemen who have addressed the Committee, I have thought it would not be out of place if, as the mover of these resolutions, I were to say a few words at this stage. I was very much struck with the argument of the hon. member, Sir Samuel Griffith, in reference to denying the power of veto in detail, and preserving the power of veto in bulk; and particularly with the argument which appears to me, at all events, to be irresistible, that seeing that the senators will only represent their own colonies, and will only have to justify themselves to their own colonies, the same obstacles and difficulties in the way of vetoing in bulk at the present time will certainly not exist. Practically, therefore, a much greater power is given in allowing the senate to veto in the whole than that which we are now seeking to establish, which is simply the power of vetoing each proposition singly.

Mr. MUNRO: But you are claiming both!

Sir JOHN DOWNER: Certainly; but the hon. member, Mr. Munro, is willing to concede the greater and the more dangerous power, and the power which will more likely be given effect to in the event of a conflict; while he objects to concede the minor power which will not, under any circumstances, affect the general government of the country, and will prevent all possibilities of a deadlock. As to the speeches of the hon. and learned member, Mr. Barton, and the hon member, Mr. Macrossan, it appears to me, whilst their arguments are practically irrefutable, that in the minds of some of us, at all events, their conclusions are open to great doubt; in fact, so different were my own conclusions from the very able arguments that were addressed to us that I felt myself thrown back to the last century, and to the more philosophical times, and began to wonder whether anything existed apart from the perceptions of him who perceived. One writer said, "A brook reflects heaven; but man looking into it sees only his own image"; and he further said that "the horse and the ox," and another animal not present here, "all feed on the same pasture, and each of them assimilates to himself that which is suited to his own idiosyncracies." It struck me that the arguments addressed to us pointed irresistibly to only one conclusion, and that the very able gentleman who urged them arrived at a conclusion in precisely the opposite direction. I might once again draw into this debate my hon. friend, Mr. Gillies, who has not spoken lately, but who addressed us before. If the senate will be—as the hon. and learned member, Mr. Barton, says it will be, and as I understand the Legislative Council of Victoria is at the present time, and as the hon. and learned member, Sir Samuel Griffith, pointed out, the hon. member, Sir Henry Parkes, also thought it would be—the representation of all that is best in the intellect and morality of the community, it would seem to me to follow as a fair corollary that we could by no possibility have a better government. But whilst the hon. and learned member, Mr. Barton, said that the senate which represents the states must practically be a body that we ought to constitute on the most lofty platform, and preserve there as much as we could—whilst he said that under its constitution it would draw to itself all the ablest and purest minds in the community—he nevertheless conceded that so far as regards large questions which other speakers consider the essence of government, questions involving finance, the senate should have no authority to interfere in detail, but only the authority to absolutely reject, in spite of that authority being so much more dangerous, and so much less workable than the more limited authority that I propose to give it. Many suggestions have been made in the course of this debate as to the advisability of referring this proposition to a committee. I think that if a committee is to be appointed at all, it should be appointed in respect of all the propositions, and not in respect of any one of them. If there is any one proposition more particularly than another that we should settle now, and should not refer to a

committee, it is the question as to the constitution of the parliament that is to be the supreme authority.

Sir HENRY PARKES: Hear, hear!

Sir JOHN DOWNER: The executive is to be made for the parliament, and not the parliament for the executive, and before we can posibly say what the executive ought to be, or whether any known analogy will assist us in defining the lines on which it is to be constituted, surely the more logical thing is to find out what the executive has to do. To consider first of all the constitution of the executive, and afterwards to consider the constitution of the parliamentary bodies, appears to me to entirely transpose the natural order of things. As I say, the executive must be made for the parliament, and not the parliament for the executive. But I think, at the same time, that it might be well, and save a great deal of time, if we were to send all these questions to committees without coming to any vote upon them at the present time—to send No. 1 and No. 3, involving the parliament and the executive, to one committee, and No. 2, which is a separate question altogether, not involving those questions at all, but the question of a court, to another committee. As far as I am concerned, I shall oppose any attempt to relegate to a committee the 1st proposition and to proceed to discuss and settle the 3rd, for, as I said, it is altering the proper order of things, and we ought to settle No. 1 before we settle No. 3. But if this Committee will agree to at once send all these three resolutions to two committees—one committee for No. 1 and No. 3, and the other committee for No. 2—there will be a great saving of time, and we possibly might be able to arrive at some *modus vivendi*. The suggestion of my hon. colleague, Sir John Bray, is in effect to do in an indirect way what I would rather see done in a direct way. I should like, and I am sure many hon. members here would like, to see the senate have such high authority as to ensure the universal esteem of everybody; and if we, at the very beginning, say that so far from having co-ordinate authority with those who immediately represent the mass of the people, the senate is to be entirely a subordinate body, and upon all the important questions which, according to some speakers, are the very essence of government, it is to have no voice at all, or a voice which the other branch of the legislature dares them to exercise, I think we shall be starting this body under the worst of all auspices when we should start it under the very best. It might be that the senate representing states, and each senator having, presumably, the confidence of his state, might find itself in conflict with the representatives who will represent the federation as a whole, and that the strain which would be brought to bear on the senate from that vast whole would be great enough in itself without our subjecting the body in our very creation of it to disadvantages which could only make its downward course more hurried. In my opinion, which I express with all humility, our position ought to be that at the start, we should endeavour to conserve the senate as much as possible. It is the protection of the liberty of the individual colonies—it is the one representation in the federation which will secure to every one of the colonies its own entity—and if we wish to bring about, not merely a legislative, but also a friendly union—for, as has been well said, the legislative can never exist unless there is a strong friendly union to back it up—we must be particularly careful that the body which represents the individual colonies shall be one which will be respected in an equally high manner with the body that more immediately represents the people. It was suggested that such questions as customs might fairly be taken away from the consideration of the senate, except from their general power to block legislation. If there is one question more than another which appears to me to be properly a subject for the consideration of the senate, it is this identical question of customs, because there can be no question in which the inequalities of the colonies might be more plainly evidenced. And so it will be with every matter if we, not seeing precisely how the thing will work, remove by absolute legislation from the control of the senate any part of the work which has to be done by the whole body. I agree entirely with what the hon. member, Sir George Grey, said about the matter before: make the powers of the parliament as nearly co-ordinate as you possibly can, and leave something to the evolution of events. The strain on the senate will surely be strong enough under any circumstances. The whole body of the general public of Australia will be, in many ways, for a while at all events, contending against them; and so far from surrounding them with difficulties at the start, I think we ought to place them on the very loftiest pedestal we can possibly imagine. The question was discussed as to the mode in which the senate should be elected. Personally, I agree entirely with the view that it would be much better if the senators were elected by the elected bodies, and I agree entirely with the hon. member, Mr. Macrossan, that it would not be expedient for us to enquire too closely into the precise method which each colony adopts in the appointment of its own representatives, but rather, seeing that a colony is satisfied to elect its representatives in a certain way, to assume that the gentleman elected fairly represents its opinions; and if it should turn out not to be so, each colony has in itself the power of rectifying the difficulty. If the effect of a constitution of this kind would be to put a nominated legislative council in a position which was disadvantageous to the colony which appointed it, we should very soon have the matter remedied. I scarcely think it is worth our while troubling about the matter at the present time. At all events, as far as election by the elected is concerned, we have a most illustrious precedent, and we know how satisfactorily it has worked. I wish to say a few words as to the suggestion of my hon. friend, Sir John Bray, that it should be competent for the senate to require any money bill to be cut up into as many smaller bills as they thought fit, so as to ensure the power of vetoing in detail. I think it is better, on a great occasion of this kind, to avoid any indirect way of doing that which should be done directly. If we mean, in fact, as that would do, to give the senate the power of vetoing in detail as well as in the whole, it is much better to say so than to resort to indirect methods which substantially mean the same thing, and to bring into existence a much more elaborate machinery in order to work the same result. That is all I wish to say. If it is suggested that we should proceed with the consideration of the other resolutions before we have disposed of this resolution, I certainly would ask the Committee to support me in disapproving of that. If, on the contrary, the Committee is willing, with or without further discussion, but without coming to any decision, to send all the resolutions to a select committee, I think then that time would be saved, and I believe, with the disposition there is to-day to avoid all speeches of intimidation and all threats of a speedy departure, we might probably come to some conclusions that will be more satisfactory than those produced by a continuation of this discussion.

Sir HENRY PARKES: I think the proposal made by the hon. member who has just sat down to send all these resolutions to a committee at the present time, is an extremely unreasonable suggestion. I do not want to allude to these resolutions, insomuch as they are in my own hands; but it is perfectly right that I should remind the Convention that I have from the first offered to give way to any other hon. member. I in no way desired to insist upon submitting these resolutions myself. I have stated that they might be

amended in any way whatever without any protest or feeling of opposition on my part, so long as they more correctly represent the views of the Convention as a basis for our proceedings. My only object in submitting these resolutions was that there must be a beginning, and it appeared to me—and it appears to me now more firmly than ever it did—that the only way for us to proceed is to proceed on some basis laying down general principles. My resolutions propose to do that, subject to this: that I was ready at any moment to give way to any other delegate, and after I had submitted them, I was ready to have them amended in any way. I hold that having entered upon them so far, we are bound, as reasonable men, to finish them in some form or other before we take any other step. It will be remembered that towards the conclusion of my reply I suggested that the resolutions might be dealt with in a very summary way, and that we should then try to decide upon what should be the vital principles of the federal bill. That seemed to me a very reasonable course to take; but the Convention has thought otherwise. It has now expended considerable time in dealing with these resolutions, and the only rational course is for us to proceed to the finish in dealing with them in some form or other, so that they will best express the general feeling of the Convention. Now, with regard to the point at which we have been so long at a halt, unable to come to any conclusion, I feel—and it is a time when we must express our individual opinions, always bearing in mind that we are content to be beaten, if we are to be beaten, and to do the best we can under defeat—I regard some of the views propounded by hon. gentlemen opposite to me as simply monstrous, and I maintain that neither the hon. member, Dr. Cockburn, nor the hon. member, Mr. Gordon, as far as I can see, have ever yet risen to the federal atmosphere. They are provincial in all the views they have explained. The only thing they see is their own colony, and the hon. member, Mr. Gordon, confesses at once that he is in favour of a loose confederation in these colonies.

Mr. GORDON: Hear, hear.

Sir HENRY PARKES: If that were the end which this Convention were aiming at, I should at once retire, because I should think that would be plunging out of a sound condition of things into a very unsound condition of things indeed. I state at once what I have stated from the very first, in every utterance I have made, that my object is the union of Australia—the uniting of Australia into one great power, and I should think it a calamity upon these colonies to go from their present independent sovereignties into a loose confederation. I should consider it, so far from an advance, a retrograde step. I should consider it a disaster than which hardly anything could be greater. Surely New South Wales has shown a generous front in all these proceedings. We have said from the first that we made no stipulations—from the very first, strong as our feelings are on many questions, we have stated—not only have I stated, but my hon. friend, Mr. Barton, has stated in my hearing—that we made no stipulations—that we placed the federation of the colonies above every other consideration. I do not think I misrepresent the hon. member, Mr. Barton, when I say that we place federation above the fiscal question.

Mr. BARTON: Certainly!

Sir HENRY PARKES: I am glad to hear that response, because upon the fiscal question the hon. member, Mr. Barton, and I belong to opposite camps. I was quite sure I correctly interpreted the hon. member when I said that we, he and myself, and others who believe with him, and who believe with me, have placed the question of federation above all other questions. The fiscal question we have never thought of as any ground of bargaining, and I myself have stated repeatedly that I would not condescend to bargain on any subject whatever, that my only object was so see the colonies united under a well constructed executive and parliament, and that I was quite content to leave the fortunes of Australia to the men who, under the federal system, would find their way into the federal parliament. And I say that now. But it is very difficult for persons who take this view, who do not look at their own colony at all except so far as to protect it from aggression, who look at Australia as a whole—it is very difficult, I say for them to deal with gentlemen whose eyes are constantly fixed upon their own spot on the continent.

Sir THOMAS MCILWRAITH: Hear, hear!

Sir HENRY PARKES: It is very difficult for us to deal with gentlemen who see the question only through the interests of the part of the continent they themselves represent.

Sir THOMAS MCILWRAITH: Hear, hear!

Sir HENRY PARKES: Now unless we can rise to the position of Australians, taking Australia as our country, taking the whole Australian people as one people, and seek to create a government for those people without reference to New South Wales, or Victoria, or Western Australia, or South Australia—unless we can do that, we, the men assembled here, are not ripe for federation. We may fail; but the cause of federation will not fail. You may rest assured that, whether we agree or not, those who come after us with close steps will agree. The circumstances of these various independent communities are so pressing, they will become day by day so much more pressing, that there is no force that can keep back this cause of union in Australia. This Convention may have its day and pass away and do nothing; but some other body will come in its footsteps, and do what we have not had the wisdom and prescience and the patriotism to do. Now, what ought we to try to construct here? We ought to try to construct the very best form of free government, without reference to any other consideration whatever.

HON. MEMBERS: Hear, hear!

Sir HENRY PARKES: We all agree with that general proposition; but I am going to ask what that best form of free government is? I put the first question with a view to its being answered by the gentlemen around me. I am going to ask now what the best form is? I utterly distrust paper constitutions. I, for one, with the world's experience before me, utterly distrust the constitution that is framed in the closet, that is framed with the lamp, or that is framed upon some theory or some mosaic made up of several theories. And I distrust it for this very reason—that the government of men is a practical business, like every business in the highly organised state of human affairs in these days, which must, to a very large extent, be subject to the obvious dictates of common-sense. If, then, we are to construct a government which is likely to give satisfaction, and likely to endure, we ought to take the lamp of experience. Now, the lamp of experience held out clearly to us is held out by England, and by no other country. The light we get from other countries is the light of warning. The light we get from even Switzerland is a light that will not, in any way, enable us to go on our way. We must try to fit our constitution to the habits of thought, to the habits of life, to the customs to which those habits have been trained, and to the very prejudices of the people for whom we are trying to build it. Well, all we know of England, of English government, is that though there is an upper chamber in the old land, more illustrious, not simply from its rank, and from its great ability and its great learning, but from its great services to the state—though there is in England an upper chamber infinitely superior to any of the same character of which we know anywhere else, and I do not make an exception of the Senate of the United States, because in the House of Lords no peer, no illustrious statesman

was ever stealthily approached with an intention to beat out his brains; but they had the Charles Sumner incident in that great Senate of the United States of which hon. members have talked so much—I say, that notwithstanding the illustrious character of this great senate, the House of Peers, which holds a body of men at this day who have no superiors on the face of the earth as a governing body—notwithstanding all that, English genius and English statesmanship have said that the power of inflicting burdens upon the people and the expenditure of the people's money shall reside exclusively in the House of Commons.

Mr. FYSH: Taxation and representation!

Sir JOHN DOWNER: It amounts to this—that the powers to which the hon. member refers shall not lie in the king without the consent of the Commons!

Sir HENRY PARKES: That really is an explanation worthy of the argument—and I say it with all respect—which the hon. member has pursued. Practically and really this power resides in the hands of the Commons of England. And I say that we shall make a very great mistake if we do not preserve that form of free government in the best way in which we can preserve it. We may not be able to preserve it. Certainly, we cannot reproduce it. Of course, I admit, as every man must admit, that we cannot reproduce it in what we now create. But we can try to create something that will represent that great governing body, which I fearlessly say is the most distinguished debating body which the world has ever seen.

Mr. ADYE DOUGLAS: It has no governing power whatever. The whole governing power rests with the House of Commons!

Sir HENRY PARKES: That is exactly what I have said.

Mr. ADYE DOUGLAS: I understood that the hon. member was alluding to the House of Lords!

Sir HENRY PARKES: I had left that two or three hours ago. I am speaking of the House of Commons. I do not want to draw comparisons between the nation to which we belong and other nations. France has had her great men and Italy has had her great men in the shape of patriotic statesmen, and so have many of the other nations of Europe; but there is no nation which has had so grand a succession of statesmen fitted to deal with the affairs of men as England has. For centuries—certainly from the time of John Pym down to the time of Mr. Gladstone—we have had a succession of giant intellects engaged in the government of England. Those giants have one and all stood by the power of the Commons House of Parliament; and it is by their continuous, never-dying, and never-wearying efforts that we have got to the condition that we now have. Well, we seek—those who think as I do—to reproduce here, as nearly as we can, the British Constitution. We want no other. We say it is sufficient for our purpose, and that having this in the broad light of day, with a familiarity with all its features, we do not need to seek some other form, or some patchwork of forms, which will be to a large extent an experiment. What do we seek to do? We seek to create a pattern of the House of Commons. We call it the house of representatives; and to this, so far as I know, no hon. member has made an objection. I have not heard a single objection to this creation. What do we do next? Being resolved upon creating a double house of legislature, we seek to constitute an upper chamber, which we want to make as different in its constituent elements as we can in a community so level in its democratic tendencies as the community of these colonies. We, therefore, give the go-by, if I may use a vulgarism, to the representative principle, and offer to the states, without regard to their age, to their population, or to anything else, an equal representation in the senate. As I voluntarily wrote those words, I know that my act was a very voluntary one—to offer to the smaller states just the same representation as that which the states of New South Wales would possess. I offered voluntarily, as far as I was individually concerned, an equal representation to Western Australia as either Victoria or New South Wales would have in the senate. But I stipulated that that power which is held by the House of Commons should be held by the house of representatives—that is in as effective a way as the words of a written resolution could prescribe. But gentlemen opposite, not content with the smaller states having an equal power in the senate with the larger states, say that they should have an equal power in the senate to deal with what are known as money bills. I waited to see whether any hon. member would say they did not contend for that, because they allowed the representative house to initiate all money bills. It seems to me that if there is any real value in the principle contended for by Sir John Downer and his friends, of allowing the senate to alter, or, to use their words, to veto in the whole or in detail, money bills—if there is any value in that principle which asserts the co-ordinate power of the two chambers, they ought to have gone to the root of it, and given the senate the power of originating money bills also.

Sir THOMAS MCILWRAITH: We have no objection to take that, too!

Sir HENRY PARKES: If the hon. member will allow me to say it, in a political or Pickwickian sense, I do not think that he would object to take anything. If the senate ought to have this power—and the power which Sir John Downer claims is virtually as complete a power as the house of representatives would have, and I do not think he would disguise that that is what he wishes—if we are to give this power to the senate, why not let it originate money bills also? We have no doubt come to a rock on which we may possibly—I hope not—split. I trust we shall not, but we may. We have come to this rock where the claim is that the senate, not representing the people of Australasia as the house of representatives would, but representing alike the large states and the small, should have equal power in dealing with money bills with the house consisting of the direct representatives of the people. Now, I venture to lay down—of course in doing so it is only the result of my own thought, my own convictions, and my own attempts to get light—that in a free, successful government there cannot be two houses to deal with bills of that character. That is my conviction.

Mr. MUNRO: Hear, hear; there cannot be!

Sir HENRY PARKES: That bit of wordplay in saying that finance is government and government is finance, wherever it may have arisen, can mean nothing. Some of the gentlemen who have argued on the other side of this question—the hon. member, Mr. Macrossan, for instance—have stated with great force that questions of finance will be as nothing to the great social and labour questions which will have to be decided in these Australian parliaments; and I at once admit that there are very many questions indeed of far more consequence to the people of these communities than the question of imposing a tax in a particular form, or the question of appropriating the revenue derived from that tax to particular purposes. I admit that freely; but that does not seem to me to touch the real question at stake. We give to the senate all the power of equality in dealing with these questions, which are said to be of more importance than money questions. If there do arise from this social upheaval questions of infinitely greater magnitude than any questions affecting levying of a tax or the expenditure of the money, we give freely to the senate the fullest power to deal with those questions. Why do we hesitate to give to them the same power in dealing with what are somewhat erroneously termed money bills? Because

all taxes levied must be burdens on the people of the country. The freest condition would be to have no tax; and every tax, let it take what form it may, is a burden upon a free people. Every expenditure derived from the revenues produced by these taxes must affect the people of the country in the very same way in which the imposition of burdens affect them. Our ground of principle is that the chamber elected directly by the people, by the taxpayers of the dominion country, the whole of Australia, shall alone be entitled to deal with these exceptional measures, which require the assent of both houses, affecting the imposition of burdens and the distribution of the revenue derived from the taxes so imposed. In considering how this power, which is so glibly—I do not withdraw the word nor qualify it—claimed for this council of the states—the very name devised for it shows it is not the council of the people, and that the very power claimed for that body is not at all consistent with what we really have to do—it is claimed that this body shall have the power to veto—I think these are the words—in the whole or in detail any bill introduced for the purpose of expending money—because, under any definition, however close, I suppose that would be considered a money bill—or for increasing the burdens of the state. Now, I will give you one instance of how this provision might act if it were conceded to the senate. New South Wales, as I had occasion to mention the other day, has about 700 miles of coast; Victoria has about 600 miles of coast; Queensland has something like 2,500 miles of coast; South Australia, including the Northern Territory, has about 2,000 miles of coast, or about 1,100 miles without the Northern Territory. Western Australia, with its 45,000 people, has 3,000 miles of coast. It might be that Victoria would require an expenditure reasonably necessary in her case for the protection of her commerce and of her dense population on that short stretch of coast; but it might be that Western Australia, with her 3,000 miles of coast-line, and South Australia, with her 2,000 miles of coast-line, might cabal together, which would be very easily effected in the senate, and refuse any bill, unless a similar expenditure in proportion was carried out in those colonies. I have seen much more unreasonable things than that, I have seen much more unreasonable cabals than that, even in the Imperial Parliament, and certainly much more unreasonable cabals than that in the Congress of the United States; and knowing what human nature is, nothing would be more likely than some egregious attempt at downright injustice being inflicted by the power of the smaller colonies. I, for one, am anxious—and I think there is an evidence of that in my voluntary proposal to give the smallest colony the same representation as that of this great colony in the senate—to extend every consideration whatever to the smaller colonies; but we cannot extend a consideration to the smaller colonies which involves a state of things which may result so unjustly, so disastrously, to the whole of the colonies who have done their share in the civilisation of this part of the world. It is then, because I believe that it is absolutely necessary for the effective government of any state under parliamentary government that the power of dealing with all measures of this character—measures for imposing taxation and expending revenue—should be left to one authority, and one alone, that I oppose the amendment of the hon. member, Sir John Downer. I do not believe that a constitution embodying that principle could be by any possibility adopted by the people of this country. It is scarcely likely that the great population of New South Wales and Victoria, accustomed to jealously watch every position of freedom they have, would consent to the adoption of a constitution which placed them at the mercy of a cabal of the weaker and less important colonies. What is our position? As far as I know the people of New South Wales, and I think I know them as well as my colleagues do, our position is that we are ready to enter into this union; we are ready to enter into it without making any condition; but we are not ready to enter into it on any basis of principles which are inconsistent with the British Constitution, which we hold ought to be transplanted into this new dominion. I shall be very glad indeed if by any explanation, or any legitimate compromise, we can come to an agreement; but I have seen all along, zealous as I have been to bring about the union of the Australian colonies, the possibility of failure; and the causes of failure were pretty clearly seen by me, too, before this Convention met. All I desire to say now in conclusion is this: that, dear as the cause of union is to me, and to those who think with me, anxious as we are to give to the Australian people a oneness of action, a collectiveness of effort, and an unmistakable national identity in character; anxious as we are for that, there are to us some things dearer. We cannot, and so far as I am concerned we will not, be tacked to any confederation of states who will not meet us with the same just views as we take of their condition. We are willing to make any possible surrender that is defensible; we are willing to enter into this federation without stipulating for one single condition. As far as I am concerned, I do not even venture to say what will be the fiscal policy of the dominion parliament; but I have said at all times that whatever it may be, while I shall not give up my own opinions, I shall, as a patriot, bow to its decision. I have never attempted to force my opinions upon this Convention, or upon any body which I have addressed, except in the light in which I now express them; but I, for one, will never consent for New South Wales to be linked to a federation of states, unless the object is to make the Australian people a nation, under one broad federal government, modelled on the plan of the British Constitution.

Mr. GORDON: I should not have troubled the Convention with any remarks this afternoon, had it not been that the mover of these resolutions, in coming to the defence of them as against the criticisms which which have been directed against them, has done me—shall I call it the honor?—to somewhat pointedly refer to the small contribution which I made towards this debate. He accuses myself and another hon. member of this Convention first of all of being provincial. Well, I am prepared to plead somewhat guilty to the accusation. I admit that the sweep of my mind does not enable me, as does that of the hon. delegate, to take under its wings her Majesty the Queen, the House of Lords, and the British Constitution. I come from the small colony of South Australia, and my interests are somewhat centred there, because I love better the things I have seen than the things I have not seen. I plead somewhat guilty to the charge of being provincial, because, when the thing is boiled down in the crucible of common-sense, this is merely a commercial treaty which we are considering. We are not here only to raise a national standard, but to enter into a bargain, colony with colony, on terms which we think advantageous to each. I am here to promote federation, but also to see that the terms on which the colony of which I am a humble representative is asked to come into the federation are advantageous to her interests. But when my views are stigmatised as monstrous, with very much respect, I protest—and with the greatest respect, owing to the distinguished position which the hon. the President occupies, not only here, but also throughout the colonies—I protest that these are not terms, although directed against the humblest member of the Convention, which will tend to promote the spirit in which we are supposed to meet. I wish to make every allowance for the evident physical disability under which the hon. member labours and the irritation which must result from it—and he has no greater admirer than myself—but seeing that my position has been stigmatised as monstrous by the hon. gentleman,

I beg leave in a very few words to support my views. I shall not keep the Convention more than five minutes. Yesterday, I advocated a definite arrangement which undoubtedly implied a looser federation than that contemplated by the resolution. I admit it, but I was not prepared to let that view stand in the way of any view which the Convention might choose to take. But surely I have the right to contribute my small jot to the considerations of the Convention. But, if it comes to that, I willingly plead guilty to the charge that I do favour a looser confederation, and in a few words, I will say why. I am not blind to the commercial advantages which federation will bring to this great country. They are patent; but I do not calculate the happiness of a country, or view its welfare, entirely through financial spectacles. There are many reforms which to be effected at all must be general, and which can be easily accomplished in small communities, but which are exceedingly difficult to bring about in large communities. Federation of the kind contemplated by the resolution means centralisation, and centralisation tends to maintain the *statu quo*, and retards social reform. The hon. member has challenged the representatives of the smaller colonies in this group with the importance and dignity of New South Wales, and with the sacrifice she is making in joining the smaller colonies—but let us have a word upon that. I admit that New South Wales is very much more wealthy, and is greater than the other colonies.

Mr. MUNRO: It is not more wealthy than Victoria!

Mr. GORDON: Well, we will place New South Wales in juxtaposition to the little colony of South Australia. It is greater, wealthier, and more important than South Australia, and has moreover the hon. the President as its Premier. But there are many points in which South Australia is immensely superior to New South Wales. In point of social reform and legal reform—in the law courts and in legal statutes they are a hundred years behind South Australia, and the only point in which they are up to South Australia in this respect is in the statute which they copied from us—the Land Transfer Act. And, coming to the question of local government, the whole of New South Wales, with respect to her improvements and public works, is managed from a central office here in Sydney. They are behind even the mother country, England, in that, and years behind every other colony in the group; so that if we joined New South Wales, with all her wealth, her importance, and her Premier, we should have a vast mass of inertia to bring along with the little colony of South Australia. And I do not know that our advancement in legal and social reform does not counterbalance the wealth, the importance, and the Premier of the older colony. I admit that in addition to commercial advantages there is something to be said for the additional grandeur which the Australian flag will derive from federation, and the additional theatres of distinction and of action which the talented representatives of these colonies will have in which to figure; but the mass of our people are much too busy in getting their daily bread to have the time or ambition for such distraction. I do not desire to see what the hon. member, Mr. Deakin, in the brilliant address which he gave us, pictured, a government as strong as a fortress and as sacred as a shrine—that is, a great central power dwarfing all others. Rather than have a government like a fortress, beneath whose frowning walls the people must either remain or go unsheltered to the wilderness, I would have a tent which they might carry with them in their march of progress; and rather than have a government as sacred as a shrine, guarded by jealous priests, I would have an open door through which the people might come and go without fear and without superstition.

Sir GEORGE GREY: I confess that it is with feelings of sorrow that I have heard the deeds of the British nation at large so thoroughly undervalued for the purpose of the glorification of one or two bodies in Great Britain. Any one who reflects upon what the British people have achieved under great difficulties in past years, with no fair chance afforded to emerge from them, will say that we deserve a better character than was given to us. Why, we were told that nothing had taken place in Great Britain which could be compared with the Sumner affair in the United States; but I say that no greater scandal has ever fallen upon any deliberative body than the dragging out of a representative of the British people from the House of Commons across Palace Yard, upon his back through the mud, because he had tried to take an oath which subsequently all admitted ought never to have been required from him, and of which he ought to have been relieved. But why should these things be raked up against the British race? Why should they not be allowed to slumber? I contend that the patience and the endurance of the people of Australia have been perfectly wonderful, and they deserve that the great reward of freedom should now be given to them. Have they in any one of the colonies had in past years the freedom of British subjects?

Mr. MUNRO: Yes; every one of them!

Sir GEORGE GREY: What, with nominated councils?

Mr. MUNRO: There are no nominated councils!

Sir GEORGE GREY: No nominated councils! There are three in Australia at the present day. How can the hon. gentleman deny that?

Mr. MUNRO: We have none in Victoria!

Sir GEORGE GREY: Is Victoria all Australia? Is that an answer to what I have said? If the people of Victoria have not a nominated council, have they not plural voting to an extraordinary degree, which shuts out the poor from all chance of competition at the elections?

Mr. MUNRO: We have plural voting, certainly!

Mr. CUTHBERT: But to a very limited extent!

Mr. MUNRO: We are going to abolish it altogether!

Sir GEORGE GREY: Going to abolish it! Why? Because the tempest thunders at your doors. That is the fact. Such is the progress made in the human mind at the present day that these things can no longer continue. But have you proposed to do it in the resolutions which have been laid before this Convention? No proposal at all is here made to secure the liberties of the people at large, as should have been made in the first instance. I contend that any one who reflects upon the great colonies which have been founded by the British people, upon the wars in which they have been engaged, upon the number of soldiers who have laid down their lives, and the number of sailors who have done the same in every part of the world, and who obtained little or no reward for it, upon the number of explorers who have risked their lives and have got no great grants of land in return—I say that the sufferings that have been undergone to make these colonies, the deeds that have been performed by the people who have created them, deserve a better return than has been given to them to-day. I contend that, here, we are empowered to give a great gift to the people of Australasia. That gift is placed in our hands to offer to them, to solicit them to take; and I say that squabbles of the kind that have taken place upon this question ought not to divert us from that great object. The matter, I think, is really little understood by the Convention. Nothing could be kinder than the proposal that was made for a settlement of this difficulty, namely, that if the two branches of the legislature could not agree upon a bill, and if the bill were twice passed by one of them, an appeal should be made to the people. But that ought to be unnecessary, because the body created by you, if they desire that law, could make it themselves. These are not the points to which we should direct our attention. Our attention is, I think, dropping, to a great degree, from the consideration of the resolutions as they stand.

Our proper duty is to commence to lay the foundation of the edifice we are to build up; to do, as has been done in other countries, other great federal communities—to begin with the lower stratum, and to see that the states have power given to them to make their own laws exactly as they like, to frame their own state constitution exactly as they please, and to vary it from time to time. When we have provided for that, we should proceed to the consideration of the federal parliament, and nothing will be easier than its construction. I ask hon. gentlemen, however, in trying to work this out, to dismiss from their minds all idea of the incapacity of the British race in these colonies to determine for themselves what their constitution shall be. There are men in these colonies who have gone through great difficulties, many of whom have travelled into other countries, many of whom have come from or through the United States, and have seen other forms of government than ours; and I ask them to trust to the people to adopt a form of government for themselves, to give them that greatest and best boon which can be given to men, and to leave to those who have worked out what are the capabilities of these countries, what is the best form of settling them, in what way they can be best occupied—to leave to those persons, with all this experience, the power of doing that which the great nation of Britain authorises us to confer upon them. And whilst they dismiss from their minds all idea that any one of us has contemplated throwing blame upon the British Parliament, what hon. member in this Convention will complain that there is any want in the House of Peers of goodness or capacity or any other quality, that they should be extolled in this way above ourselves? Which one of us complained of the conduct of the House of Commons, so as in any way to necessitate the declaration that we were not equally competent with the members of the House of Commons to determine what should be done? I say that rather the subject-matter of our addresses should be to admit what has been done great and good in this country; and having done that to stir the people up to go on in the line of goodness, the line of greatness, and to form this great confederation; and having formed it, they will call into existence virtues now almost unknown, of patriotism, of desire to serve the country; will call out a class of men who really can confer great benefits upon it; and that they can do if they please within a week from this time. Leaving aside all quarrels upon minor details, let us take any one of the federal constitutions which are in existence, and, without attempting in any way to servilely follow it, let us trace out in how far the lines of that constitution are applicable to this country, and upon any one of the existing constitutions we may build up a new one, fitted to make Australia a great nation, and we may leave the result to be sent to the different states, to be considered there. I believe that in every instance, if founded upon true principles of freedom, it would be adopted with shouts of applause, with great thanksgiving, with gratitude from all hearts; and all this might be done in a week or ten days from this time. I earnestly ask that we should be allowed to get on with the resolutions, if they are to be persisted in, with the least possible delay, and having done that, let the other resolutions be put. When that has been done, let the draftsman be empowered to draft the system of federation which we choose to recommend. That is what I earnestly desire to see done. I confess it is with sorrow that I have found that we have been compelled to hurry on this matter, to speak with greater heat than perhaps was necessary; but I think that no man who really loved his fellow-men—who for years had been a companion with them in their difficulties of every possible kind—could sit patiently and hear so far undervalued what they had done, and the merits of a distant country so greatly extolled as far surpassing everything of our own that we can produce or show, without feeling a mortification in his heart which it was difficult for him not to express. I have mourned over the number of explorers who have died, I have mourned over the lack of rewards given to those who have survived. I have seen my friend, Sturt, die almost neglected and unrewarded. I have seen others in the same state; no loud plaudits have gone forth to recognise what they have done. I have seen great statesmen amongst you, and I have seen few of them obtain rewards. Of necessity, from having command of small parties, I have known men in humble life, and have seen perfect heroes amongst those who were really working men in the colonies; but I have never yet seen fair openings given to men of that class, such has been the nature of the institutions here; and what I have hoped and desired, was that the time had now come when justice at least would be done, when every avenue would be opened to greatness and worth in every class of life, when a constitution such as the world has not yet seen, would be given to a free people; and when I heard the language to-day, and began to think that there really was some conception coming upon the minds of hon. members that the Convention might be broken up, and that nothing should be done, then the heart began to sink, and the hopes that seemed so near realisation appeared to be fading away. But I still hope and trust that we will persist in the task given to us, and, from what the last speaker said, I believe that he and others will rise superior to the difficulties surrounding us, and help to complete the great work for which the whole of Australasia are looking, and upon which I believe the eyes of the whole civilised world at the present moment are fixed. Let us not disappoint them. Let us show ourselves worthy of the duty we are called upon to perform, and blessings will for ever follow the men who helped in that consummation.

Mr. McMILLAN: I think it will be agreed by most hon. members that we have gone as far with this important subject—the most important of our deliberations—as general discussion can bring us. We have already had the resolution of the Hon. Sir Henry Parkes excised and amended so that it reads, "the sole power of originating all bills appropriating revenue or imposing taxation." That lays down a very important principle; but it commits us to nothing more, and it does not prevent us from putting in more when we go into Committee. I should, with all respect, propose to my hon. friend, Sir John Downer, and to the hon. member, Mr. Wrixon, that they both withdraw their amendments, and that we pass this resolution with the one amendment or excision that has been made, and then, when we go into Committee—either into one committee or into separate committees—say, a separate committee dealing with this financial matter—we may be able to crystallise the general opinion of the delegates, and to frame some kind of phraseology that will meet with general approval, because we have got very near one another. We have got this far, that I think, generally, we agree that the upper chamber should not interfere by way of amendment with the appropriation bill for the ordinary services of the year. Then when we come to that, the question simply is, what outside that should be considered money bills, or whether all bills outside that should be open to amendment; and here while I am speaking I may as well say, as matter of my own opinion, that this is a question involved not merely in the matter of a state house for state rights, but that it is involved, as far as my opinion is concerned, in the whole principle of bicameral government. My hon. friend, Mr. Wrixon, said that if the upper house had the right contended for they would always exercise it. Nothing of the kind follows. In the lower house among ourselves when we have the estimates put before us we do not debate more than one out of every 100 of the items; in fact, very often the debate on the estimates is only on about half a dozen matters, often trivial, but still of an important character, as connected with the circumstances of the case.

Mr. MUNRO: Generally lasting very long!

Mr. McMILLAN: I should like to say before the debate concludes that I cannot see where the power of the lower house is so much contravened when the upper house has the power to absolutely veto. Surely when the veto takes place with regard to any great measure of finance, it is only with regard to one or two items in the whole; and does it not seem absurd to eliminate all the machinery by which any suggestion whatever could come from the upper house with regard to the particular matters to which they objected? But these arguments have been put before the Committee, and I do not intend to take up its time. I do not want to introduce the ordinary debate of our houses of parliament. I do not want to refer to any hon. member, or to cast any aspersions; but I would now suggest that it is only due to the hon. member, Sir Henry Parkes, who placed these resolutions before the Convention, that as far as we can, with certain verbal amendments, so long as they carry out the main principles upon which our bill will ultimately be framed, we should pass them; and then I take for granted that the committees will bring up a series of more scientific resolutions which, as the hon. member, Sir Henry Parkes, has said, will be the soul of the bill itself. But it seems to me that we have now got as far as general discussion can bring us on a very delicate and intricate question, and it would be far better if those hon. gentlemen would withdraw their amendments, and if, with the excision which has already been made, we pass this resolution, which still leaves us open to the broadest possible compromise.

Sir SAMUEL GRIFFITH: If the discussion is to close, I think it right before it closes, for my own part, to express the very great regret I felt in hearing the speech lately delivered by the President. We all meet here, I believe, without exception, firmly determined to do our best to establish a federal constitution, and I think it is most unfortunate that either intentionally or unintentionally anything should be said to tend to disturb the good feeling which now exists amongst us. The hon. member, Sir Henry Parkes, informed us, in part of his speech, that the intention of these resolutions was to establish in Australia something analogous to the British Constitution. If that is so, of course all the discussion which has taken place to-day and yesterday has been wasted. If we were going to reproduce the British Constitution, with a house of commons and a house of lords, it would be idle for us to talk about the powers of the House of Lords or an upper chamber; but I wish to point out, and I am sure that the hon. member, Sir Henry Parkes, will agree—for there is no one with a larger knowledge of constitutional history or practice—that it is absolutely impossible to reproduce the British Constitution in Australia. The circumstances of the country will not permit of it. The British Constitution is not a federal constitution. It is quite different from a federal constitution; so that to attempt to do that is to attempt to make two things work together which cannot work together. What we have to do is to follow the British Constitution as nearly as its principles are applicable to a federal constitution.

Sir HENRY PARKES: That is absolutely all I ever said!

Sir SAMUEL GRIFFITH: I am sorry if I misunderstood the hon. gentleman, but certainly the greater part of his speech led to that impression. It seemed to me that if his arguments were carried out, it was absolutely impossible to proceed ——

Sir HENRY PARKES: I think it will be convenient for me to explain. I have said in every speech I have addressed to this Convention that it is impossible to reproduce the British Constitution. I have said that repeatedly, and it certainly is not my fault if the Convention has not heard me. What I have said in addition was that, so far as my individual opinion went, I was seeking to follow on the lines of the British Constitution, to work out the spirit of the British Constitution, or words to that effect. But I have never once been so foolish or so ignorant as to announce to this body of eminent men that I thought of reproducing the British Constitution. I hope my hon. and learned friend will accept my explanation; he must have heard me himself at different times.

Sir SAMUEL GRIFFITH: I am very glad indeed that my few words have been the occasion of drawing this explanation from the hon. member. But I am sure that I was not alone this afternoon in understanding the hon. member to maintain that the second chamber proposed to be established in Australia should be analogous in its functions to the House of Lords.

Sir HENRY PARKES: To a large extent I said that; but that is quite a different thing!

Sir SAMUEL GRIFFITH: But the point is most material when we are considering the limitation of its powers. I am quite sure the hon. member could not, on further consideration, insist on such views as I understood him to express. Perhaps I should apologise to him for having misunderstood him. Just one observation I should like to make now. It has been very often suggested that the proposal advocated by many hon. members will not work; that it is impossible that it can work; that it is impossible to allow a second chamber to have any voice in financial matters. That argument, if I may be permitted to say so with great respect, reminds me of the argument addressed to Mr. George Stephenson when he was inventing the steam engine—that it was impossible that the thing could work. It was demonstrated by all the scientific men that in the nature of things an engine could not go at the rate of 10 miles an hour. Well, we are not merely putting the opinions of persons who are trying a new experiment against those of others of greater experience; but we have the experience on our side: we can point to 100 years, at least, where such a machine has been working—working all over the world—and is working at the present time. I think we have only to see what is the best way of meeting the differences that are at present between us. These are not very many. I am quite satisfied that, with two or three exceptions—and I doubt whether there are so many—the differences between us will come down to an extremely small point—almost to a vanishing point; and, that being so, I think it would be unfortunate if any interruption were to take place in the amicable relations which we have hitherto maintained towards each other.

Sir JOHN BRAY: It seems to me that we have had some very entertaining speeches to-day, some of which, if we had unlimited time at our disposal, we should no doubt have listened to with great pleasure; but I am afraid that they have not advanced our business as speedily as we could wish. I agree with those who say that we must sooner or later refer all details to a committee. Although, no doubt, the question we are now discussing is an extremely important one, yet, I think, I may fairly put it to the hon. member, Sir John Downer, on the one hand, who has made one set of propositions, and to the hon. member, Mr. Wrixon, on the other hand, that it is absolutely impossible to come to any fair decision on the question, which will not cause very great irritation in this Convention. It is absolutely certain, I think, in the minds of all of us who look fairly at the matter, and who desire to speed our business, that some sort of compromise must be suggested. I believe it is equally certain in the minds of those who have given their attention to the matter, that we are not prepared without the report of a committee, or without very full consideration, to describe exactly the terms on which the differences can be adjusted. I would ask both those hon. members to withdraw, for the present, their amendments, not only on the understanding, but with the knowledge that, as the resolution at present stands, it commends itself to all of us. We have struck out the words in the last line

"and amending" so that we provide that the lower house or the house of representatives shall

possess the sole power of originating all bills appropriating revenue or imposing taxation.

Of course, we have not absolutely passed those words; but still, I think, we are all agreed that what we may call the lower house shall have the sole power of originating those bills. I think it is equally certain that none of us are prepared to absolutely stop there. On the one hand, some say that we ought distinctly to provide that the senate or upper house shall have the power of vetoing in the whole, or amending in detail all money bills, perhaps, without exception; while others contend, as the hon. member, Mr. Wrixon, does, that money bills should not be amended by the senate. I say that we ought to stop at the point where we have agreed, with the view of seeing whether a committee can frame a basis on which we can ultimately agree with respect to the other stages of money bills. We have all agreed that the lower house shall originate those bills. Although there may be a majority one way or the other, it would be by force, and not by argument, that they would be satisfied if we attempted to take a division to-night. I would ask both my hon. friends to withdraw their amendments for the present.

Sir JOHN DOWNER: And what then?

Sir JOHN BRAY: We are quite content to refer the resolution as it stands to a committee; but I understand that my hon. friend wants to refer the 1st and 3rd resolutions also to a committee. There is not the least doubt in a single mind that they must go to a committee sooner or later.

Mr. McMILLAN: They must all go to a committee!

Sir JOHN BRAY: It will be most convenient, perhaps, for us to have a general discussion on the 3rd resolution before it goes to a committee than afterwards, so that the committee may have something to guide them. I do not suppose for a moment that the committee can frame resolutions that will meet the wishes of all of us; but from this discussion they will gather a general notion as to what is likely to be acceptable to the greater number of the delegates. I intended to suggest that we should say "the two houses respectively shall have such other powers in reference to money bills as may be hereafter agreed upon"; but of course if we do not put in those words the same idea will really be conveyed. By leaving the resolution as it stands, neither on one side, nor on the other, will it be assumed that we have said all we have to say in regard to money bills? What we have said we have said definitely: that the lower house shall have power to originate; but we all admit that there is more to be said than that. In the present state of things in the Convention it is absolutely impossible to get anything like a unanimous decision on the question. We all want, if possible, to get something like a unanimous decision. It is no use here, as it would be in an ordinary parliament, to attempt to pass anything by a bare majority. We feel that the best thing we can do is to thrash the whole thing out, and see if, after all, there is not some possible course to be adopted that will, if not please, at least satisfy, the members of the Convention generally. I do trust, therefore, that both hon. members will be disposed to let the matter stand where it is, as far as this resolution is concerned, on the distinct understanding that it will have to be subsequently dealt with by a committee, who will elaborate some scheme—perhaps one of the schemes suggested by the hon. members, perhaps some other scheme—which will effectually carry out the wishes of the delegates present at the Convention.

Sir JOHN DOWNER: When I suggested just now that these resolutions should be at once sent to a committee, it was because I felt that it was quite impossible to consider the 3rd resolution until the 1st resolution was disposed of; because I thought that to put off the consideration of the relative powers to be reposed in the two houses until we constituted the executive was to put the cart before the horse, and to create your tribunal without first defining its jurisdiction. I have not altered my opinion on that subject, and cannot bring myself to alter it in any shape or form, and when I suggested that all these resolutions should go to a committee at once—which the hon. member, Sir Henry Parkes, said was unreasonable—I really thought—and I tell the hon. gentleman so—that I was rather acting in accordance with his views than in antagonism to them. Certainly a conversation I had with the hon. member, Mr. McMillan, led me to entertain that view. I certainly have no wish or anxiety to shelve a question which has been so much considered. I am quite willing to fight the resolutions out now, or to refer them all to a committee for consideration, so that we may discuss them again when the report is brought up. I still say that I feel just as anxious as does my hon. friend, Sir John Bray, to be as conciliatory as possible, and not to say one word which would momentarily offend, or which might afterwards leave a sting in the mind of any one present. I have great esteem for all who are here, and my sole anxiety is to bring about the one result we have been sent here to promote. I do, however, ask members of the Committee to say whether they do not think we ought to settle resolution No. 1 before we settle resolution No. 3?

Sir JOHN BRAY: We shall not settle either until we get a committee!

Sir JOHN DOWNER: Is it worth while to discuss resolution No. 3 before we have settled resolution No. 1? Is it worth while to mix up the strong opinions, the strong prejudices in the minds of all of us—prejudices which perhaps were born in us, and which have become stronger through association and usage—is it worth while to mix up this question of constitutional government with a question of what shall be the relative powers of the senate and the house of representatives?

Mr. MUNRO: They naturally mix themselves up!

Sir JOHN DOWNER: Surely not.

Mr. MUNRO: They do indeed!

Sir JOHN DOWNER: I think they unnaturally mix themselves up. What I am endeavouring to urge is that they mix themselves up through no process of reasoning, but entirely through prejudice.

Mr. MUNRO: No!

Sir JOHN DOWNER: They mix themselves up because many of us, and perhaps most of us, are so prejudiced in favour of the form of government to which we have been so accustomed, that we are unwilling to embark in any fresh venture at all. But, first of all, surely we ought to say what the governing body is to be; what, for instance, the senate is to be, or whether we are to have two houses at all?

Mr. PLAYFORD: We have said that!

Sir JOHN DOWNER: That being the case, the next thing we have to determine is, what shall be the powers of the two houses, jointly or differentially? When we have settled the absolute and the relative power of the two houses it will then be time to settle what the executive is to be—the body which has to carry out the wishes of the two houses.

Mr. MUNRO: That is the only way in which it can be done!

Sir JOHN DOWNER: Perhaps having been brought up in an arbitrary profession I am accustomed to look at these matters from an arbitrary point of view; but I cannot see any reason at all for proceeding to resolution No. 3 until we have settled resolution No. 1, because when we get to No. 3 we shall have to consider the whole question as to whether we are to have constitutional government or not, and to discuss the question as to whether or not the new federation is to be upon old lines, which, in my contention, are absolutely inapplicable—upon lines which Sir Henry Parkes, and those who think with him, are of opinion ought to be followed almost absolutely, or as closely as possible. We cannot avoid mixing up the

executive with the ultimate authority, and we may possibly sacrifice the liberties of the federation to some prejudices existing in our minds and arising from past association, from heredity, or from other causes. It is from that point of view that I suggested at once—and certainly I thought from what had been said to me that it would meet the wishes of the mover of the resolutions—that having discussed the matter to its present stage, it would be expedient to send resolutions 1 and 3 to one committee, sending No. 2, which deals with quite another matter, to another committee, and in this way have all three resolutions considered together. By that means, I thought, we might discover whether an arrangement, in which we all expect to give away something could not be arrived at. I still think, in reference to the suggestion of the hon. member, Sir John Bray, that it would be better, if we are going to have this matter fought out in public, and settled by voting on this floor, that we should settle resolution No. 1, and afterwards settle No. 3, or agree to refer both resolutions to a committee.

Sir JOHN BRAY: Let us take a vote!

Sir JOHN DOWNER: Then I object.

Mr. GORDON: Strike out the latter part of No. 3!

Sir JOHN DOWNER: If resolution No. 3 ended with the words "such persons sitting in parliament," no opinion would be expressed upon the point at issue, and I should not have the slightest objection to the resolution being agreed to in that form.

Mr. GILLIES: I have purposely refrained from joining in the general debate, because I felt assured from the sentiments which many of us have heard expressed among hon. members that there was a general desire that this question should, if possible, before being finally determined by the Convention, be discussed privately by a select committee. I do not join in the opinion which has been expressed this afternoon that things look rather black; in fact, I am inclined to think that they look very well indeed, and the reason I form this opinion is this—that I have spoken to scarcely an hon. member of the Convention who has not expressed a strong desire and hope that we may be able to come to some reasonable agreement upon the difficulty which has arisen. I believe that hope is greater this afternoon than it has been before. We notice that as soon as there is a little storm the atmosphere cools very readily, and the hope is generally expressed all round that we shall do credit to the Convention and to those who sent us here. I confess that personally I should feel ashamed if I had to go back to the colony of Victoria and confess that the gentlemen who have met here for such an important purpose, commissioned as they are by the parliaments of the different colonies, have been compelled to separate without being able to solve what is undoubtedly a difficult question, but which certainly is not one that is insoluble. I think we can pass the resolution that we have been discussing as it stands; and taking the view of the proposal made by the hon. member, Sir John Bray, I have no doubt whatever that we shall meet upon this point. I have heard so many suggestions of amendments, many of them very reasonable within themselves, that I have no doubt we shall be able to adopt or modify some of them when hon. members are in consultation. With regard to the to her proposition referred to by the hon. member, Sir John Downer, I believe the resolution can be so amended as not to commit the Committee to any absolute or strongly expressed opinion which it might afterwards see fit to alter, and that we might at the same time enunciate the principle which is in reality contained in the resolution. I hope we shall see our way to pass the resolution under discussion on the understanding that that and the 3rd resolution be referred to a select committee, when we may be able to ascertain whether it is not possible to come to a satisfactory understanding upon the difficulty in the minds of hon. members.

Mr. WRIXON: I think the suggestion of the hon. member, Sir John Bray, is a very good one, and if both amendments are withdrawn for the present we shall be in a position, after the report from the select committee, to discuss the question with better effect, and I shall be very happy to fall in with the arrangement, because I think it will lead to a peaceful solution of the difficulty.

Sir JOHN DOWNER: If resolution No. 1 is to stand as it is, and No. 3 is to go with the words to which I have before referred struck out, so that we shall not commit ourselves to any principle, I am quite willing that the course proposed should be adopted. That is what I wish to see done; and I would suggest that some hon. member should move that the further consideration of resolutions 1 and 2 be postponed.

Sir SAMUEL GRIFFITH: We must deal with No. 1!

Sir JOHN DOWNER: We may pass No. 1 on the understanding to which I have referred; postpone No. 2; and consider No. 3 simply with the view of putting it in such a form as to leave the whole question open.

Mr. DEAKIN: I do not see any objection to that course except one, which I should have thought might have suggested itself to Sir John Downer, and this is that those who desire to strike out the words in resolution No. 3, referring to responsible government as we now have it, will surely desire to ventilate their views, or else the question will go to the committee without any guidance whatever from the Convention. The committee will be left with a perfectly free hand, it is true; but it might suggest itself to those hon. members who do not approve of the proposal in resolution No. 3, but favour some other proposal, that it is incumbent upon them to lay their alternative before the Convention as a whole, if they expect the committee to deal with the subject in any way. Therefore, I would suggest that we should pass resolution No. 1, and take No. 3 next.

Sir HENRY PARKES: Why not finish them all to-night?

Dr. COCKBURN: Because there will be a debate up on resolution No. 2!

Mr. GILLIES: The words proposed to be omitted from resolution No. 3 do not affect the question of constitutional government or ministerial responsibility!

Mr. DEAKIN: I am perfectly aware of that. What I am pointing out is that if hon. members desire a committee to deal with the question involved in No. 3—to put it plainly, to deal with the question as to whether they will propose a constitution which shall have responsible government as its chief feature, or whether they will, as some hon. members have expressly desired, propose another kind of constitution which shall not have responsible government as we know it for its chief feature—we shall be placing the committee in an unfair position unless the Convention, as a whole, first considers the general issue. We may not come to a vote upon it; but those hon. members who desire that some change should be made in resolution No. 3 ought to inform the Convention of the direction in which they desire to go, in order that the question may be debated. The matter is not one of importance to myself; but I am pointing out that it is much better to do that than to wait until the committee has come to a definite proposal and then bring in an amendment which would really mean the subversal of the whole of the proposals of the committee in regard to responsible government.

Sir JOHN DOWNER: We have had a good deal of reference to resolution No. 3. The subject has been running through the whole discussion, and, in fact, it would be strange were it not so; and I fancy that the general views of the members of the Convention are sufficiently understood to enable us to send the resolution to the committee without further discussion.

Mr. DEAKIN: Very good; I am quite willing!

Sir SAMUEL GRIFFITH: If it is understood that there is a general consensus of opinion, I should like to know what the consensus is, if I am to be a

party to it? I understood the hon. member, Sir John Downer, to say when he sat down that resolution No. 3 would be sent to the committee as it stood.

Sir JOHN DOWNER: No, with certain words struck out!

Sir SAMUEL GRIFFITH: I agree with the hon. member, Mr. Deakin, that the resolution ought to be discussed here before it goes to the select committee.

Sir JOHN DOWNER: I am willing to withdraw my amendment on the understanding that no decision will be arrived at on resolution No. 3, except to strike out the words already referred to.

Sir HENRY PARKES: What are you going to do with resolution No. 2?

Sir JOHN DOWNER: I would suggest that it should be postponed. I do not think that its discussion need take very long. The gentlemen who will be appointed to the committee will probably like to be present in the Convention when resolution No. 2 is being dealt with.

The CHAIRMAN: Do I understand that the hon. member wishes to withdraw his amendment?

Sir JOHN DOWNER: I will not do so unless I have a distinct understanding with the Convention. I would ask the mover of the resolution whether, if I withdraw my amendment, and the hon. member, Mr. Wrixon, also withdraws his amendment, he will consent that resolution No. 1 should be passsed; that No. 3 should simply be amended by the omission of the words at the end to which reference has been made, and that these two resolutions should be then sent to the select committee without a vote being taken.

Sir HENRY PARKES: I am by no means sure that I understand what the hon. member asks. I, as the mover of these resolutions, have no special power over them, and the only thing I insist upon—and I insist only as a matter of opinion—is that the whole of the resolutions should be dealt with. If it had been proposed at the outset to set them aside, I should have assented. If it had been proposed to refer them all to a committee, I should have assented. But as the Convention has deliberately entered upon a course of debate, I think that debate should extend over the whole, and that all the resolutions should be dealt with in some way or other. I shall be content if the Convention thinks well to negative any of them. I have said, times out of number, that I throw these resolutions, as it were, before the Convention as a commencement, leaving the Convention to deal with them as they will. I do not consider that I have any right to express an opinion as to how they are to be dealt with, beyond this, that as they have been entered upon, I think they should be finished in some form or other. That seems to me to be due to our own character as a body of deliberative men, and it is certainly due to mine.

Sir JOHN BRAY: It is not expected that we shall make these resolutions complete in themselves!

Sir HENRY PARKES: Certainly not. Suppose Sir John Downer at this moment changed this resolution of mine so that it should be in quite a different form from that in which I submitted it, I should not complain of that. It is the right of the Convention. I should shape my own course afterwards accordingly; but I could not complain of the Convention in its undoubted right deciding anything upon my resolution. What I would suggest is that the resolutions be finished, and that then the whole body of them be referred to a committee to be reported upon with necessary detail to make them more complete. I am quite content with that, and I do not consider that the Convention binds itself in any way to pass any of these resolutions. I thought I made that apparent repeatedly.

Sir JOHN DOWNER: I agree to the course suggested by the hon. gentleman.

Mr. WRIXON: I also shall be willing to withdraw my amendment.

Sir HENRY PARKES: While I am on my feet I would suggest that resolution No. 2 be considered, and No. 3 also, and it be understood that they be then referred to some committee or to two committees. There need not be a long debate, I am sure, on these other resolutions.

Amendment (by Mr. WRIXON) by leave withdrawn.

Amendment (by Sir JOHN DOWNER) by leave withdrawn.

Resolution, as amended, agreed to, as follows:—

A Parliament, to consist of a senate and a house of representatives; the former consisting of an equal number of members from each colony, to be elected by a system which shall provide for the periodical retirement of one-third of the members, so securing to the body itself a perpetual existence combined with definite responsibility to the electors; the latter to be elected by districts formed on a population basis, and to possess the sole power of originating all bills appropriating revenue or imposing taxation.

Sir JOHN DOWNER: I beg to move:

That the consideration of resolution No. 2 be postponed until resolution No. 3 is disposed of.

Sir HENRY PARKES: I think it would be a very good thing if we could finish these resolutions.

Motion agreed to.

The CHAIRMAN: The question now before the Committee is the following resolution:—

(3.) An executive, consisting of a governor-general, and such persons as may from time to time be appointed as his advisers, such persons sitting in Parliament, and whose term of office shall depend upon their possessing the confidence of the house of representatives expressed by the support of the majority.

Mr. BAKER: The question now arises whether the course proposed by the hon. member, Mr. Deakin, or the course proposed by other hon. members should be adopted. That is, whether we should discuss this question, and give some intimation to the committee as to what are the opinions of the delegates, or whether we should leave the committee in the dark. I believe that the hon. member, Mr. Deakin, is right, and that we should discuss the question.

Sir HENRY PARKES: It is proposed to discuss both of these resolutions!

Mr. BAKER: It is too late to discuss them to-night, so I beg to move:

That the debate be now adjourned until to-morrow.

Motion agreed to; progress reported.

Convention adjourned at 5·15 p.m.

WEDNESDAY, 18 MARCH, 1891.

Federal Constitution—Appointment of Committees—Adjournment.

The PRESIDENT took the chair at 11 a.m.

FEDERAL CONVENTION.

In Committee (consideration resumed from 17th March, on motion by Sir Henry Parkes):

(3.) An executive, consisting of a governor-general, and such persons as may from time to time be appointed as his advisers, such persons sitting in parliament, and whose term of office shall depend upon their possessing the confidence of the house of representatives, expressed by the support of the majority.

Mr. BAKER: I move:

That all the words after the word "advisers" be struck out.

I understand that the Committee is almost unanimously of the opinion that these words should be struck out, and that this resolution, together with resolution No. 1 of the second series, should be referred to a committee which may be called a committee of compromise, in order that they may suggest some solution of the two questions involved in them. It has also been intimated that although the majority of the Con-

vention are agreed that this would be a wise course to adopt, still it is desirable to discuss the resolution before us in order that the committee may have some idea of the opinions of hon. members upon it. We have been told by the hon. the President, that he will be strongly opposed to any patchwork constitution, and that to take part of the constitution from one country and part from another is extremely inadvisable. But I would point out that up to now every resolution which we have passed has been taken from the American Constitution. Of the first series, resolution No. 1, which gives the central government certain specified and defined powers, comes from the United States, and so do resolutions Nos. 2 and 3, which give the federal parliament the power to impose a federal tariff, with free-trade between the states, and resolution No. 4, which puts the federal forces under the one command of the federal government. Of the second series of resolutions, No. 1, providing for the election of a senate composed of an equal number of members from each province, with periodical retirements, constituting a body with continuity and perpetual existence, comes from America, and the only two words in all the resolutions which we have passed which are not identical with the American Constitution are those at the end of resolution No. 1 in the second series, because the American Senate can initiate a bill imposing taxation.

Mr. CLARK: Not initiate!

Mr. BAKER: Yes, it can initiate taxation. The only limitation in the American Constitution is that all bills which appropriate revenue must initiate in the House of Representatives, and we have gone a little bit further than that. This being so, unless we are prepared to follow the American Constitution still further, we must have a patchwork. I do not think there is a member of the Committee who will suggest or argue that we ought to follow that Constitution in relation to the executive. The fundamental condition that we are not to elect a president precludes us from considering the question, and, if we were not precluded from considering it, the too great disassociation between the executive and the legislature, which has been adopted in the American Constitution, has worked so badly that I do not think that any one here would advocate the adoption of the system. But we have to have a patchwork in the constitution, and it is just as much a patch as any upon it to try and graft the American system, which up to now we have followed, on the British responsible government system. We have to settle this question somehow, and I quite agree with the hon. the President that it is a wise thing to take advantage of the experience of other countries; but where are we to go for our experience? We cannot go to Great Britain for it. A question which I asked in the early stage of this debate has not yet been answered. I asked the hon. member, Mr. Deakin, what would become of the British Constitution if to-morrow it were proposed that there should be an imperial federation? Why, the House of Lords would undoubtedly have to be swept away; and, having swept away that body, the whole of the British Constitution would have to be remodelled. There can be no doubt whatever about that. They would have to reconsider not only their upper house, their senate, or whatever they might call it; but they would also have to consider the relation of the executive to the other branch of the legislature. There are two countries to which we can go for experience in this matter. We have the experience of America in reference to the executive for 100 years, and their system has not worked well; and we have the experience of Switzerland for some forty-three years, and we know that the system there has worked well. It was pointed out in one of the leading newspapers to-day that there has been a revolution in one of the cantons in Switzerland; but it was not mentioned that that revolution was put down with little or no bloodshed, and without the expenditure of money. So that if we can argue from that, we must draw a conclusion in favour of the Swiss form of executive.

Mr. MUNRO: They murdered one of their chief men!

Mr. BAKER: There have been murders in Victoria, and no form of government can be framed which will stop revolution, if there is a section of the community who feel strong enough to try to upset the government.

Mr. KINGSTON: There is a telegram in the newspaper to-day to say that the Swiss are amending their constitution!

Mr. MUNRO: No, they are establishing a permanent army!

Sir JAMES LEE-STEERE: That is because of the state of Europe!

Mr. BAKER: When I first came to the Convention, I was of opinion, and I placed that opinion on record before I came here, that it would be advisable for us to adopt the British form of constitutional government. I came here with that preconceived notion; but I also came here to listen to argument, and I have learnt that my preconceived notion has entirely disappeared upon further consideration, and upon listening to the arguments of the hon. member, Sir Samuel Griffith, and others, I am perfectly convinced, so far as I can be convinced at the present moment—I do not say I am not open to further argument—that if we have, as we are bound to have, a strong senate which will be the guardian, the custodian of state rights and state interests, you cannot have the responsible form of executive government, because that form of executive government subsists from the fact that one branch of the legislature is paramount. I know it may be stated, "If you go to South Australia, and if you go to Tasmania, you will find the British form of responsible government with two elective houses, and you will find that, although there has been friction in these two colonies, there has, perhaps, not been greater friction there than there has been in other places where a different state of affairs exist." I cannot speak positively for Tasmania, but I can speak positively for South Australia, when I say that the Legislative Council of that colony, notwithstanding that their powers are contained in the written Constitution, have always admitted that you must read between the lines of that Constitution; you must always look upon them as holding a position somewhat analogous to the House of Lords. It is upon that view of the question that government has been possible at all, and are we going to suppose that the federal senate will take up that view? If we are, then the federal senate will not be a proper custodian of the powers intrusted to it, and will not be able to properly protect the states which it is proposed it shall be established to protect. I do not wish to detain the Committee at any length; but I would like to impress upon it that it would be advisable to adopt the suggestion of my hon. friend, Sir Samuel Griffith, and to so frame the constitution as to allow, if circumstances arise which render it necessary, the adoption of the Swiss form of executive. I press that view, because I think it extremely probable that I shall be in the minority upon this question. There are so many people here who have grown up under the system of responsible government, who are imbued with its excellences, because they themselves have so greatly succeeded, and have occupied such prominent positions under that form of Constitution, that they cannot disassociate what they conceive to be the excellence of that Constitution from the excellence of the results which so far, as they are concerned, have been attained. The longer we live, the more we succeed under any condition of affairs, the more likely are we to believe that that state of affairs, which has so benefited us, and has brought us so much to the front, is a good state of affairs, and the more likely we are to adopt a narrow-minded view of the position, and to be unable

to rise superior to the immediate surroundings under which we have lived so long. I am afraid that is an idea which is inherent in human nature. I am perfectly willing to admit that I am what I am generally supposed to be—a conservative, and that I am exceedingly loath to change. But I hope I am able to dissociate from my mind that form of responsible government which has worked, taking it on the whole, so well in Great Britain, when we come to consider that we have to adapt it, if it is possible to adapt it, to a federation. I believe it is not possible to adapt it to a federation; and, therefore, I would ask the committee who will be appointed to consider the matter, to make the provisions so elastic as to enable the evolution of events to bring about another form of election, or appointment of an executive government which will work in harmony with the main principles of a federation.

Sir SAMUEL GRIFFITH: I understand the hon. member, Mr. Baker, proposes to omit all the words after the word "advisers," so leaving the relationship of the government to the federation absolutely undefined. The resolution as framed proposes, as I pointed out on a previous occasion, to stereotype the existing phase of what is called responsible government. I find that when I spoke a fortnight ago I was somewhat misunderstood. I was opposed by some hon. gentlemen to have been contending for the abolition of what we call responsible government. I by no means contended for its abolition. I believe, at any rate, that we had better begin with it. We know of nothing better at the present. At the same time, I pointed out that it is difficult to know how what we call responsible government, that is, a government appointed by the head of the state, but holding office in practice by the consent of parliament, will fit in with the system of a strong senate. That is an experiment which has not been tried; but I do not think that because the experiment has not been tried exactly in that form any one of us is in a position to say it will not work. I object, for my part, to say that anything will not work. Hon. members told us several times the other day that certain matters will not work, and, as I said at the time, it reminded me of the arguments used to George Stephenson about the steam-engine. Why should it not work? It is very easy to say that a thing will not work ——

Dr. COCKBURN: It has been tried in Canada and will not work!

Mr. MUNRO: Not with a strong senate!

Sir SAMUEL GRIFFITH: What I maintain is this: the genius of the English people has shown itself for the last 200 years to be capable of moulding the constitution, so as to suit it to the exigencies of the times. Who can tell what the exigencies of the future will be? Are we to suppose that the people of Australia do not possess sufficient inventive or adaptive faculty to adjust their arrangements to the exigencies of the times? I contend only for this: that we should not make our constitutions so rigid as to insist upon any particular form of government, any particular form, rather, of relationship between the executive and parliament. This resolution as framed does insist upon a particular form, and not only upon a particular form, but upon a particular present development of that form. As has been pointed out already, anything that will not grow is bound to die; and if this constitution is adopted in this form it will be incapable of expansion or adaptation. The constitution will be stereotyped; it cannot expand, and very likely it will die. I therefore maintain that the words:

whose term of office shall depend upon their possessing the confidence of the house of representatives, expressed by the support of the majority—

ought to be omitted, because they would import a rigidity into the constitution which would render it impracticable. Further than that, I think there ought to be one assertion of principle, and that is, the opposite of that which prevails in the United States. The governing rule with respect to the relationship of the executive to the Parliament in the United States is, that the members cannot sit in parliament. I maintain that the converse is, not that they shall sit in parliament as is proposed here, but that they may sit in parliament. I suggest, therefore, that the resolution should read:

An executive, consisting of a governor-general, and such persons as may from time to time be appointed as his advisers, who may sit in parliament.

As I pointed out at length on another occasion, that is the only formula that has been used in the different constitutions to formally describe the relationship between the executive and parliament and the Crown, which is commonly called responsible government.

Mr. KINGSTON: It is not necessary to express that, is it?

Sir SAMUEL GRIFFITH: I think it is desirable to say that. It should not be open to discussion that we desire to exclude ministers from parliament. I do not think it is necessary to compel them to sit in parliament.

Mr. BAKER: I am willing to withdraw my amendment!

Sir SAMUEL GRIFFITH: We should affirm distinctly that we think the executive should be in close connection with parliament. That is what we intend to begin with, at any rate. If in time it be found expedient that they should not be there they could stop out; but we should retain the appointment of the ministers by the head of the state to whom they are nominally responsible, and who will see that they retain the confidence of parliament, without which he could not carry on the government.

Mr. WRIXON: I think that the views which I apprehend will prevail in this Convention will be met by striking out all the words after "and" and simply inserting "responsible ministers of the Crown." Then there would be an executive consisting of the governor-general and responsible ministers of the Crown. That would import so much of the English Constitution as provides for responsible government, and with it would be carried, of course, the right of responsible ministers to sit in parliament. Further than that I do not think we wish to go. I do not think that any of us desire now to make a paper constitution for the future dominion. I think that we will be of opinion that it will be better to let the dominion modify its constitution as it thinks proper, and as the exigencies of time and events may require, because in the dominion parliament the whole of the people will be represented, which is, of course, not the case in our Convention, and it will, therefore, be highly undesirable for us to impose upon the new dominion government and parliament any particular set form of constitution or variation from the English Constitution; but if we leave it simply that there should be an executive consisting of the governor-general and responsible ministers of the Crown, then any modification which time may show to be necessary or desirable will be brought about by the dominion parliament in due course. I think that would be wiser. If we attempt to frame any variation, and in express terms to set out any variation from the British Constitution, it will take a great deal of time for us to determine what that variation should be, and we have sufficiently difficult problems before us without importing that one. Whereas if we leave it to be settled by the dominion parliament, and by the effects of experience and time, we will no doubt enable a more satisfactory conclusion to be arrived at than we could now come to by any consultation. All I think we ought to do is, in fact, to form an executive consisting of a governor-general and responsible ministers of the Crown, which is a term well known in constitutional government, and then, I think, we would have here all that is necessary.

Mr. MUNRO: I am very glad indeed to find that my hon. friend, Sir Samuel Griffith, wishes to put the resolution in this form, because I certainly was under the impression that he was leaning towards the Swiss system. This is a departure from either the Swiss or the American system. In the American system, the executive cannot speak or sit in parliament at all. Under the Swiss system, they may at first be elected members, but after they are selected as the federal council, then their seats in either house of parliament become vacant, and others are appointed in their places. Under this arrangement we shall be found to follow out as far as practicable the idea of the hon. and learned member, Mr. Wrixon, with regard to responsible government, because if they "may" sit in parliament, the practical outcome will be that they "must" sit in parliament. There is no doubt of that at all. There is no question that that will be the result; consequently it will come to the same thing. Whether the question of responsible government is introduced into this resolution or not, the outcome of it all must be that, for the present, at any rate, we must fall back on responsible government. There is no question about that; and, personally, I am very glad that we have come to this point, because it is admitted now by the hon. member, Mr. Baker, and other hon. gentlemen, that if we are to have responsible government, we cannot have responsible government and the senate so powerful as to be able to stop all financial operations when they think proper. The two things are incompatible—they cannot work. How is it possible for you to have a ministry carrying on the business of the country, and responsibility of the government to parliament, if after they reconcile one chamber to their views, the other chamber steps in and stops the whole proceedings and business from being carried on? The thing cannot be done. As soon as we have settled this question, I think the other will settle itself. If we are prepared to carry the resolution, even in this modified form, the result must be responsible government, and, if we have responsible government, we cannot, as people exercising common-sense, allow two houses to be equally powerful, and while the government is in charge of one house, and, in fact, responsible to one house, the other house can stop all its proceedings. I am quite sure the outcome will be satisfactory to all concerned, and, for that reason, I do no not care whether the amendment be passed as the hon. and learned member, Sir Samuel Griffith, puts it, or as the hon. and learned member, Mr. Wrixon, wants to put it, for the result will practically be the same. I am glad we have arrived at this point.

Sir HENRY PARKES: I shall be glad to know if these words are to be omitted with the intention of inserting other words, and if so, what words?

Sir SAMUEL GRIFFITH: The words I suggest should be inserted are, "who may sit in parliament." I suggest that in order to affirm distinctly that we do not desire to adopt the American or the Swiss form of government—that is, to exclude executive ministers from relationship to parliament; but, on the other hand, we desire that parliamentary proceedings should be conducted by ministers, and not by committees. That is our intention. That is the formula used in the British constitutions, and no other form—that they shall be eligible to sit in parliament. But we do not compel her Majesty, or her representative, to select members of parliament.

Sir HENRY PARKES: In what constitution does the hon. member find that?

Sir SAMUEL GRIFFITH: I find it first and nearest in the New South Wales Constitution, which, I think, lies on the table, and in the Queensland and New Zealand constitutions, and also in that of Victoria.

Mr. MUNRO: Not Victoria!

Sir SAMUEL GRIFFITH: In the Victorian Constitution it says some "must."

Mr. MUNRO: Only four "must," although they all "may," sit in parliament!

Sir SAMUEL GRIFFITH: Yes, four must; but it does not say in which house. That is the universal formula used in all British constitutions, and all that is to be found in the English Constitution so far as it is written.

Mr. KINGSTON: I understand that it is intended to refer these resolutions to a committee, and that there is a general desire to send them in such a shape that the committee shall have the fullest power in recommending what they may consider to be desirable. Under these circumstances I shall be found supporting the amendment of the hon. member, Mr. Baker, who proposes to strike out the latter part of the section, which would have the effect of placing within the four corners of the proposed constitution a declaration of the principle of responsible government, which, so far as I am aware, is not contained in any act of any British colony hitherto. But while I shall be found supporting that amendment, for the purpose of giving the committee the greatest amount of latitude and power in dealing with the question, for the same reason I shall feel it my duty to oppose the amendment suggested by the hon. member, Sir Samuel Griffith. The hon. member proposes, I understand, at this early stage in the proceedings to define once and for all the proposition that the members of the executive may sit in parliament. If the amendment of the hon. member, Mr. Baker, is carried the committee will have power to recommend whatever they see fit on that subject—to propose that the members of the executive shall or shall not sit in parliament, and their hands will not be tied in any way whatsoever. But the other proposition amounts to this: that at this instant we are to lay it down that the members of the executive may sit in parliament. I do not see any necessity for laying down any such proposition at this early stage. I should very probably, if it were necessary to decide the question at this particular moment, be found recording my vote in favour of the proposition which is put in the resolution, and which requires that the members of the executive shall sit in parliament. Some of the more recent constitutions in these colonies contain a provision that certain specified members of the executive shall not hold their offices for longer than a certain period, unless they also have a seat in parliament. But the position which recommends itself most strongly to my mind is this: why should we deal with this question at this particular moment? Why should we settle the point as to whether they "may" or "must" have a seat in parliament? Is it wise to ask us to deal with this point at this particular stage, when the whole tenor of the debate is to refer the matter to a committee, and to leave them the fullest opportunity of dealing with the question, and making such recommendations as they think best, and which we shall be able subsequently to deal with? I think, for a similar reason, the suggested amendment of the hon. member, Mr. Wrixon, is open to objection. The hon. member, by the words he suggests, submits for the consideration of the Convention the desirability of binding the committee to a recommendation for the adoption of a responsible government. I believe in the natural order of things we must have that form. I believe, having listened carefully to the debate, that there is no other form which is more likely to commend itself to hon. members than the form with which we are so familiar, and which, in spite of the various objections that have been pointed out, has worked fairly well. But I do think when the three resolutions have been so fully debated, and we have practically decided on referring the resolutions to a committee with the fullest powers of dealing with them, we should adopt a similar plan with the 3rd resolution, and not attempt to tie their hands in any way, certainly not in the way suggested by the hon. members, Mr. Baker and Sir Samuel

Griffith, who endeavoured to raise questions which, it does appear to me, can be better decided after we have received the result of that careful consideration which, no doubt, will be devoted to them by the committee.

Colonel SMITH : I supported the view taken by the hon. and learned member, Sir Samuel Griffith, in the main debate on the resolutions, and I am very pleased to find that it has been so generally accepted. I contend that the advantage of the two houses electing the government would obviate the necessity, which has always existed in all the colonies, for the members of a new government to go before their constituents for re-election.

Mr. CLARK : Not in every colony !

Mr. PLAYFORD : Not in South Australia !

Mr. CLARK : Not in New Zealand !

Colonel SMITH : I am very glad to hear that very sensible plan is adopted in South Australia and New Zealand. That necessity, I say, will be entirely obviated if the government were appointed for three years in the way I suggested in the debate on the main question. It would be appointed by the very persons who would have control of the affairs of the dominion. And the advantages of the system would be very great. There would be no struggling for office ; for the government would be appointed for three years, and at the end of that period they could all be reappointed, or any of the members could be reappointed, and others chosen in the place of those who were not reappointed. It would work far more smoothly, I think. It would secure a far more dignified body if the dominion parliament were placed in that position. There would be no very hostile parties as far as the government was concerned, although there might be differences of opinion on public questions. Therefore, of the two amendments I prefer the amendment of the hon. member, Mr. Baker.

Mr. GILLIES: I do not know that much will be gained by discussing the principle which may be considered to underlie this resolution, if it is proposed, as I understand it is, to send it, along with another, to a select committee. Of course both views of the question will be thrashed out. I would join with those who have drawn attention to the fact that, while we all have what is considered responsible government, our constitutions—with the exception, I think, of Victoria, and that to such a small extent that it is scarcely worth minding—do not set out responsible government any more than the English Constitution sets out responsible government. It is worked out by a well-known system, which lies in the hands of Parliament. If the popular branch of the legislature is not satisfied with ministers, it expresses that in very clear and unmistakable language ; and if that is not sufficient for ministers—if they want a little more—what the house does is to address the governor, and inform his Excellency that ministers do not possess the confidence of Parliament. That is quite sufficient, of course, in the working of our constitutions. On every occasion when the popular house has so expressed its opinion, ministers have had either to go, or to obtain the assent of the governor to dissolve Parliament. That is the way our Constitution has worked, and whatever you insert here at the present moment, that, I have no doubt at all, is the way our constitution will be worked. Make the senate as you like ; make it as powerful as you like ; and if it is more powerful than the popular branch of the legislature, then if under any circumstances the senate does not approve of ministers, the ministers must go. But even if the popular branch be more powerful than the senate, if it possess the advantage of being in a position to stop supply, if it be not satisfied with the government, then the government must go, or the parliament must go. If the parliament should go you at once get the opinion of the people. The people return such members as they think proper, and if they are again opposed to ministers certainly ministers must go. They cannot possibly help it ; but at this stage we are not called upon to discuss that point. It is, I presume, to be discussed in a select committee, which it is supposed will make some recommendation to the Convention. That recommendation may possibly involve the idea of some hon. gentlemen that we should have a new practice altogether, abolishing what is known as the constitutional practice, and adopting the Swiss or some other practice. When the report is brought up I have no doubt hon. gentlemen will take advantage of what I conceive to be a fitting opportunity to make a comparison between these two lines of action. I have no doubt they will see the necessity, or the necessity may be forced upon them, of carrying out a system which, whatever disadvantages it may possess, has, at any rate, secured for the people of the various colonies on this continent in the long run this result ; that the will of the people must prevail.

Mr. THYNNE : Perhaps I may be permitted to say a word or two in reference to what has been already said. I think the amendment of the hon. member, Sir Samuel Griffith, will amount merely to the carrying out of the present system under our various constitutions, in which the general principle is laid down that members of parliament are not permitted to hold office of profit under the Crown. That is a cardinal principle in all our constitutions, and it is only in virtue of provisions contained in these acts that ministers are permitted to occupy the two positions—first, of an office of profit under the Crown, and then that of a member holding a seat in parliament. I think the suggestion of the hon. member, Sir Samuel Griffith, preserves the present condition of affairs as far as we can preserve it.

Mr. PLAYFORD : I understand that this subject is to be referred to a select committee, which is to be appointed to specially consider it. I do not, therefore, propose to discuss it now further than to say this : that the action I shall subsequently take will depend entirely upon the powers given to the senate. If you give co-ordinate powers to the senate, it appears to me doubtful whether we shall be able to work responsible government, and we should in that case have to devise some other form of executive. If you do not give the senate these powers, we had better retain the power on the part of the Crown to appoint its advisers from those persons having the support of a majority in parliament.

Sir JOHN DOWNER : When I suggested last night the omission of the words :

> and whose term of office shall depend upon their possessing the confidence of the house of representatives, expressed by the support of the majority—

I had in my mind the advisableness of retaining the words :

> such persons sitting in parliament.

And although I think that responsible government cannot possibly work with the federation we seek to establish, either because, in the first instance, it will be incompatible with anything like co-ordinate powers on the part of two branches of the legislature, or because if the powers are co-ordinate then responsible government will be inapplicable, I gave notice of another suggestion which I wish to bring before the Convention, so that the question of some alternative form of government may be discussed. So far as the American precedent is concerned, the failure there, it appears to me, has substantially been through ministers not being in parliament, and the one point upon which I believe the Convention is unanimous is that ministers ought to be in parliament. If the suggestion of the hon. member, Sir Samuel Griffith, leaving it optional with the Convention, subsequently, to say whether ministers shall or shall not be in parliament be adopted, it will not expressly affirm the American or the Swiss Constitution. On the contrary, the suggestion, so far as words go, leaves it open for the ministry to be com-

posed either in the way for which the American or the Swiss constitutions provide, or by the method usually adopted in countries governed by the English Constitution. If the hon. member means to convey a direct negation of the Swiss and American precedents, so far as this part of the matter is concerned, ministers not being in parliament, it would be better to leave the words "such persons sitting in parliament." Now, as to the rest, I feared in the discussion upon resolution No. 1 that it would be impossible to adequately consider resolution No. 3 until we had definitely settled No. 1, and if the view of the hon. member, Mr. Munro, be correct, that there must be responsible government, and nothing else, and if that responsible government cannot co-exist with anything like co-ordinate rights between the two branches of the legislature, then I fear as far as my vote and opinion go that any resolution founded upon the basis of the hon. member's opinion cannot meet with my concurrence, because it appears to me that it goes to the very essence of federation, that the senate should be a house of high dignity and of great authority, and to say at the very outset that it is not to be that, but that it is to be in the same position as is the legislative council of any one of the colonies to the legislative assembly of that colony —that it is to have the same relations towards the other branch of the legislature as the legislative councils of the various colonies bear towards the various houses of assembly—if that is to be the accepted theory, and if our practice be simply to carry out that theory, I am afraid we are still a long way off settling the question of a federation of Australia. I understand that it is proposed to strike out all the words at the end of the resolution, that the matter will then go to a select committee, and that we shall later on have an opportunity to consider the whole question. So far as that is concerned, although I do not agree with the views of the hon. member, Mr. Munro, and with other views that have been expressed, I entirely concur in the striking out of these words. I think an advantage will be gained by the reference of the whole subject to a committee which may possibly devise some practical means of meeting the difficulty.

Amendment agreed to; words omitted.

Sir SAMUEL GRIFFITH: I did not formally move the insertion of any words to take the place of those omitted. I was only anxious to do most expeditiously that which would meet the general wish of the Convention. If it be considered desirable that the whole matter should be referred to a committee, of course no words should be inserted.

HON. MEMBERS: Hear, hear!

Sir SAMUEL GRIFFITH: I do not, therefore, move a further amendment.

Mr. DIBBS: The discussion can take place later on!

Sir SAMUEL GRIFFITH: Of course if it were desired now to instruct the committee to make provision whereby the executive might sit in parliament, some words should be inserted; but it appears to me to be the general wish of the Convention to leave that matter to the committee, and I therefore move no further amendment.

Amendment agreed to.

Resolution, as amended, agreed to as follows:—

An executive, consisting of a governor-general, and such persons as may from time to time be appointed as his advisers.

Postponed resolution No. 2:

A judiciary, consisting of a federal supreme court, which shall constitute a high court of appeal for Australia, under the direct authority of the Sovereign, whose decisions as such shall be final.

Mr. WRIXON: I gave notice of an amendment leaving out the last few words, which says that the decision is to be final. I would ask the Convention to leave out those words, and leave it open to the committee that will deal with this question to determine the whole subject, and the very important subject, of whether the decision of the Supreme Court of Australia should be absolutely final, or whether we should allow an appeal to the Privy Council. I will not go over the arguments which I have already addressed to the Convention on this subject; but I would simply say that if the appeal to the Privy Council be taken away, we will be taking a very serious step towards breaking up the unity of the empire. We should be the only community under the British Crown that denied that appeal, and we should be unquestionably breaking one of the few remaining ties that keep the empire together. We should be also under the difficulty of introducing some difference between our laws and the laws of the rest of the empire, and we should have a difficulty in constituting a court of appeal in Australia which would be so strong that it would overshadow all the provincial tribunals. That is a very great difficulty. Then, with regard to questions arising between the dominion parliament and any of the states—state rights as against federal rights—which questions certainly will arise—it must be admitted that it would be unsatisfactory if we allowed such questions to be determined finally by the Australian court of appeal. They will naturally go to that court because the question of whether the dominion authority is exceeded in any matter, and the provincial rights encroached on, can be raised at any time by any individual whose private rights might be affected. It would be undesirable to make the final appeal in such a serious matter rest with the Australian court of appeal. I think we would all agree that there should be a final appeal in such matters to the Privy Council.

Mr. KINGSTON: On constitutional questions?

Mr. WRIXON: Certainly. If a question arises as to the true construction of a dominion act of parliament, and the rights existing under that between the dominion and the states, it would be undesirable to have that finally decided by an Australian court of appeal.

Mr. PLAYFORD: It would be no more undesirable than it is in the United States!

Mr. WRIXON: It is found in practice that when some questions arise in the Canadian Dominion the appeal to the Privy Council is eminently satisfactory, and is generally accepted as the decision of a body wholly above any local influences, wholly without any party bias, and which simply gives a judicial opinion on the questions of law raised. I certainly think we should place ourselves in an unfortunate position with regard to such questions if we took away the appeal to the Privy Council. I notice that the hon. member, Mr. Clark, in his amendment, also points to other matters in which the appeal to the Privy Council is to be admitted, namely, that in cases in which imperial interests or the construction of an act of the Imperial Parliament affecting the rights and properties of persons resident in all parts of the empire are involved, the appeal to the Privy Council should be allowed. I think that if so much is allowed, we might really allow the whole, because a question will often arise as to whether or not the supreme court has jurisdiction—whether or not its jurisdiction is ousted—by an imperial interest intervening, and if it has to determine that question itself, of course that would be unsatisfactory. But if there is to be an appeal against its determination of the question of jurisdiction, the appeal to the Privy Council would not be really taken away. If the court of appeal in Australia claimed jurisdiction, any person might appeal to the Privy Council to say whether or not it had jurisdiction. I will not ask the Convention to absolutely decide the question now, but will ask hon. members to strike out words so as to leave it open to the Committee to carefully consider the point, and to make whatever recommendation it thinks proper to the Convention. I beg to move:

That the following words be omitted:—"under the direct authority of the Sovereign, whose decisions as such shall be final."

Mr. CLARK: The hon. member, Mr. Wrixon, spoke as if it had been agreed to that this resolution, as well as the other two, should be submitted to a

select committee. I do not know that this Convention has agreed to that course. If that course is agreed upon I shall not trouble the Committee at the present stage with very many remarks; but I would point out that the resolution in its present state provides for a court of appeal and nothing else. I am very anxious that the committee shall clearly understand whether or not the federation is going to have a complete judicial system for itself, apart from the judicial system of the provinces. Personally I am in favour of a complete judicial system for the federation, perfectly distinct from the local courts. Holding that view, I drafted a substantial resolution, to be moved in lieu of the one under consideration. I understand that that course would not be in accordance with our standing orders. I would suggest this amendment:

That all the words after the word "of," in the 1st line, be omitted, with a view to insert the following words:—"one supreme court, and such inferior courts as the federal parliament shall from time to time establish; and the federal supreme court shall have jurisdiction to hear and determine appeals from all final judgments, decrees, and orders of the highest court of resort in each of the colonies; and the judgment of the federal supreme court shall in all cases in which imperial interests or the construction of an act of the Imperial Parliament affecting the rights or property of persons resident in all parts of the empire are not involved, be final and conclusive."

With regard to what the hon. member, Mr. Wrixon, has said as to leaving the present appeal to the Privy Council untouched, I think the language of my proposed amendment really covers all that is necessary, and all that the majority of this Convention will be disposed to leave to the Privy Council. I totally disagree with the hon. member in his desire to leave the appeal to the Privy Council exactly in its present form. I will not repeat the remarks I made on the original resolutions; but I think the hon. member will admit that I gave a few very ugly facts in connection with some appeals to the Privy Council, which warn us from committing ourselves in all future time to the decisions of that body upon purely local matters, such as the construction of the various land acts of the different colonies. I will not press that question further now, because I understand from the general expression of opinion since I began to speak that it is intended this resolution should go to the committee.

Mr. KINGSTON: I think that the course suggested, of leaving it to the committee to deal with this proposal to establish a high court of appeal, is one that will commend itself to the Convention generally. But I should like to express my want of sympathy with the views expressed by the hon. member, Mr. Wrixon. He has pointed out that this is an important question, and no doubt it is. I do not think that our assumption in our own favour of the right to constitute a court of this description is likely to realise his apprehensions as to its disturbing the unity of the empire. I think it would be in the highest degree lamentable if, in attempting to establish a high court of appeal in Australia, we failed to clothe that court with the necessary powers once and for all to decide all constitutional questions arising between the federal dominion and the states which constitute it. A court of appeal without that power would be shorn of its chief attribute, and of a function most largely utilised and most wisely availed of in the American states. I think also that whilst we have the right to make our laws, we should, as far as possible, provide for the creation of a judicature which will have the privilege of interpreting them; and it seems to me that the right to legislate without the fullest right to interpret, and to interpret in a manner which is not liable to be set aside by the tribunal of any other country, is essential to the system of federal government which we propose to create. I shall be glad to see the matter referred to a select committee, and I hope its recommendation will be satisfactory to the Convention, and that it will be found possible to erect this high court of appeal, and give it the fullest power of dealing finally with all Australian matters without impairing the integrity of the empire.

Sir JOHN DOWNER: I agree that it would be well to send this resolution to a committee; and I think, as I said before, that the proposed court of appeal should be made as final as we can possibly make it—as final as we can induce the Imperial Government to allow it to be made. In a notice I gave referring to this subject, I included some questions rather as matters which I thought ought to be considered than as representing my own positive opinions. I there suggested that there might still be an appeal to the Privy Council on questions between states, or between states and the federal government and parliament, or on imperial statutes extending to the colonies and dependencies of the empire. I did this because it occurred to me that if the federal judicature were the only tribunal to decide finally what authority the federal government had, then the federal parliament might go beyond what was contemplated—beyond the provisions of the statute creating it, and by the power of judge-made law and judicial construction extend the original intention and the ambit of jurisdiction, as undoubtedly Chief Justice Marshall did in America, as it happened in that case, to the infinite benefit of the republic. I was doubtful whether, whilst the Imperial Government might consent to the decisions of the federal court being absolutely final so far as internal matters were concerned, they might not on the important question of whether the federal government were acting within its jurisdiction or abrogating a jurisdiction which the statute never intended to give it, insist on this matter going before them, because the statute creating the federal parliament will have to be an imperial statute. It is from that point of view that I make the suggestion embodied in my notice of amendment. I think the matter might well be discussed by a select committee, and I have no doubt the result will be to make the colonial decisions as final as they possibly can be.

Amendment (by Mr. WRIXON) agreed to.

Resolution, as amended, agreed to as follows:—

A judiciary, consisting of a federal supreme court, which shall constitute a high court of appeal for Australia.

Mr. BARTON: I beg to move the following resolution, to stand as resolution 2:—

No new state shall be formed by separation from another state, nor shall any state be formed by the junction of two or more states or parts of states, without the consent of the legislatures of the states concerned, as well as of the federal parliament.

This resolution is one which I suggested at an earlier period of our proceedings, and it then seemed to meet with general approval. It defines the principle that there must be a concurrence of the legislatures of the states concerned, and of the federal parliament, in the formation of any new state by separation from another state, or by the junction of two or more states or parts of states. The object of the resolution is to remove a technical difficulty, and I thought it better to defer it until the present time, when it will come on in a more orderly way, than to submit it at an earlier stage. I gave notice of the resolution, because it appeared to be the opinion of the Convention, which I thought was a right one, that upon this subject there should be some thing definite before the committee which is to be appointed. It is not a matter of mere detail; but it is a matter of principle. If the question here involved is touched in the 1st resolution, the proposal will come in for the purpose of definition. Many may think that the question involved here is not so touched in the resolution, and in that case this resolution will be necessary, by way of express provision. It may be that the means by which the consent of the legislatures of the states concerned shall be obtained, or the action which shall be taken as demonstrating their consent, may be a matter of some further explanation, and it may or may not be found necessary on that accoun

to append something by way of amendment to this resolution. But I think hon. members will agree that a provision of this nature should at any rate find a place in these resolutions by way of informing not only the committee, but the public under whose eyes we are acting, what we regard as some of the main principles to be observed in this matter.

Mr. THYNNE: I desire to express my regret that the hon. member, Mr. Macrossan, is unable to take part in the debate this morning, and to say that I know that it was his intention to move some amendment upon this resolution, of the particulars of which I am not fully possessed, but which tended in this direction: that the federal parliament should be vested with all the powers of the Imperial Parliament in connection with the separation of territory from the existing colonies. I merely mention the subject so that hon. gentlemen may be aware what the hon. member, Mr. Macrossan, wished to move, and to preserve for him whatever opportunity he may wish to discuss the matter more fully.

Mr. GILLIES: The question here raised has various phases; but I do not know that we are called upon to discuss it just now, because I look upon the proposal as one which will take the form of a clause in the proposed constitution, and it will of course come up to us again in that way. But I do not know any particular reason why it should be placed on record at the present time, because if it is altered afterwards, this is no declaration to the people as to what form the provisions on the subject will ultimately take.

Mr. KINGSTON: It will prevent misunderstanding!

Mr. GILLIES: I do not know that it will. It might do so if it were a proposal that could not be altered, but if it is completely changed or struck out altogether it may be misleading. There are two or three other important questions, and some of them, I think, quite as important as this, which will have to be dealt with by the committee. One of them may be the position of the governors of the various states, and that will have to be settled in one of the clauses of the new constitution. Hon. members know that there are dozens of important questions covering a variety of ground which will require to be dealt with in the constitution, and if we propose to deal with them now we might as well set about framing a constitution straight off. I am not going to object to the insertion of the resolution, but I hope that many of these resolutions, involving, as they do, questions of principle of great magnitude will be materially altered after they leave our hands.

Mr. BARTON: That is quite immaterial; we can alter them afterwards!

Mr. DIBBS: If this resolution is to be passed only for the purpose of giving the proposed committee an opportunity of considering it, I shall not object to it; but it is desirable that such an important question as the cutting off from one state of sufficient territory to form a new one should only be dealt with by a marked majority in each house, and I propose, unless we have the assurance of the hon. member, Mr. Barton, that he has moved the motion only for the purpose of leaving it to the consideration of the committee ——

Mr. BARTON: Yes, that is so. All I wish to assert by the resolution is that this consent must be obtained. What is to be taken as involving or demonstrating that consent is, I think, more properly a matter for the committee to consider, and therefore I did not interfere with it.

Resolution agreed to.

Sir GEORGE GREY: I beg to propose that the following resolution stand as resolution No. 5:—

The inhabitants of each of the states of federated Australasia ought to be allowed to choose, and if they see fit from time to time to vary, the form of state government under which they desire to live. Provision should therefore be made in the federal constitution which will enable the people of each state to adopt by the vote of the majority of voters, their own form of state constitution.

Question proposed.

Sir HENRY PARKES: I wish to raise a point of order upon this resolution, and I do it with the utmost respect to the distinguished gentleman who has moved it. My point of order is that the resolution goes beyond our instructions. We have been sent here for one object and one object only, and that is, to prepare a scheme for the framing of a federal constitution. Anything outside of these prescribed words cannot be dealt with under the commission in virtue of which we have come here.

Sir GEORGE GREY: I submit to the Convention that our duty is simply to recommend a form of federal constitution; and I say that it cannot be contended for one moment that a body of men should have been summoned from every part of Australasia, and that they should be told that upon the most important subject in the federal constitution they are not even to be allowed to recommend to the consideration of the people of New Zealand what form of constitution they think should be given to the states composing the federation. Now, it will be found that what we are directed to do is to consider a form of federal constitution, and, again, we are told in another place that we are to consider the question of a federal parliament. We are told that we are to consider the question of a form of federal constitution, and we are told also that we are to consider particularly the form of one part of that constitution. I think no one can possibly doubt that that decides the point that we have a right to consider the whole form of federated constitution. I would then refer to federated constitution acts. Anybody who refers, for instance, to the New Zealand Constitution Act, as it is termed, will find that there a federal form of government is given; and they were both included in the same Constitution Act. It appears to me, therefore, impossible to argue, and I cannot conceive the ground upon which the argument can be maintained, that we, who are summoned here to form a federal constitution, should not consider the ground upon which the constitution is built up, that is, upon the state constitutions. I ask hon. gentlemen is it right that we should ask the states to join in a constitution of the kind without our having first given them the power of determining what the form of constitution is to be, under these altered circumstances? Their whole position is to change; they are to give up what may be called individual sovereignty or individual power to enter into a federated union; and we are not to be allowed to consider or to recommend to them what conditions they should accede before they yield up the great privileges which they now possess! I cannot myself see upon what possible ground the contention may be made, that I have no right to ask this Convention, representing the people of all Australasia, to consider what should be done in reference to the states that we ask to come under a federated parliament. I say that the words "federal constitution" govern the whole question; and if we are not to be allowed, as the representatives of the whole of Australasia, even to consider this point, not to be allowed to make a recommendation regarding it, then we have been badly treated in having been brought here, in having been subjected to this loss of time, this great delay in our several avocations. It is treating us like children rather than like statesmen to try to take this privilege of considering what the state constitutions should be away from us. I therefore feel it my duty to contend to the very utmost as to what our rights upon this subject are; and I feel confident in my own mind that the unanimous opinion of this Convention will be in favour of the right I claim of bringing this point under their consideration. Let me point out to hon. gentlemen that the whole of the privileges of the inhabitants of Australasia depend upon this Convention; the whole of the privileges which they will have under the new constitution are involved in it. I say there will be no right at all conceded to the people of this continent if this right is taken from under their control. I feel,

therefore, whatever may be said in any document or paper, that we, having been called here to say what the form of federal constitution should be, have a right to insist upon considering this most important point of all. I shall use no further argument; it appears to me that the matter is self-evident. I think that this attempt to stop a consideration of the kind is one that will strike with astonishment every part of the civilised world which is regarding what is being done by this Convention. I feel sure that one common wonder will seize the minds of all men that an attempt to stop discussion upon this most important matter should be made. I cannot realise that I have to stand here to argue so plain a point, to ask for so clear a right for every man, woman, and child of all Australasia. I feel that I cannot realise that I am stopped in asking for this right on their behalf, which I now do.

Dr. COCKBURN: I think we have nothing whatever to do with deciding the details of the state constitutions. On the other hand, I think it appertains to the functions of this Convention to decide that the power of framing a constitution shall be in the hands of the several states. At present the legislatures of the various colonies can only be altered with the consent of the Imperial Government. Is it intended that that shall remain? When we have a federated Australasia, in which we have state legislatures and a federal legislature, is it intended that the state legislatures shall have the power of altering their constitutions at will or not? From that point of view I think the proposition put forward by the hon. member, Sir George Grey, is decidedly within the powers of the Convention, the power to lay down a general rule, without touching the details of any individual constitution, that the various states should have the power of framing their own constitutions according to the will of the majority of the people of those states.

Colonel SMITH: A bare majority?

Dr. COCKBURN: That is a point of detail to be decided; but I take it that the whole question is such a fundamental proposition ——

Sir HENRY PARKES: It is a fundamental proposition no doubt, but it is not within our business!

Dr. COCKBURN: But, sir, the state legislatures are to be one of the party.

Sir HENRY PARKES: No one doubts that!

Dr. COCKBURN: Other constitutions—the Constitution of Canada, for example, which the hon. member, Sir Henry Parkes, frequently cites as a precedent—distinctly laid down the lines. It not only dealt with the question in general, but it laid down exactly the form of government which every state was to have. That, I think, is very undesirable; but I do think that if we do not lay it down distinctly we ought to have it understood most distinctly that the states are to have power to frame their own constitutions. Unless this is distinctly understood the states will not have any such power. In the American Constitution it is not mentioned, for the states were sovereign, and had power before they went into the federation to frame their constitutions as they wished, and that power remained to them; but here they have no such power, and I maintain that it is absolutely necessary for the individual states, when they come into the federation, to have the power of varying in whatever way they think fit the forms of legislation under which they are governed. If this is understood, well and good; but if it is not to be understood without a resolution, I shall support the contention of the hon. member, Sir George Grey. Many of us are not in favour of bicameral legislation at all. I think that the state legislatures might well consist, as in Ontario, of single houses, with the power of referendum to the people.

The CHAIRMAN: The hon. member is out of order. He must discuss the point whether this resolution is or is not within the scope of the Convention.

Dr. COCKBURN: I humbly submit that it is within the scope of the Convention to decide what power of from time to time varying the constitution of the state legislatures should lie with the states. At present we cannot change our constitutions without reference to the Imperial Government.

Mr. CLARK: Leave things as they are!

Dr. COCKBURN: What are we to understand—that the present condition of things is to obtain?

Sir HENRY PARKES: Is this on the point of order?

Dr. COCKBURN: Most decidedly. I maintain that the hon. member, Sir George Grey, is in order in raising this question—that the local legislatures are part and parcel of the compact—a point that from time to time seems to be ignored. The state legislatures are just as much part and parcel of the bargain of federation as is the central legislature. It is not a one-sided affair, but essentially a bargain between the two—the local legislatures, as they exist now and are to exist, and the central legislature, and the powers of the local legislatures, as exercised from time to time, and the powers of the central legislature. I humbly submit that it is perfectly in order for the Convention to deal with the question, which is second to none in importance, as to what the powers of the state legislatures, which are to form a great and most important part of this federation, are to be. As I understand that the mover of the resolution considers that the point of order ought to be settled first, I refrain from saying anything further now. I thought it would have gone without saying that the resolution is in order.

Mr. GILLIES: Personally, I do not suppose that any one would have any objection to an abstract discussion on so important a point as that raised by the hon. member, Sir George Grey. But while I would have no objection to discuss on any other occasion a question of this importance, the question raised is: constituted as we are here, delegated to do certain duties, is a portion of those duties the setting out of what the various states ought to do, or how far they shall be competent to alter their forms of government?

Mr. CLARK: "May do"!

Mr. GILLIES: I said, "May do."

Mr. CLARK: The hon. member said, "Ought to do"!

Mr. GILLIES: Well, "Ought to do."

Mr. CLARK: That is a very different thing!

Mr. GILLIES: It is not necessarily a different thing. I thought at first the hon. member, Dr. Cockburn, was indulging in somewhat of a joke. Has any one colony authorised this Convention to deal with its constitution? Not one.

Dr. COCKBURN: In the future!

Mr. GILLIES: The hon. member need not interrupt. He has had his say, and will have a further opportunity to say what he thinks proper. As far as we know, not a single colony has authorised this Convention to deal with the question of its constitution.

Sir HENRY PARKES: Hear, hear!

Mr. GILLIES: Or recommended that in any way we should interfere with its constitution.

Sir HENRY PARKES: Hear, hear!

Mr. GILLIES: And I venture to say if you appeal to any of the colonies they would consider it gross impertinence for this body to deal with a question affecting their rights and interests, which has not been remitted to us to deal with at all. I venture to say that I can speak confidently with reference to the colony of Victoria. The colony of Victoria has not asked this Convention to deal with its Constitution, or to make any recommendation at all with reference to it. The colony of Victoria can very well deal with its own Constitution.

Sir HENRY PARKES: Hear, hear!

Mr. GILLIES: And it can amend that Constitution in any way it thinks proper. It has amended it from time to time, and, although at one time there was a provision that amendments could only be made by a clear majority of both branches of the legislature, this

having been once amended amendments now come under the ordinary law of legislation, which merely requires a simple majority. I believe that the only thing now left in the Constitution of Victoria the amendment of which requires a clear majority, and to be reserved for her Majesty's assent, is portion of schedule D, which has not up to the present time been amended.

Mr. MUNRO: And the 60th clause itself!

Mr. GILLIES: All they have to do is to repeal that portion of the Constitution Act which requires an alteration of that section to be reserved for her Majesty's assent. Once repeal that section, and you do away with everything. We have dealt with our Constitution from time to time, making most important amendments without the advice of gentlemen from the other colonies—without the advice of gentlemen in this Convention not belonging to Victoria. We take for granted that we are able to alter our Constitution in the way we think proper, and we decline to be dictated to by a body not authorised to deal with that question. Whatever abstract resolutions they think of passing, it appears perfectly clear to me ——

Mr. KINGSTON: This is not a point of order!

Mr. GILLIES: Yes; it is a most important point of order, namely, that this subject cannot be dealt with by this Convention. It was not a question submitted to the Convention, and we have no power to deal with it.

Sir GEORGE GREY: I submit that the hon. member is not speaking to the point of order. There has been no proposal made to interfere with the constitutions.

Mr. GILLIES: I am afraid the hon. gentleman has forgotten his own resolution, which says:

> Provision should therefore be made in the federal constitution which will enable the people of each state to adopt by the vote of the majority of voters their own form of state constitution.

The hon. gentleman asks that in the federal constitution, which we are authorised by our respective colonies to frame, provision should be made by which an important alteration shall be made in the local constitutions. I say the local legislatures have never asked the Convention to do that, and it is out of the scope of the Convention to do that unless authorised to do it.

Dr. COCKBURN: One word in explanation. I, and I am sure any hon. member, would not be guilty of the impertinence of suggesting to a neighbouring colony what the form of their constitution should be, nor did I understand the hon. member, Sir George Grey, to do so.

Mr. GILLIES: It is in the resolution!

Dr. COCKBURN: The question is not what the details of the constitutions are now; but what power of change there shall be in the future, for the power now given to change constitutions cannot obtain in the future. We cannot now make important alterations in the Constitution without the consent of the legislature and the Crown. But nobody supposes that when we are federated we shall have to go behind the federation to the Crown for a change of constitution. It is quite competent for us to consider, not what the present details of any constitution are, but what the powers of change from time to time should be. It is necessary to fix this, because we know that the present powers of change cannot obtain in the future, and surely we must have some guide in the future. We should agree to the great principle that in future, after the federal constitution is framed, the powers of changing their constitutions as they please shall reside wholly and entirely in the various state legislatures. That is a most important principle and is, I maintain, entirely in order.

Mr. MUNRO: The contention of the hon. member, Dr. Cockburn, clearly indicates that this Convention should make a change in the constitutions of the colonies.

Dr. COCKBURN: Clearly not!

Mr. MUNRO: It clearly indicates that. Take the Constitution of Victoria. Section 60 provides the mode in which we can alter the Constitution; and, so far as the provisions of the Constitution have not been altered, the mode is by a majority of the members of both houses. But the proposition now is that the majority of the people can alter the constitution of a colony. That, I submit, is a departure entirely from the provisions of our Constitution. We are not here authorised to do anything to enable this Convention to alter the provisions of our Constitution. I think we are entirely precluded from doing anything of the sort. The proposal of the hon. member, Sir George Grey, clearly is that section 60 of the Constitution of Victoria shall be so altered, and that instead of a majority of members of both houses, a majority of the people may alter our Constitution. That, I contend, is not within the province of the Convention.

Mr. THYNNE: I think the discussion has raised two questions. A good deal of the speech of the hon. member, Mr. Gillies, went into the merits of the proposition of the hon. member, Sir George Grey, which, there can be no doubt, is within the scope of this Convention. I think we might just as well, in a legislative assembly, pass an act saying that the mode, or the selection of the electors who are to appoint the members, is a question which is outside their consideration. In this confederation it is proposed to have a senate representing the states, whether state legislatures or otherwise. But at present I take it that the senate will be elected by the states legislatures. Is not everything affecting the states legislatures a matter for the Convention to take into consideration? That one ground is, I submit, sufficient to entitle an hon. member to introduce a resolution dealing with the question of the constitution of the states, because in that respect they affect the constitution of the federation as regards the election of the members of the senate.

Mr. KINGSTON: It will be a great pity if any decision is given which may tend to unnecessarily stifle discussion, and I do trust, sir, that any ruling which you may feel it your duty to give will be in favour of the fullest right of free discussion on matters on which there may be any doubt. But it appears to me that there is no room for doubt—that we are entitled to discuss and deal with this resolution. We are here for the purpose of framing an adequate scheme for a federal constitution, and there is no doubt whatever that for that purpose we shall have to deal with the local constitutions and to alter them. At present the local legislatures have power to deal with a variety of subjects which they will be asked to surrender to the federal government. Is not that an alteration of the local constitutions?

Mr. CLARK: Of course it is!

Mr. KINGSTON: Then, if we are entitled to deal with the local constitutions, so far as relates to the surrender of powers, surely we are similarly entitled to deal with the local constitutions as regards the component parts of the various legislatures. I think it would be perfectly within our province if we saw fit to provide that local legislatures which are constituted in a certain way, or in which the upper branch is of a nominated character, shall not be admitted to the federation.

Dr. COCKBURN: Of course it would!

Mr. KINGSTON: If it is within our power to adopt a course of that sort, is it not within our power to provide that the people of the various provinces shall have certain powers either with reference to the making or altering of their constitutions? I do not see how it is possible to deal with the question of a federal constitution, without at the same time dealing with and altering the various local constitutions. It seems to me that the resolution proposes to lay down the principle—and a most important principle as affecting the local constitutions—that the people of a colony shall have the opportunity by their own votes of deciding the form of constitution under which they will live. I agree to a very great extent with the remarks which have fallen from the hon. member, Dr. Cockburn;

but I go further than he does. He puts it that we have no right to deal with the details of the various local constitutions. I say we have the right; and we must exercise it in various ways, notably as regards the constitutional powers which are to be reserved to the local legislature and the powers which have to be surrendered to the federal parliament. We shall have to exercise that power for the purpose of defining the relationships which shall exist between the lieutenant-governor of a particular province and the federal government. We have a right, undoubtedly, to deal with the question so far as it is essential to the establishment of an adequate scheme for a federal constitution in the very minutest detail. I simply put that position because it appears to me to be the correct one. This is not a matter of detail. It is a matter of the most important principle. It is a question of confiding to the people of a province the power of framing their constitution, and I do think, under all the circumstances, that we have the right to discuss the resolution, and, in view of its great importance, it will be a great pity if we refrain from exercising that right. I do trust that we shall shortly have an opportunity of listening to the hon. member, Sir George Grey, who, no doubt, will introduce to our notice a subject of the most vital importance.

Sir HENRY PARKES: I submit that the argument of the hon. member who has just sat down cannot for a single moment be sustained. The hon. member argues that because certain surrenders must be made by the state constitutions in the work which we are intrusted to do, therefore we can travel over the whole ground and remodel those constitutions. I contend that we are bound to act within the strict definition of our commissions and instructions. The resolutions as passed by the several legislatures define the constitution which—and their opinion confirmed the opinion of the conference held in Melbourne—ought to be brought into existence in this country; they definitely appoint persons to frame an adequate constitution for federal purposes, and they do nothing else. Now, for us to travel outside what is necessary in framing a federal constitution would open the doors to the consideration of an entire reconstruction of the government in the several states. Certainly that is no part of our business, and if we proceed in so loose a way in transacting our business as that, why then there is no telling what province we may enter upon, because the whole theory of government for any part of Australia would come under the range of our operations. Now our commission is very definitely laid down. The resolutions passed by the parliament of this country, which are identical with those passed by the other parliaments, are to this effect as to the constitution which, in the opinion of the conference formed by the several parliaments, should be brought into existence:

That in the opinion of this conference ——

And I here interpolate the words "confirmed by the Parliament"—

the best interests and the present and future prosperity of the Australian colonies will be promoted by an early union under the Crown . . . under one legislative and executive government, on principles just to the several colonies.

Here is a complete definition, and we cannot travel outside it. Then follow the words that the persons sent to this Convention are

empowered to consider and report upon an adequate scheme for a federal constitution.

That is, a federal constitution in conformity with this definition. No doubt, in preparing and reporting upon an adequate scheme for a federal constitution, certain powers to be withdrawn from the state legislatures might be suggested. But that in no way implies that we should go, or in the slightest degree justifies us in going, beyond what is necessary for that one federal purpose. It is on those grounds that I submit we cannot entertain the resolution now before the Committee. It is idle to say that any one desires to stop discussion. All that we desire to do is to confine it within the legitimate channel of the business we have to transact.

Mr. MACDONALD-PATERSON: I must say—and I say so respectfully—that I entirely disagree with some of the observations of the last speaker. I hold most strongly the view that it is quite within the scope of the resolution, from which the hon. gentleman has just quoted, empowering us to take steps to frame a constitution just to all the colonies, that we should consider this point. The hon. gentleman has spoken of a surrender of certain powers of local government; but I would remind him that if our labours are to have a successful conclusion the imperial authorities will also have to make a certain surrender. If I understand the hon. member, Sir George Grey, correctly, he intends his resolution—which I respectfully say is a little verbose, and which might with advantage be made to read in the form I will presently suggest to the Committee—to mean that the imperial authority shall surrender to the federal authority its right to reject any amendment by any colony of its constitution, and that the federal parliament shall absorb that authority. As has been asked by the hon. member, Dr. Cockburn, are we to go behind the federal parliament and ask the assent of the Imperial Parliament? That is not intended.

Dr. COCKBURN: We shall have to provide for something else!

Mr. MACDONALD-PATERSON: That is what I am arguing. And surely if we ask that the right of appeal to the Privy Council shall be abolished, and that we shall have recourse to our own Supreme Court in all matters relating to Australia—surely if we go so far as that in one direction—it is not too much to ask that the governments of Australia, in making amendments in their constitutions, shall not have recourse to the imperial authorities, but to their own local court, the federal parliament, if indeed any further assent than that of its own legislature be considered necessary to establish any modification of its constitution. I think the resolution of the hon. member, Sir George Grey, might be so amended as to read in this form:

That provision be made enabling each state to amend or vary its own state constitution.

That, I think, would meet with the approval of all the delegates here. I do not wish to prolong this discussion, but I desire to express my approval of the hon. member's views, and to assert my belief that it is quite within the scope of our duties here to make some such simple affirmation as that which I have just suggested.

Mr. ADYE DOUGLAS: It appears to me that the resolution of Sir George Grey is clearly within the jurisdiction of this Committee, providing he strikes out the words "by the vote of the majority of voters," and simply provides that each colony should be free to adopt its "own form of state constitution." The resolution simply says that any of the local constitutions may be altered subject to the sanction of the federal parliament, taking away from the Crown in England the reserved power it possesses at this moment, and vesting it in the federal parliament. Our whole proceedings are, I take it, upon this principle—that we are striving to establish a constitution that will relieve us as far as possible from any local jurisdiction in England; and if that is the principle upon which we are acting, I think that before objecting to the resolution of the hon. member, Sir George Grey, upon a point of order, we should first hear what he has to bring before us. When the hon. member has given us his reasons for the resolution, a point of order may, if necessary, be taken. It seems to me, however, that the resolution, as it appears upon the paper, is clearly within the scope of the duties before us, and that it would be an act of grace to allow the hon. member to proceed.

Dr. COCKBURN: Not an act of grace—it is the hon. member's right!

Sir SAMUEL GRIFFITH: I desire to say a few words. I understand Sir George Grey to suggest this: that we are directed to frame an adequate scheme of federal government, and that no scheme will be adequate that does not deal with the question of the constitution of each colony. That, shortly, is the hon. gentleman's argument. Let me give one illustration. Not so very many years ago the colony of Jamaica had constitutional government by two houses; it surrendered its constitution and took the form of government by one nominated legislative chamber, becoming, in fact, a Crown colony. Surely if some of these Australian colonies now proposing to federate, were to become Crown colonies, it might be a serious question as to whether they should be allowed to continue in the federation, and the effect might be to break up the whole constitution. We cannot, therefore, give the go-by to the matter. Certainly an adequate scheme of federal government must insist that the constituent parts of it shall not entirely change their nature. I do not think, therefore, that the question is foreign to the subject of our discussion—an adequate scheme of federal government.

Sir JOHN BRAY: I would ask the hon. member, Sir Henry Parkes, to withdraw his point of order. There is no doubt a good deal of division on the question as to whether or not it is strictly within the scope of our instructions; but the members of the Convention would like to have the fullest possible discussion, and I think, therefore, we might give the hon. member, Sir George Grey, an opportunity to show that it is within the scope of our powers, and also to hear what may be said against it. As there is such a division of opinion on the point, I would ask the hon. member, Sir Henry Parkes, not to press his objection.

Sir HENRY PARKES: My object in rising to this point of order was to prevent the Convention—and I think I am acting in the interests of the Convention in so doing—from wandering into subjects with which they have really nothing to do. That was my object and my point of view. But gentlemen will recollect that I raised my point without saying more than ten words in support of it. And I was quite prepared that it should at once be decided by the Chairman. If, however, it be the desire of the Convention, I am quite willing to withdraw my point of order. I raised it in support of the orderly conduct of the business of the Convention, and from a desire to confine it to the object for which, I am quite sure, it was brought into existence, and with no other purpose whatever. It is rather unjust to me for even Sir George Grey to venture to say that I desire to stop discussion. I simply desire to confine discussion within its legitimate limits—nothing more.

Sir GEORGE GREY: Sir, since I proposed the resolution which you have put to the Committee, an attempt has been made to prevent me from doing so upon a point of order. That objection, however, has now been withdrawn. But I owe it to myself and to the Committee to say this: that it was clearly withdrawn because it would not have been sustained by the Committee, and it was certainly the opinion of this Convention, as far as I could understand their expressions on the subject, that you had an undoubted right to put the resolution. Therefore, in proposing it now in a different form from what I did before, I wish to guard myself against having done this from any desire to make the resolution more in order than it was before, when it was perfectly in order; but simply to narrow the point of discussion, because I understand that if it is carried by the Committee, it will be sent to a select committee, and there be fully and properly considered. I therefore propose to put the resolution now in this form:

That provision should be made in the federal constitution which will enable each state to make, vary, or annul its constitution.

The CHAIRMAN: In order to allow the proposed alteration to be put to the Committee, it will be necessary for the Convention to give leave to withdraw the motion now before it.

Motion, by leave, withdrawn.

Sir GEORGE GREY: In moving the motion which I have just read, I wish now to remark that I believe the decision to which the House has come on this subject is one of the most important decisions that perhaps any chamber has ever come to—that is as affecting the whole future of the continent of Australasia. I now feel quite satisfied in my own mind that this Convention will arrive at a definite recommendation, which will be made to the various states which it desires to see enter into the federation which it is now attempting to form. I feel further satisfied that if such a federation be entered into it will, under the system which we shall be able to establish, last for all time. That is, perhaps, from period to period the different states may vary their constitutions, perhaps almost destroy one constitution and put another in its place; but upon the whole such satisfaction and contentment will prevail throughout the entire federation that it will be lasting, and of the utmost durability. Now, the object which I had in view in preparing the resolution which I submitted to the House, and of which this is really a repetition in a shorter form, was this: that in every other federal constitution which I have seen or known, the first thing done was to form the states, and to assign to them their powers. In the case of the United States, that was unnecessary, for they already had full powers and almost the same form of government; and they have retained very nearly that form of government ever since, with slight variations from time to time, perhaps ultimately in the course of years amounting to considerable changes. I believe that exactly the same thing will take place in Australasia. And unless this were done, which I now propose, I do not believe that for many years there would be a firm federation established on this continent. And for this reason, that undoubtedly in some of the constitutions of the states, antiquated forms have been introduced without the consent of the inhabitants having been obtained; which antiquated forms were, in many cases, opposed, as, I believe, to the wishes of the majority of the inhabitants of the states, and which it would have been impossible almost to have altered without great difficulty, owing to the form in which their legislatures were constituted. That is, by either having a nominated upper house, or by the upper house being fettered by conditions now unknown absolutely in other countries—such, for instance, as a money qualification in the members. In England that has been absolutely abolished. In my youth no man could take his seat in the House of Commons unless he had £600 a year if he was a member for a county, or £400 a year if he was a member for a borough; and that qualification in the case of counties was required to be in land. Now, the result of that was that a large number of persons who had no such qualification really got into the houses of parliament. But they got in in this way: that, being the sons or relations of very wealthy men, their relations conveyed to them the day before the election an estate in land of the required value. That estate was held until the election was over, and then it was reconveyed to the person who had made the conveyance in the first instance. The result of that was necessarily that many avenues of usefulness in political life were closed against everybody but those who were either wealthy themselves or who had wealthy relations who were inclined to help them. I was surprised, indeed, when I found that with that experience staring them in the face, they had in some colonies of Australia—certainly in one—gone back to the old system and established a property qualification. I have no doubt that under the terms of this resolution, the recommendation of this Convention will go in this direction, that is, that they will

require no qualification at all in the member, except to be a voter; that they will approach, in point of fact, very nearly to what is the present rule in Great Britain, which is, or was, regarded as a most aristocratic country. If that is done throughout Australasia, the result will be, if the people at the same time have the power of electing their lieutenant-governors, that every great post but one in the whole of Australasia will be open to every man of ability, or of such ability or of such force of character, or occupying such relations of public life, as will secure him the votes of a large constituency; and an immense amount of talent that under other circumstances would be shut out from serving the state will have a fair opportunity open to it, and there can be no doubt that numbers of able men will, under such a system, be found who otherwise would have remained undiscovered, useless to their country, and probably many great measures will hereafter be carried which could not have been carried under any other system than that which I am convinced will be recommended for adoption. I cannot help thinking that the advantage of getting this amount of ability and energy into play is almost wholly overlooked, and but very little conception is as yet formed of the spur that will be given to enterprise and energy, and all that can make men happier and better off by opening all these places of great importance to every single citizen of each state in the confederation. This was lately very forcibly impressed upon my mind. I will just give an example of what I mean, and what I think, perhaps, the future legislature will agree to. When I went to South Africa I found that in some of the towns there were considerable portions of valuable town land which had not been made away with, and anxious some forty years ago to establish something like the system of getting at the unearned increment which we wish to establish here, or at least which a great number of people desire, by vesting those lands which had not been sold in the corporation, subject to trusts for improvements, for the benefit of the inhabitants of the city, and subject also to the condition that they should only be let for forty years. The result is at the present time that I saw that when Sir Henry Loch visited Port Elizabeth, one of the towns in which this was done, the people boasted that formerly, when I had visited them years before, I found there one of their citizens—a man of great influence and of great energy—and that I got him to act as the person to bring the events about that I desired, and that the results were almost incredible. They showed Sir Henry Loch the magnificent building in which they entertained him, and they told him that next day they would surprise and astonish him by the multitude of establishments for the benefit of the citizens which had been created throughout their entire district. I will only just put it to hon. gentlemen what the effect of such a thing must be. Imagine for one moment that the whole rental of Sydney at the present time was the property of the corporation for the use of all the citizens! Is it possible to estimate the benefit that would result under such circumstances to the inhabitants of this place? I firmly believe that if once into the hands of the great majority of the people passes the power of electing their own members freely, without being fettered by any of the obligations of the old times, there are yet great cities to arise in many parts of Australasia, every one of which will rise upon the plan I speak of, that the lands are disposed of simply upon lease and subject to a rental, which may be renewed every forty years, or at some lesser period. There is no reason why such a thing should not be done, injuring nobody, but blessing countless thousands of people who will occupy this country in the next century or half century of time. Unless the states clearly have their representation founded upon a system which enables every man to give his vote—some people go further, and would give a vote to females; I will not say anything on that now, but there is a great deal to be said for the proposal—but I believe that at once, after such a number of intellects are set to work, at once after such a number of persons have become interested in political considerations, such great improvement as I speak of will be carried out, and hundreds of others will follow. I believe a time will come when, under such circumstances, the government maintaining the command of their railways, people will travel at an insignificant cost and move their produce at an insignificant cost to every part of the country, and that many properties now almost absolutely valueless, on account of the distance at which they lie from the market, the owners being unable to bring their produce on cheap terms to the best and greatest market in these seas, perhaps I may call it—that is, either Sydney or Melbourne—I think that, when that advantage is given, numbers of persons now in comparative poverty will be enriched by the value that will be given to their properties and holdings. I could follow this subject out into numerous branches; I could show how the intellect of a vast number of people would be improved and enlarged, from young men reading, and carefully studying to embark into political life, and to distinguish themselves at the bar of their country; because I believe the profession of the law will be thrown far more open than it is now, and that people will be much more easily able to become practitioners in the Supreme Court. For example, we should have had no Abraham Lincoln unless the rule had been that an examination in law and in the English language was sufficient to admit any man to the bar; so that the splitter of shingles could carry law books up into the forest, study law, come down, be called to the bar, earn money enough to go into public life, and then, as if Providence had really almost designed the thing, at the very moment when the great man was required, forth he stepped, untrusted at first by large numbers of people; so much so that when he came into New York an enormous crowd was assembled, but not one hat was lifted, except very few, to the president; not one voice cried "God bless you"; there was not one cheer, because the citizens of New York were opposed to the party which he represented; and yet, when he died, he was admitted to have been one of the greatest men of the times, and his death was deplored, not only in the United States, but also in many other nations. It was only by opening all these offices to their great men in America that such men as Lincoln, Grant, Sherman, Garfield, Cleveland, every one of them, were brought forward, and without these chances they never could have attained to the positions which they occupied. I think, therefore, that we, in arriving at the conclusion which, I am certain, will be adopted of referring this to a committee, have ensured to the future of Australasia a prosperity which it could never otherwise have enjoyed, and I believe that if this motion of mine had unfortunately been ruled to be out of order, if the matter had been stopped, discontent would have arisen from one end of the country to another, that it would be understood that the wrong thing had been done, that a mistake had been made. There would have been general regret, and the Constitution would have been sent back to be amended in that direction in which we are now taking it—that is, the Convention would again have had remitted to it what will probably now pass. I cannot tell the exact form in which it will pass; but I have no doubt whatever that it will be of great and undoubted utility, and will be received with gratitude. Last night when I received an invitation to the banquet that is to be given to the members of the Convention when our sittings are over, I actually trembled to think that perhaps we shall not deserve this festivity, and that we shall have to go back without anything satisfactory being concluded, or any great scheme sketched out. Now, I feel sure that by giving and taking, by joining together to get the best possible thing we can we shall succeed in giving to Australasia a federation

which will be an honor to this Convention and a blessing to the people of this country, and it is in that hope that I move that the resolution be adopted by the Committee.

Sir SAMUEL GRIFFITH: I think that the proposal brought forward by the hon. member, Sir George Grey, deserves much more consideration than will be given to it if it is put to the vote at once. The constitutions of the different states in the confederation may be of very great importance to the permanency of the federation. I do not think that any of us desire to hand over to the federal parliament the power to interfere with the constitutions of the different states; but at the same time the federal government, the confederation generally, is most materially interested in the constitutions of the states. As I pointed out this morning, a state might cease to have representative government, and might no longer be entitled to have a voice in the confederation. I am not sufficiently familiar with the details of the constitutions of the different colonies at the present time to remember precisely what are the conditions under which they may be changed; but, so far as I know, each colony has the power within its constitution to change that constitution, except, of course, that they cannot change it by throwing off their allegiance to the Crown; and they cannot get rid of her Majesty's representative. That would be a revolutionary act.

Dr. COCKBURN: And that bills are reserved for her Majesty's assent!

Sir SAMUEL GRIFFITH: It may be so in some cases, and we know that several bills have been reserved in practice; but that has been not because the constitution required them to be reserved, but because they contained provisions to which the Governor was not authorised to consent.

Dr. COCKBURN: I think it is laid down in the constitution acts!

Sir SAMUEL GRIFFITH: The constitutions vary in that particular. I certainly agree with those who have said that after the establishment of a federal constitution in Australia there should be no necessity to refer to the British Parliament to do anything for Australia, either in changing a constitution or in anything else. I think the constitution will be by no means an adequate one for the purpose for which it is to be designed if we shall have occasion to refer to the Parliament of the United Kingdom to do anything for us. The matter of changing the state constitutions, however, is, I think, only remotely connected with the work we have in hand. I do not think it is our business to insist upon any particular method by which those constitutions may be changed. The American theory is—and I believe that in the abstract the theory is right—that all constitutions are the act of the individual members of the community, and that they delegate their power to the legislature, and that legislature can only work within the authority given to it. The English theory, of course, is different. The Parliament, no matter how it originated, is a sovereign body, and can do what it likes, and we in the Australian colonies have proceeded up to the present time upon the English theory. We give to our parliaments their legislative powers, and included amongst them is the power to change their own constitutions. I do not think we need interfere with that. The federal constitution ought to contain provisions prohibiting any state from changing its constitution under its existing powers in particular directions, in such a direction, for instance, as to make it unfit to be a member of the commonwealth of states. I do not think that the framers of the constitution ought to be called upon to lay down any particular lines to be followed by a state desiring to change its constitution; but any provision of that kind should be of a negative rather than of a positive character. I have little doubt that before long the constitutions of many of these colonies will be changed, and very likely they will be changed in the direction indicated, but not put into so many words, by the hon. member, Sir George Grey, by the American system of having a convention, elected by the people for that duty only, and dissolving after it has performed its duty. But that is not the question at the present time. The only question before us is whether an instruction of this kind should be adopted now to guide the committee which is to bring up resolutions. I feel some difficulty about adopting it in its present form. But, at the same time, I am sure that the committee cannot bring up an adequate scheme without dealing with the matter in some way. It is rather unfortunate that we have not had the proposal in its present form before us in print. It is that provision should be made to enable the states to make, vary, or annul their constitutions. They have constitutions now, and they have also the power in one way or another to alter them; but it seems to me that the general ruling direction which should be given is this: that provision should be made in the federal constitution to enable the federal parliament to exercise with respect to Australia those powers with respect to individual states which, at the present time, can be exercised only by the British Parliament. That might not cover all the ground, but I think it would cover the ground so far as regards this point. It would be entirely inconsistent with the whole theory of what we propose to do if a state of Australia, desiring to alter its constitution, had to go past the federal government to the British Parliament for the ratification of that alteration. That must be borne in mind. I suggest, for the consideration of the hon. member, Sir George Grey, whether the proposal is worth insisting on in its present form. I think, after the discussion which has taken place that it must be manifest that the members of the committee, whoever they may be, will have to deal with this subject, and I think they may be trusted to deal with it in an adequate manner.

Mr. McMILLAN: It may have been very well, as a matter of courtesy to the delegate who moved this resolution, to allow a certain amount of discussion; but it seems to me that we are now brought face to face with the possibility of leaving only a short time within which to complete our labours; and it seems to me, when we have such an enormous amount of labour to complete, that the introduction of extraneous matter such as this proposal seems to consist of, means the entering upon matter which will delay the work of the Convention. I would remind hon. members that to-morrow week will be the day before Easter, and it is probable we may have to complete the whole of our labours in the next few days. It seems to me that it would be far better if the hon. gentleman would withdraw the resolution altogether after the discussion which has taken place, and let us go on, immediately, with the appointment of the committee.

Sir JOHN BRAY: I presume the hon. member, Sir George Grey, will have no objection to withdraw the amendment if it is understood that the committee will give their attention to the point raised by him; but I agree with the hon. member, Sir Samuel Griffith, that we must, to some extent, contemplate the possibility of the alteration of the constitution acts of the different colonies for the purposes of federation, if for nothing else. It has been not only hinted at, but deliberately stated, that there can be no possible objection to the people of the different colonies electing their own lieutenant-governors, and if we are going to do that there ought to be some provision to that effect in the federal constitution act. I do not wish to press the matter too harshly if it is understood that the Committee will agree to the suggestion. To save time, I would ask the hon. member, Sir George Grey, if he objects to accept an amendment to strike out the words which he proposes to insert—

to make, vary, or annul their form of constitution,

with the object of substituting the words:

to make such amendments in their constitution acts as may be necessary for the purposes of federation.

If the hon. member, Sir George Grey, will agree that provision should be made to enable the people of each state to make such amendments in their constitution act as may be necessary for the purposes of federation, it will be the means of bringing the matter immediately under the notice of the committee which will frame the resolutions, or whatever they may be, with regard to the parliament or executive. The matter will thus not be overlooked. I think the federal constitution act ought to provide—if we think that such a provision should be made—that each colony should elect its own governor.

Mr. McMILLAN: That is in contravention of our present arrangements!

Sir JOHN BRAY: Some alteration must be necessary. It is clear that the governor of each colony cannot occupy the same position under federation which he occupies now. The governor-general will have to discharge some of the duties now intrusted to the governor, and whether we provide for it or not, it is clear that some alteration will have to be made which will change the duties of the lieutenant-governor of each province, and make them different from what their duties are as governors of a province at the present time. If it is understood that the committee will consider this matter, it might answer all the purposes required if the hon. member would withdraw the motion. If he does not, I shall be happy to support it, if some such amendment as that which I have indicated is agreed to, by which the federal constitution act will only provide such authority as may be necessary to enable the different colonies to alter their constitutions for the purpose of giving effect to the federation proposals.

Mr. WRIXON: I think the hon. member, Sir George Grey, ought to attach weight to the view which has just been presented, and to accept the more general form in which the last speaker asks him to put the proposal. There are many reasons for that; but there is one reason in particular. I think the hon. member will be satisfied if the subject is considered by the Committee, and is afterwards dealt with by the Convention. If we were to adopt it exactly as he proposes it, we should be tied to the particular means which he suggests, namely, that the majority of voters ——

Mr. DEAKIN: That has been dropped!

Mr. WRIXON: Well, then, I think that what has been proposed by the hon. member, Sir John Bray, embraces everything which Sir George Grey wishes. It will leave the matter open for the consideration of the Committee, and we shall not tie our hands in any way.

Mr. MACDONALD-PATERSON: That is not the point at all—that is not the object we had in view in discussing the matter before the luncheon hour. The amendment of the constitution acts of the different colonies is not for the purposes of federation; it is for the purpose of working their own several and distinct governments. Surely the hon. member, Sir John Bray, is under a misapprehension, or I am under a great cloud of misapprehension myself.

Mr. J. FORREST: I should like to point out that we have already agreed to the 1st resolution:

> That the powers and privileges and territorial rights of the several existing colonies shall remain intact.

Now it is proposed, it seems to me, and for the first time during this Convention, that the distinctive states shall be subordinate to the central government. I have not heard, during the debates which have taken place, any mention of the subordination of the states to the central government, and this proposal would, I think, make them altogether subordinate so far as their constitutions would be in some way dependent upon the action of the dominion government. I notice, in the Canadian Constitution, that power was given to the municipal governments to amend their constitution. One of the powers reserved to the provinces was "the amendment from time to time, notwithstanding anything in this act, of the constitution of the provinces, except as regards the office of lieutenant-governor." That was, no doubt, necessary in the case of the Canadian Constitution, because all the powers that were not given specially to the province were reserved to the central government. But in our case the opposite is proposed. We propose that specific powers shall be given to the central government, and that all the other powers shall remain in the states or provinces. In most of the colonies I believe power is given already to amend their constitutions in any way which may be desired. In the colony I represent we have power to amend our Constitution in any way we like by an absolute majority, and the Governor has power to assent to the amendment of the Constitution, with the exception of one or two particulars in respect to which he has to reserve bills for her Majesty's assent. Those particulars have reference to the civil list and to the aborigines. In all other matters we can amend our Constitution in any way we choose, without any reference to the Imperial Government. As evidence of that, I may mention that during the last session—the first session under our Constitution—we amended the Constitution by a simple statute in the same way as we would any other law.

Mr. KINGSTON: Was it not reserved?

Mr. J. FORREST: It was not reserved. There was no occasion for reserving it. There is no objection, as far as I can see, to the introduction of the resolution of the hon. member, Sir George Grey; but I cannot see that it carries us any further than we are at present. We have the power already, and, as far as I know, we do not wish to give up the power, to amend our constitutions in any way we choose. I think it is a pity that this discussion should go on. There seems to be nothing very much in the proposal. The only point that occurs to me is this: that under a federal form of government there might be some difficulty in those cases in which the governor is directed to reserve certain measures for her Majesty's assent as to whether he should still do so, or whether the assent should be given by the governor-general. There seems to be some point in that, but it is a detail which I have no doubt can be worked out. Otherwise I can see nothing in the resolution which gives us anything more than at any rate the colony I represent has already; that is, the power to amend its Constitution in any way it chooses.

Sir GEORGE GREY: I wish to answer the last hon. member, who has made a very interesting speech, but who, I think, has misunderstood the subject in part. In point of fact, what I am aiming at is this: I believe that in the old constitutions, and in some of the new constitutions, a machinery has been set up which virtually takes all liberty from the people, or at any rate takes a very great amount of liberty from the people. We are told that in Western Australia they have the power of altering their own Constitution. But they can do that only with the consent of a council nominated for six years. That is no liberty at all to the people. I believe that in this colony there is a nominated upper house and plural voting. There is, probably, plural voting to a great extent in Western Australia. It will take, perhaps, a term of many years to work off those burdens which are imposed upon the people—a term of very many years I should think—whereas at the moment when you are framing a new constitution, seeing that in every federal constitution certain provisions are made for the government of the states, I ask that a similar provision should be made for the government of the states here. I deny that, as an hon. member said, this is any interference with state constitutions by this body. That is an absolute misunderstanding of the case. What we propose is to authorise the people of the states, if they are dissatisfied with their form of government, to alter

it. We have been entirely misunderstood on that subject. This Convention is not asked to exercise the smallest interference; but surely, at the moment when you say you are about to confer great benefits on all Australasia, it is not too much to say to those people who may feel that they are suffering under a form of constitution which is not liberal, and does not give fair play to the intellect and the energies of all its inhabitants, that if the great majority of the people of the state choose to interfere with their constitution and give themselves a more liberal one, they shall have the power to do so. I deny that I have proposed any interference at all, or that I have asked hon. members of this assembly to do anything which they ought not to do. On the contrary, I have besought them not to interfere with the powers of the general legislature or with the powers of the states in the manner I saw they were disposed to do, but to leave them absolute liberty. I say that, at this time of giving freedom to all Australia, we should tell the people of the states that if they please to alter their form of state government they may do it themselves, without any reference to the British Parliament—without any reference to the British Crown necessarily—but entirely of their own free will make such alterations as they believe will lead to their happiness. How that can be confused with an arbitrary interference with the states I cannot understand. I believe the request I have made is for the happiness of the whole of Australasia, and I ask for no interference whatever with the powers of the states, or with the powers of the general government. I say give them all power to work out their own happiness. Why we should deliberately refuse to give so great a boon to the people of this country, when we are authorised by our position to give it, when we have the right to give it, I cannot possibly understand; and on that point I do not think I ought to give way. If hon. members are determined not to do it, let them by their votes record that such is the case. Let it be seen what our varied opinions are, and then if it be necessary to call another Convention together, let the people decide whether they will send to that Convention men who are willing to do this for them, or whether they choose to say that we were wrong—to discard us, and to make provision without entailing on themselves and their children for years to come the constitutions that they now have. Let any one look at the difficulty there has been in altering the House of Peers at home—a body who are anxious not to offend the public there, because they would lose position and credit, and possibly lose their privileges altogether. Here, on the contrary, the nominated houses have no hereditary claims of that kind. Having been selected by the ministry of the day, they cannot, I fancy, come to the consideration of the subject with that cool, unembarrassed, totally unselfish view with which they ought to come to it. I admit they have conferred great benefits on this country. I admit there are amongst them very estimable and good men; but I firmly believe that if the people of New South Wales had had the powers that they may get under the federal constitution, still greater benefits would have been conferred on the country, that it would have still further advanced, that there would have been greater openings for the whole of its population. I think we ought not to give way on this subject until it has been decided by the votes of the Convention that they will not do that which we ask them to do. I feel very unwilling to at all retreat from the position I have taken up. I would far rather be defeated and be told that I am wrong, and remain under that defeat perhaps some years—very likely not living to see the change of public opinion; but I would rather go down to posterity with the fact recorded that I have enunciated these views, and have adhered to them, than give them up, and merely obtain quiet at the present time, when in my own inner heart I should know that I was sacrificing the interests of all Australasia—not of one state only, but of every state—in not saying that the people of the state if they wish to change their constitution should be authorised so to do by the federal constitution. Supposing all that I ask were agreed to, what would be the result? The federal constitution must still go to the people, and they would not assent to it if they disapproved of what I propose. They would reject it. It would not be imposed upon them. But on the other hand, if you do not do this, and they are burning with anxiety to gain these benefits, you would send them a constitution under which they could not get them. You say positively that they shall not have them. I say that the infinitely preferable course is to do justice to every one of the states, and to allow every one the liberties which I ask for on their behalf, and which I believe to be for their benefit.

Sir JOHN BRAY: Perhaps I may be permitted to say that I indicated an amendment subject to the approval of the hon. member, Sir George Grey. I understood from what he said to me that he virtually approved of it; but he did not say anything about it in his speech, and consequently it was not put. I think it will be convenient to hon. members if it is put now with the consent of the Convention.

Mr. DEAKIN: I and other hon. members were under the impression that the amendment had been put. If I had known that it had not been put, I should have claimed my right to say something on the question.

The CHAIRMAN: If there is no objection, I shall adopt the course suggested by the hon. member, Sir John Bray. Of course, as hon. members know, it is out of order; but we are not pursuing strictly the rules of parliament. It is proposed by the hon. member, Sir John Bray, to amend the motion by omitting the words "vary or annul its constitution," with a view to insert in lieu thereof the words "such amendments in its constitution as may be necessary for the purposes of the federation."

Amendment agreed to; motion, as amended, agreed to.

Resolved: That provision should be made in the federal constitution which will enable each state to make such amendments as may be necessary for the purposes of the federation.

Mr. THYNNE: I rise with some amount of diffidence to ask the Convention to adopt the resolution of which I have given notice. The form in which I propose to move it, however, will be slightly varied on account of the position it will necessarily take upon the paper should I be fortunate enough to induce the Convention to adopt it. I move:

That the following stand as resolution 4 of part II:—"That a system be established for submitting amendments of the constitution for the approval of the electors of the several states, and for prescribing the necessary majorities."

The resolution, in the form in which I gave notice of it, provided for a reference to conventions; but I think it would be better if the resolution were to go untrammelled, and without any matter of detail, leaving to the select committee to be appointed to deal with constitutional questions the arrangement of details for the working of the system. I do not think that in this Convention the proposal to refer amendments of the constitution to the direct vote of the people is one that will require very much advocacy on my part, for I shall be greatly mistaken unless I find that a great majority of the members of this Convention are in favour of some such course being adopted. Let me shortly state a few of the reasons why I think the resolution should be adopted. Any constitution we draw will have to be adopted by the whole of the people; it will virtually be a constitution rising and coming from them, and I think the people will be much more satisfied if they find that there is a limit to the powers they are giving in the commission to their several legislatures, and that they themselves must be again consulted before any change is made in the authority they give to the

legislatures. I think the proposal will be of a highly popular character, and that it will tend to excite in the people of Australia great enthusiasm in favour of the new constitution, and that I think hon. members will agree with me is necessary to its successful establishment. I think also that while we may find individuals having objections to particular clauses of the bill, a great many of these will have their objections obviated and removed if they find that this valuable protection is given to them against unnecessary or hasty changes. This is a provision which in some form or other exists in the two principal federations of the world at the present moment. I content myself with these few remarks, knowing that at this stage of the proceedings of the Convention long speeches are out of place. I trust that the proposal will meet with hearty support, and that it will, at any rate, receive the careful consideration, should it be referred to them, of the select committee it is proposed to appoint.

Mr. GORDON: If the resolution of the hon. member, Mr. Thynne, is intended as a mere instruction to the committee that this matter shall receive consideration, I shall support it; but if it be an absolute committal of the Convention to the system of referendum, or some such system, I cannot support it without further consideration. If it be merely an instruction to the committee, then I think no harm will be done in passing it.

Dr. COCKBURN: As I understand the proposal of the hon. member, he wishes to lay down the principle that a constitution cannot be amended without the several states of the federal parliament being consulted —that the federal parliament itself shall not have sufficient power to amend a constitution without the citizens of the various states being consulted in some way or other. I understand that to be the principle the hon. member wishes to lay down; and I think it would be well to embody it in these resolutions merely foreshadowing what is meant in a vague way. The principle sought to be affirmed is, briefly, that the citizens of the various states shall be in some way consulted before an amendment is made in the constitution.

Mr. WRIXON: I do not attach too much weight to these resolutions, because I apprehend that the committee will consider them, and that they will afterwards come up for determination by the Convention. But if this resolution were carried as it now stands, it would amount to an express direction that the electors should determine upon any change of constitution. I do not know whether the hon. member intends that or not; but if that be not intended, I submit to the hon. member that if he omits the words "by the electors," it will be merely a species of direction to the committee. On the other hand, it would be a serious matter for us to vote now that any change made in any of the constitutions of the states must be sanctioned by the electors, because it will then be simply a question of whether it shall be sanctioned by direct referendum or by convention. If we do not mean that, the words to which I refer should be struck out.

Captain RUSSELL: I think it is a great pity that in these resolutions there is not a little more precision. I confess that with regard to this and the preceding resolution, I am very much in the dark as to what they really mean. But, taking the resolution in the particular form in which the hon. member proposes to move it, it amounts to this: that the people of the various provinces may at any time by universal will, without any restraint whatever, say that the constitution shall be altered.

Mr. THYNNE: No!

Captain RUSSELL: Then it is a great pity that there is not a little more precision in the wording of the resolution. That is undoubtedly the way in which I read it, and I should be very loath to give affirmation to such a principle. I believe it would be pernicious to the last degree. The resolution ought to be framed with sufficient distinctness to enable us all to clearly understand its meaning. I contend that as this resolution is now worded, there is nothing to prevent the absolute will of the people, which may be swayed by a sudden gust of passion, from altering a constitution which may have been framed with great care. These changes may be effected so indefinitely and perpetually, that practically there will be no constitution whatever. We must be careful to guard against that. If there be any such intention as that I now indicate underlying this resolution, I certainly shall vote against it.

Mr. THYNNE: I intended that no amendment of the constitution should be carried into operation unless approved of by the people. I am prepared to leave the question open to the committee in the manner suggested by the hon. member, Mr. Gordon, that is, as there is a general idea that some scheme of the kind is necessary, we recommend the matter to the careful consideration of the committee.

Mr. PLAYFORD: Do I understand that the hon. member withdraws it?

Mr. THYNNE: No!

Mr. PLAYFORD: Then we ought to consider what we are about. This proposes that the people alone should have a voice in the alteration of the constitution. We must remember that we are divided into states, and surely the states should have a voice in the matter. In the American Constitution, when the Congress and Senate pass an alteration of the Constitution, it has to be referred to the people and the states, and a majority of both must be obtained. If that will be done in this case, well and good; but we must remember that the draftsman will be bound to make provision in the bill for an alteration of the constitution, and we can then discuss the question.

Dr. COCKBURN: They omitted to make such a provision in the Canadian act!

Mr. PLAYFORD: They made a mistake there; but we are not likely to do so. I think it would be better to withdraw the amendment.

Mr. DEAKIN: Having expressed myself at considerable length on this question at the conference last year, I do not think it is necessary or desirable at this stage to repeat the arguments, which appear to me unanswerable, in favour of this course. What the hon. member proposes is not that the power of altering the constitution should be vested in the electors, to be exercised by them at any time, but simply that there should be no power of altering the constitution without the express and explicit consent of the people of the various states. That is what the hon. member says, and I think we will all say the same; we might even go further, and require that the federal constitution shall not only be submitted to the legislatures, but, if possible, shall be submitted directly to the people of the several states.

Sir SAMUEL GRIFFITH: I am very much of the same opinion as the hon. member, Mr. Deakin, in what he has just said, but it does not follow that we ought, without further discussion, to lay down this proposition as a rule which the committee must follow, and prepare a bill on these lines. I think, with the hon. member, Mr. Playford, that this matter has not been sufficiently discussed or considered by the Convention to justify us in giving such an instruction to the committee. It is very likely that the committee will follow this line. Everything else before us has been thoroughly discussed; we know exactly what we have done. We have laid down certain lines to be followed by the committee; but this important question has not been sufficiently considered. I suggest to the hon. member that he should not press the resolution.

Sir JOHN DOWNER: I have been taking an active part in advocating what are called state rights, and we came to the conclusion to send that question generally to a committee without binding their hands too much. It seems to be rather a pity to pass this resolution, seeing the course which we have already

adopted. I quite agree with the hon. member, that in all probability something like what he proposes will have to be done. State rights will certainly have to be conserved, and, above all, that right which goes to the root of all things—that is, the power of altering the constitution. But supposing that some other mode occurs to the committee, and they wish to recommend the Convention to adopt that mode, it will be a pity if we have to begin our labours when we reassemble by rescinding a previous resolution. I agree with Sir Samuel Griffith, that as we have left the matters generally to the committee, without any specific directions, we should leave this as one of the subjects with which they must deal.

Mr. GILLIES: My difficulty is in interpreting this resolution. It appears that the question of the alteration of the constitution is to be left to a body of men chosen by the electors.

Mr. DEAKIN: No. Those words are struck out!

Mr. FITZGERALD: There is no mention of the word Convention!

Mr. GILLIES: I am afraid that will not get over the difficulty. Who is to submit the question for the approval of the electors of the several states? It should be by some recognised body—the parliament!

Mr. THYNNE: The parliament, of course!

Mr. GILLIES: Everything is of course; but this motion does not say so. How are the proposals to be submitted? Are they to be submitted in detail for the electors of the various states to vote on them? Very likely there will be a whole series of proposals, and the electors would not be in a position to say "yes" or "no" to each proposal. It would be impossible. We have heard of the referendum; but that would be a question distinctly submitted upon which the people could say "yes" or "no"; but if we are to have a whole series of alterations in the constitution in a number of important particulars, how could they be submitted separately to the people in such a way that they could say "yes" or "no" to them? The proposal is full of trouble and difficulty. I can understand that gentlemen who have thought over this matter believe that there is no trouble in the way, but I contend that it would be impossible to carry out the proposal here made. I can understand that we should provide in our constitution that important alterations in it should only take place by the electors determining to appoint certain persons who are to consider the various questions, and whose decision might afterwards be referred to some other body. It will be impracticable, however, to carry out this proposal to refer the whole general question to the electors. I hope that, instead of passing this resolution, we shall leave the question open to be discussed by the select committee we are about to appoint, without tying their hands in this way. The committee will then be able to submit proposals which will meet generally the views of hon. members.

Mr. THYNNE: In view of the expressions of opinion from several prominent members of the Convention, and feeling assured that this question will receive full attention, I am quite willing to withdraw the resolution after the satisfactory discussion which it has evoked.

Resolution, by leave, withdrawn.

Mr. CLARK rose to move:

The judicial power of the federation shall be vested in one supreme court, and such inferior courts as the federal parliament shall from time to time establish; and the federal supreme court shall have jurisdiction to hear and determine appeals from all final judgments, decrees, and orders of the highest court of resort in each of the colonies; and the judgment of the federal supreme court shall in all cases in which imperial interests or the construction of an act of the Imperial Parliament affecting the rights or property of persons resident in all parts of the empire are not involved, be final and conclusive.

He said: When I addressed the Committee this morning on the subject of the judiciary, I said that if it were understood that the whole question of the establishment of a federal judiciary was to be considered by a committee who should have a free hand to bring up any proposal they thought best, I would not press my resolution, but would leave the matter to be dealt with by the committee. But I wish it to be distinctly agreed that I withdraw my resolution on that understanding, because the resolution as it stands provides for a court of appeal only, and I want much more than that. I want a whole system of federal judiciary, and if it is understood that the committee will deal with that question, and make such recommendations as they think fit on the subject, I will leave the resolution as it stands, and withdraw my amendment.

Mr. DEAKIN: Before the hon. member withdraws his resolution, I should like to suggest ——

The CHAIRMAN: Perhaps the hon. gentleman had better move his resolution, so that I can state the question, and thus enable the hon. member, Mr. Deakin, to address the Committee on the subject.

Question proposed.

Mr. DEAKIN: The subject appears to me to be one of so much importance as to merit, not reference to a general committee, but the appointment of a separate committee for its special consideration; and I would suggest that when the hon. member, Mr. Suttor, moves for the appointment of the two committees already indicated, one of which is to deal with finance, taxation, and trade, and the other with the questions of constitutional machinery and the distribution of powers and functions, he should at the same time move the appointment of a third committee, which might consist of the attorney-generals and other legal members of the Convention, which should specially consider this most important question. It seems to me to be of such magnitude as to deserve a special legal committee for its consideration, instead of being dealt with merely as one question among many referred to two committees which have not this subject specially mentioned in the reference proposed to be made to them.

Resolution, by leave, withdrawn.

Resolutions reported and agreed to as follows:—

That in order to establish and secure an enduring foundation for the structure of a federal government, the principles embodied in the resolutions following be agreed to:—

(1.) That the powers and privileges and territorial rights of the several existing colonies shall remain intact, except in respect to such surrenders as may be agreed upon as necessary and incidental to the power and authority of the National Federal Government.

(2.) No new state shall be formed by separation from another state, nor shall any state be formed by the junction of two or more states or parts of states, without the consent of the legislatures of the states concerned, as well as of the federal parliament.

(3.) That the trade and intercourse between the federated colonies, whether by means of land carriage or coastal navigation, shall be absolutely free.

(4.) That the power and authority to impose customs duties and duties of excise upon goods the subject of customs duties and to offer bounties shall be exclusively lodged in the federal government and parliament, subject to such disposal of the revenues thence derived as shall be agreed upon.

(5.) That the military and naval defence of Australia shall be intrusted to federal forces, under one command.

(6.) That provision should be made in the Federal Constitution which will enable each state to make such amendments in its constitution as may be necessary for the purposes of the federation.

Subject to these and other necessary conditions, this Convention approves of the framing of a federal constitution which shall establish,—

(1.) A parliament, to consist of a senate and a house of representatives, the former consisting of an equal number of members from each colony, to be elected by a system which shall provide for the periodical retirement of one-third of the members, so securing to the body itself a perpetual existence combined with definite responsibility to the electors, the latter to be elected by districts formed on a population basis, and to possess the sole power of originating all bills appropriating revenue or imposing taxation.

(2.) A judiciary, consisting of a federal supreme court, which shall constitute a high court of appeal for Australia.

(3.) An executive, consisting of a governor-general, and such persons as may from time to time be appointed as his advisers.

APPOINTMENT OF COMMITTEES.

Mr. SUTTOR rose to move :

(1.) That a committee be appointed to deal with the finance, taxation, and trade regulations, with power to report its conclusions as soon as practicable to this Convention.

(2.) That each colony choose its own member for such committee—one member from each colony.

He said: Understanding that it is the wish of the Convention that the various matters embodied in the resolutions which have been passed should be dealt with by committees, I have placed this and the following resolution on the paper in order that the different matters may be so dealt with. I think both resolutions might be taken as matters of form, seeing that the Convention is unanimous in the object desired. I understand that the hon. member, Mr. Barton, intends to move an amendment with the view of giving more complete powers to the committees.

Mr. ABBOTT: I second the resolution, but I would like to point out that I think the names of the committee should be mentioned, so that there might be a record in the Convention as to who the committee were.

Question proposed.

Mr. BARTON: It struck me in reading the resolution which has been moved by the hon. member, Mr. Suttor, that perhaps it was not sufficiently specific for the purpose, and I thought it just as well to sketch out some resolutions which might more expressly define what the object and work of these committees is to be, and which might be adopted as an amendment upon the resolutions, though some hon. members will, perhaps, be able to suggest something more definite. It seems to me that two committees, as suggested by the hon. member, will be necessary, though I have heard some hon. members say that four committees will be required, but I think that it will not be a wise thing to multiply the number of committees. It would be a good thing that a committee should be appointed which will have the special work of drafting a bill, and it would also be a good thing, though perhaps it is not necessary to specifically provide for it, if each delegation in sending its quota of members to that committee sent some member to be eligible as a member of a sub-committee, or in the main committee, to be able to take part in the drafting of the bill. But I think we have enough ground-work laid down in the resolutions which have been passed for any committee which takes into consideration the whole drift of the debate, and the general opinions expressed, to be in a position to draft a bill with which we could deal without any intermediate resolutions; that is, we might take the suggestions which they will make in the form most familiar to lawyers, that of a bill, in which, if the committee are good draftsmen, they will be quite as intelligible as any resolutions would be. Then it appeared right that some committee should be appointed upon matters involved in the resolutions affecting trade and intercourse, customs and excise duties, and I thought with the hon. member, Mr. Suttor, that a committee consisting of one member from each delegation, would be sufficient to deal with these matters for the purpose of collecting all necessary information, and of coming to a conclusion as to what provisions would be necessary in the bill to cover the ground of the resolutions, and all subsidiary matters. They might place their conclusions in the hands of the larger committee, from which a drafting committee might be selected. For these reasons, I drew up the following resolutions :—

(1.) That the resolutions reported to this Convention by Committee of the Whole be referred to two committees, the one for consideration of constitutional machinery and the distribution of functions and powers, the other for consideration of provisions relating to finance, taxation, and trade regulation; the first-named committee to consist of two members from each of the several delegations, the last-named committee to consist of one member from each. The members to be chosen by the several delegations.

(2.) That the last-named committee be instructed to specially consider resolutions Nos. 3 and 4, on trade and intercourse and on customs taxation, with a view to their being carried into effect upon lines just to the several colonies, and that it be a further instruction to the said committee to lay its conclusions before the committee on constitutional machinery, functions, and powers.

(3.) That upon the result of the deliberation of the said committees the committee on constitutional machinery, functions, and powers, do prepare and submit to this Convention a bill for the establishment of a federal constitution, such bill to be prepared as speedily as is consistent with careful consideration.

In submitting these resolutions, I wish to point out that it has been suggested that a committee upon the question of judiciary should be appointed. That committee has suggested itself to several very experienced and able members of the Convention; but the committee upon the constitutional machinery, functions, and powers will no doubt, since they will have the preparation of the bill in hand, include sufficient members of the legal profession to be able to throw all the conclusions on constitutional machinery, including the judiciary, into proper form. It seems to me that it would be encumbering the matter to appoint more than two committees.

Sir JOHN BRAY: Three!

Mr. PLAYFORD: The hon. member had better have a committee upon the judiciary, and let them draft the bill!

Mr. BARTON: I should like to hear what is to be said about that; but if a committee is appointed upon the judiciary, I do not see why it should not be appointed as a sub-committee of the large committee on constitutional machinery; and if it were an understood thing that that large committee should appoint a committee on the judiciary, we might have a committee consisting of treasurers and ex-treasurers to deal with the questions of finance and taxation, who would get all necessary information, and frame what might seem to them the necessary resolutions, and these they could place before the large committee. Upon the reports of these committees a bill might be prepared, which, I think, might be dealt with without the preliminary discussion of any resolutions, and we should then have the lions of federation in so narrow a path that we should be able to concentrate our energies upon their destruction.

Mr. PLAYFORD: I raise no objections to these resolutions; but I would suggest that another committee be appointed to deal with the subject of the judiciary.

Sir JOHN DOWNER: I also think that the constitutional committee will have plenty to do, and that it would be a great assistance to them if they had another committee to help them on this question of the judiciary.

The PRESIDENT: I understand that the hon. member, Mr. Suttor, is willing to accept the amendment of the hon. member, Mr. Barton, in lieu of his own resolutions?

Mr. SUTTOR: Certainly.

The PRESIDENT: I shall then submit the amendment as the resolution.

Question proposed.

Colonel SMITH: Whilst concurring with the proposals generally, I should have been glad if there had been more committees. Both the proposers of the resolutions, the hon. members, Mr. Barton and Mr. Suttor, agree to the appointment of two committees, which simply absorb twenty-one members of the Convention out of forty-five. I think we should give the remaining twenty-four something to do. The object, as I understand it, is to appoint upon committees those who are best likely to understand the subjects with which they have to deal. I find that twenty-four members of the Convention, I do not know for what length of time, will absolutely have nothing to do, whilst the other twenty-one will be sitting on committees, and deciding the questions which are brought before them. I have thought it would have been wiser if we had divided the whole body into committees to consider the various branches of the

subject which have to be dealt with, and if their various reports could be submitted to the Convention. How long are these twenty-one members appointed upon committees, fourteen upon one, and seven upon the other, to be occupied in their deliberation? I venture to say that the consideration of one of these questions will occupy a very considerable time. Are hon. members who are not included upon those committees to wait whilst the reports are being drawn up, and whilst questions, the consideration of which may occupy several days, are being determined? I think it would have been wiser to have divided the Convention into more committees. I intended to have brought forward a proposal with regard to finance; but as I find the unanimity of the Convention is so thorough on the subject, I do not think it is necessary. It was my intention to propose the appointment of a committee to deal with that subject. We have the question of finance, taxation, and trade regulations to be dealt with by one committee. I do not know who the gentlemen are who are prepared to deal with those three subjects; but I think it would have been wiser if we could have separated them, if we could have classed finance and taxation together, and divided the remaining subjects amongst other committees. For instance, I submit, with all due deference, that the question of drawing up a constitution ought to be settled in Committee; that the question of the Privy Council, which the hon. member, Sir John Downer, ventured to solve, ought to be a separate subject dealt with, wholly and solely, by members distinguished in the particular profession which has to deal with it.

Sir SAMUEL GRIFFITH: No!

Colonel SMITH: I thought the hon. gentleman would have been one of the first, knowing so much about the subject, and being connected with a distinguished profession, to agree to a proposal of that description.

Sir SAMUEL GRIFFITH: I think we want the assistance of laymen!

Colonel SMITH: I am sure, so far as this Convention is concerned, that we shall be satisfied if the whole body is divided into committees, of which the President and Vice-President should be *ex-officio* members, so that we might have the benefit of their advice upon the whole of them. I certainly hope that over one-half of the members of the Convention will not be left to look on or idle about when they might, in some way, assist to bring up reports on various subjects. I have no desire to press the matter unduly, but it appears to me that two committees of twenty-one members out of forty-five are altogether insufficient. I have no desire to move an amendment; I only throw out the suggestion because I think that the duties ought to be divided amongst more committees. In my opinion it would be a wise thing if every member of the Convention was appointed upon a committee of some sort or other. We desire to get through the work, and to have done with it; but if you give one or two committees too much to do they will have various difficulties to contend with. If the Convention is not divided into committees we shall have those members not included in the committees engaged in criticising the work done, and that will lead to long debates. If, however, the various subjects are decided and dealt with by different committees, our proceedings will be considerably shortened.

Mr. DEAKIN: I understand the hon. member from Tasmania, Mr. Clark, intends to move an amendment.

Mr. CLARK: Yes!

Mr. DEAKIN: If the hon. member is prepared with an amendment with reference to the judiciary committee, I will leave him to propose it, and to urge anything that may be necessary on its behalf. I would point out, however, that we have in this Convention a considerable number of gentlemen versed in the law, and it is quite possible that their services on the judiciary committee would be of material service not only in settling the questions connected with the judiciary, but also in aiding the general committee on the constitutional machinery in drafting the bill which, under the resolution, they are asked to bring up. I trust, therefore, that the hon. member, Mr. Barton, will see his way to accept the amendment which the hon. member, Mr. Clark, is about to propose, giving us a third committee dealing with that most important branch of the future federal government which will come under the control of its judiciary.

Sir SAMUEL GRIFFITH: Before the proposal is formally made with regard to the judiciary committee, I wish to offer my opinion on the subject. I do not concur in what has been said by the hon. member, Colonel Smith, to the effect that the matter ought to be left entirely to lawyers. In my opinion the right of appeal to her Majesty-in-Council, is a great constitutional matter upon which lawyers are not better fitted to express an opinion than other persons. In my humble judgment they are less fitted in some particulars to express a sound opinion on the subject. I think also that it will be very difficult to disentangle this subject from the other constitutional subjects to be considered by the general committee. I think, therefore, it would be found to be a more practical and speedy manner of getting through business if we intrusted that subject, as has been suggested by the hon. member, Mr. Barton, to a sub-committee of the general committee, with the understanding that they can call to their aid any of the other legal members of the Convention whom they may think able to give them assistance. I apprehend that these committees, although appointed in this formal manner, will not be hard and fast committees. They will consult with one another and with their colleagues; and, practically, all the members of the Convention will know what is going on, and will be able to give their assistance in bringing matters to a conclusion. My opinion is that the employment of a third committee, so far from tending to expedite proceedings, will tend to retard them.

Mr. PLAYFORD: My opinion is the opposite to that expressed by the last speaker. I think that the appointment of committees will tend to quicken our movements a little. I have thought the matter out, and I quite agree with the proposal of the hon. member, Mr. Barton, that if we meet together, and, instead of bringing up ordinary formal resolutions as the result of our labours, bring them up in the form of a bill and go through them clause by clause, we shall expedite business. If we bring up from the committees ordinary resolutions which will be instructions to draftsmen, we shall have a full debate on all the resolutions so brought up, in the same way as we have had upon the resolutions which have already been submitted to the Convention, and we know what the result has been already. We shall have the debate over again, and it will be repeated when the bill is brought up. I think the suggestion of the hon. member, Mr. Barton, an exceedingly wise one. I consider that if we appoint on this committee to consider the judiciary question a number of able men learned in the law, although it may be a question upon which every hon. gentleman might be able to form an opinion equally as well as members of the legal profession, we might get able lawyers to help us in the drafting of a bill. I think that with two committees we shall have rather too few to choose from. The committee dealing with the machinery of government will have a great deal of work to do, and we shall not be able to spare out of that committee hon. members for the purpose of of drafting the bill. The committee that will have to look after matters connected with trade and commerce will find their hands exceedingly full before they have done with that question, and they will not be able to spare any of their number. But I think that the gentlemen appointed to consider this small question

will not take long in coming to a conclusion as to what they will recommend; and out of that committee we might be able to choose a few excellent draftsmen, who will help the other committees, as fast as they arrive at conclusions, as to what should be included in the bill; and in a short time we shall be prepared, I hope, to pass a bill embodying what we unitedly believe to be best in the interests of the community at large.

Mr. CUTHBERT: I should be very glad if the hon. member, Mr. Barton, could see his way to extend the constitution of the committees. I understand that he proposes to limit the number of committees to two—one dealing with constitutional machinery and the distribution of powers and functions in connection therewith, and the other dealing with finance and trade. I think that a committee dealing with trade and finance will have quite enough to do, and that the seven gentlemen upon whom it is intended that duty shall devolve will find their time completely occupied. So, also, as regards the committee on the constitution question. Why should not the question of the appointment of a judiciary, which is equally as important as the other two, be referred to a separate committee? Then, while the twenty-one gentlemen are engaged on the two committees, surely out of the remaining members of the Convention, seven can be selected to deal with that other subject. I do not agree with the hon. the Premier of Queensland, that it is a question which would be better dealt with by non-legal gentlemen than by legal gentlemen.

Sir SAMUEL GRIFFITH: I did not say that; I am in favour of a mixed committee!

Mr. CUTHBERT: A fusion, perhaps, of the two elements would be most advantageous.

Sir SAMUEL GRIFFITH: Just what I said!

Mr. CUTHBERT: If a third committee be appointed, consisting, say, of seven members, to deal with the composition and appointment of a judiciary, I think to that committee might also be intrusted the duty of drafting the bill. I believe that the gentlemen who will be selected for that committee will, in all probability, be most fitted for that work, and with three committees the whole of the work would be well apportioned, and we should be able to bring our deliberations to a conclusion far sooner than if the work were distributed between two committees. For these reasons I support the opinion of the hon. member, Colonel Smith, namely, that instead of there being two committees, the work ought to be divided between three.

Mr. WRIXON: I think there ought to be a committee of lawyers—call it judicial or whatever term you wish to apply to it; but I quite agree that lawyers should not determine matters.

Mr. CLARK: They should report to the other committees!

Mr. WRIXON: There are many questions connected with this subject which only lawyers understand, and they alone really know what it means. Therefore, I think it is important that they should be specified in a committee, so as to collect information and make recommendations to the other committees. With regard to the drafting of a bill, as the hon. and learned member, Sir Samuel Griffith, said, any of us could be called in to give an opinion; but I think that the work will be better performed if you organise a small committee of lawyers, on whom you cast the duty of reporting, to whichever committee will have the final settling of the bill, on the difficult legal matters which are involved.

Mr. DIBBS: I should like to point out to the Convention that for the last three or four days we have been discussing, in a very loose way, certain principles, and up to this time there has been no agreement on any one principle presented to us. We were told that we were just discussing this matter in a very informal manner, and that committees would be appointed who, having in view the various opinions of hon. members who have spoken, would sit and bring up reports embodying certain principles to be thoroughly discussed here. I know that other hon. members besides myself have refrained from taking part in the discussion because we looked forward to the time when certain resolutions would be the outcome of the labours of the Committee—certain cardinal points and principles laid down, on which there would be a common agreement. I think it is quite time to talk about having a bill framed when the Convention, in Committee of the Whole, shall agree on certain principles which shall be brought out from the labours of the committee who will report. In his proposal the hon. and learned member, Mr. Barton, is departing from the tacit agreement arrived at, which was that we were to say as little as possible when these matters were put in an informal manner before us, and were to wait to have them thrashed out when reports of committees were submitted to us, and we could agree on principles which would be a guide for the committee who ultimately would frame the bill. It is apparent to those who are looking on that there is a desire to hasten the proceedings of this Convention. We have sat here patiently for three weeks; but if we want to make good and permanent work, and to accomplish the object for which we met, we must be prepared to go slowly and surely, and make a very sound structure as the result of our labours; but the proposition of the hon. and learned member, Mr. Barton, is taking away from us the agreement entered into, which was that certain lines should be drawn up in committee, and that afterwards we should discuss the bill itself. If we had started in the first instance with the bill, however loosely drawn or informal—a mere skeleton of a bill on which we might have built up something—we should have been further on than we are now. In the intense anxiety to close the labours of the Convention there is a risk of our not making a permanent structure; and I say again, that if these committees reported on certain leading principles, and put before us certain conclusions upon which we could agree, having agreed upon those points we should have material largely ready for the framing of a bill. The picture would to a large extent be painted, and it would only require the framing of the bill in the necessary legal language, to make a tolerably perfect measure upon which we could agree. With regard to the remarks of the hon. and learned member, Sir Samuel Griffith, I think it well to have lawyers to deal with the judiciary question, but well also to have a fair mixture of the victims of lawyers to watch and see that the result of their labours will not be to inflict burdens on the people. Lawyers are all very well in their places, but I never knew a lawyer to advocate any legislation to reduce the cost of litigation to the people of the land. Let the lawyers by all means give the benefit of their legal knowledge; but let the laymen who know something about law, and who support the legal establishments in the various colonies, have a little voice in the common-sense part of the business.

Mr. MUNRO: I think my hon. friend, Mr. Dibbs, has forgotten that life is short. We only live a certain number of years, and during those years we ought to do all the work we can. The hon. member makes two complaints, one of which certainly does not coincide with the other. He says that if a bill had been introduced in the first instance, no matter how loose it was, we could have worked on that; but now, after we have dealt with a series of resolutions in detail, and are about to refer them to committees, he wants those committees to bring up separate reports before we deal with a bill. Surely that would extend the discussions too far? I think the suggestion that has been made is a very good one. Possibly we ought to have three, or perhaps four, committees—I do not care how many; but if the committees deal with the principles which are submitted to them, surely it will save time if they embody their conclusions in a bill with which the Convention could deal directly, instead of through the medium of a series of indefinite resolutions which would

have to be dealt with again in the form of a bill. I entirely agree with the proposal that the work of the various committees should be submitted to the Convention in the form of a bill. At the same time, I think we ought to have more than two committees; two committees are too few to deal effectually with the work they have to do.

Mr. CLARK: If I am in order, I desire to move:

That the motion be amended by the insertion of the following resolution, to stand as resolution No. 3:—"That in addition to the committees above-mentioned, a committee be appointed to consider the question of the establishment of a federal judiciary, its powers and its functions, and to report to the Committee on Constitutional Machinery in the same manner as the Committee on Finance is directed to report; such committee to consist of one member from each delegation."

Amendment agreed to.

Sir SAMUEL GRIFFITH: I desire to say a few words with respect to directing the committee to bring up the result of their deliberations in the form of a bill. I should like that matter to be left open. Those who are familiar with drafting, of course, know that it is no more trouble to them to put their conclusions in the form of a bill than in the form of resolutions; probably it is less trouble. However, speaking from another point of view, I doubt very much whether the general public, who, after all, are the persons who will have to understand the recommendations of the committees, will be able to follow them in the form of a bill so well as they would in the form of resolutions. Speaking for myself, I should say that it would be much less trouble to me to put the conclusions of the committee in the form of resolutions than in the form of a bill, because I am familiar with that kind of work. But I am quite certain, from my experience, that the public will understand resolutions more easily than they will understand a bill. That being so, I think it might be a mistake to instruct the committee to put their conclusions in the form of a bill. It should be left to the committee to consider which course will be the most likely to make their work "understanded of the people."

Dr. COCKBURN: I think there is very sound sense in what the hon. member, Sir Samuel Griffith, has said. We all know that very simple principles which can be embodied in a very few lines may take several clauses of intricate drafting to give effect to in a bill.

Mr. CLARK: It will have to be done sometime!

Dr. COCKBURN: All the members of the Convention are not lawyers, and yet they have very strong views on general principles, and it may be very difficult, as the bill is being passed through Committee clause by clause, for those who have not had the advantage of a legal training to submit their amendments exactly in legal form, as a skilful draftsman would do. It would be placing the laymen of the Convention at a disadvantage. I think it would be very easy for the committees to bring up resolutions in the same way as was done in Canada. There, I believe, the resolutions were not brought up in strictly legal form, but actually covered the whole ground, and although not drawn in strictly legal phraseology, yet they really were drawn just as a bill would be drawn in something like popular language.

Mr. MUNRO: They were sent home without being put in the form of a bill at all. We are not going to do that sort of thing!

Dr. COCKBURN: When we have agreed to everything that is necessary, the putting of it into legal phraseology would be the work of only a few minutes.

Mr. BARTON: If the work be so complicated, how is it to be done in a few minutes?

Dr. COCKBURN: This is a matter of even greater importance than anything we have to consider in our local parliaments; and hon. members desiring to give expression to a principle may not be able, on the spur of the moment, to draft a clause in legal phraseology. I would ask the hon. member, Mr. Barton, to point out how we are to overcome the difficulty, putting himself, not in the position of a skilful draftsman or lawyer, but in that of a layman?

Mr. BARTON: I do not think any great difficulty exists; and I would ask the hon. member, Sir Samuel Griffith, not to insist upon an intermediate stage.

Sir SAMUEL GRIFFITH: I merely threw out a suggestion for the consideration of the Committee!

Mr. BARTON: I do not think the effect would be to facilitate our proceedings. We are now in our third week, and in proportion to the value and importance of the assistance of a great many of the members of the Convention to us, is the strength of the calls daily made upon them by their own colonies. Among the strongest men here, if I may make any distinction at all, are those who hold executive offices, and whose colonies want them back as soon as possible. These are calls they can resist for a time; but I should be very sorry indeed if a time should come when they could no longer resist those calls, and when, consequently, the Convention would be deprived of their assistance. The interposition of an intermediate stage might lead to that difficulty. We are not exactly in the position of representatives commencing a session of parliament which might last four or five months. We have to do the best we can in the time at our disposal, and we have, I admit, at the same time, to take care that the propositions we formulate lose nothing whatever on the score of haste. I would ask the hon. member, Dr. Cockburn, to consider that this is a convention of legislators. A large majority of those present are men of long parliamentary experience; and it is scarcely competent for any one of us to contend that we have not had sufficient experience to know what legal phraseology is as developed in bills. It would be an extraordinary confession for the majority of the members of this Convention to make, that they find any difficulty in dealing with the clauses of a bill. I think we all sufficiently understand the phraseology generally used in acts of parliament to find no difficulty in placing a reasonable interpretation upon any clause in a bill. There need be no difficulty about the matter of amendments. Those who desire to make amendments will be found to have had, probably, many years' experience of that kind of work; and, so far as the hon. member, Dr. Cockburn, is concerned, he possesses such remarkable facility for expressing his precise ideas in the requisite language that the framing of any number of amendments will not present the least difficulty to him. I think I might say that of nearly every member present. Many of us, I regret to say, have grown grey in the service of these colonies. That is more or less the case with all of us; and there is no reason why we should confess to the world that which would not, if made, be a true confession—that we did not understand the ordinary phraseology of bills. I anticipate no difficulty in this matter. The bill will be in the hands of hon. members a sufficient time to enable them to understand every detail, and they will have at their disposal time which, owing to the great pressure of work in their own legislatures, they cannot ordinarily have. When engaged in their various colonies, they have multitudinous duties to discharge, and it may often happen that a bill will come before them at a time when they are not prepared with amendments. The time now at their disposal, however, free from the trammels of their ordinary duties elsewhere, will enable them to give attention to the clauses of the proposed bill, and will place them in a position to move any amendments they may desire to move. As the matter is one of some urgency, I would ask the hon. member, Sir Samuel Griffith, not to urge the interposition of another stage. Our time is growing short; we have to do the most important of our work in a short time; but when the bill is brought forward, the important matters which we have been

debating will be put in a formal way, and upon the amendments moved will depend that which will ultimately go to the several parliaments. We are now about to reach the most important part of our work, and if we appoint a committee merely to draw up resolutions, and have afterwards to put those resolutions in the form of a bill, we shall be sacrificing valuable time. If it be intended to appoint committees to frame resolutions alone, and allow our work to stand at the passing of those resolutions, we shall necessitate a second convention. I think that if our labours can possibly be concluded without the intervention of another convention we ought not to interpose this second stage, as a matter of certainty, seeing that there is every possibility of a second stage being avoided.

Sir SAMUEL GRIFFITH: I am afraid that in my desire to save time I did not make myself clear. I did not suggest a series of short resolutions which would require subsequent amplification into a bill. What I suggested was that the phraseology in which we embodied our conclusions should be the phraseology of ordinary resolutions, instead of the phraseology of clauses of bills. I did not mean that we should omit any detail that would be expressed in a bill; I referred only to the form in which it should be expressed.

Mr. WRIXON: I suggest that we should allow the committee to bring up a bill, if it see its way to do so. The hon. member, Sir Samuel Griffith, appeared to think that the public might possibly be of opinion that they had not sufficient information if it were brought before them in the shape of a bill; but I do not think there is much weight in that objection, and for this reason: that the points in which the public are interested—the prominent points in dispute—have during the last three weeks been debated several times; and other points which have not yet been debated will be fully debated when the bill is before us, and when the attention of the public will be fully called to them. The bill will be the machinery lying by to carry out our conclusions when we finally arrive at them, and, as I presume we really wish to arrive at some result, I think the committee should have a bill ready for the Convention when we meet again.

Resolution, as amended, agreed to.

Resolved:

(1.) That the resolutions reported to this Convention by Committee of the Whole be referred to two committees, the one for consideration of constitutional machinery and the distribution of functions and powers, the other for consideration of provisions relating to finance, taxation, and trade regulation; the first-named committee to consist of two members from each of the several delegations, the last-named committee to consist of one member from each. The members to be chosen by the several delegations.

(2.) That the last-named committee be instructed to specially consider resolutions Nos. 3 and 4, on trade and intercourse and on customs taxation, with a view to their being carried into effect upon lines just to the several colonies, and that it be a further instruction to the said committee to lay its conclusions before the Committee on Constitutional Machinery, Functions, and Powers.

(3.) That in addition to the committees abovementioned, a committee be appointed to consider the question of the establishment of a federal judiciary, its powers, and its functions, and to report to the Committee on Constitutional Machinery in the same manner as the Committee on Finance is directed to report, such committee to consist of one member from each delegation.

(4.) That upon the result of the deliberations of the said committees the Committee on Constitutional Machinery, Functions, and Powers, do prepare and submit to this Convention a bill for the establishment of a federal constitution, such bill to be prepared as speedily as is consistent with careful consideration.

Mr. DEAKIN: I would suggest that the President request that the different delegations make their nominations to the committees to-night so that the names may be handed in before we leave, and that arrangements may be made for the hour at which the committees will commence their labours to-morrow.

Mr. BARTON: I would suggest that the President leave the chair for, say, ten minutes to permit of the nomination of delegates.

The President left the chair for ten minutes.

The PRESIDENT: I have received the following returns, giving the names of the several committees as elected by their respective delegations:—

New South Wales.—Constitutional Functions: Sir Henry Parkes, and Mr. Barton. Finance, Taxation, &c.: Mr. McMillan. Judiciary: Mr. Dibbs.

Victoria.—Constitutional Functions: Mr. Gillies and Mr. Deakin. Finance, Taxation, &c.: Mr. Munro. Judiciary: Mr. Wrixon.

Queensland.—Constitutional Functions: Sir Samuel Griffith and Mr. Thynne. Finance, Taxation, &c.: Sir Thomas McIlwraith. Judiciary: Mr. Rutledge.

South Australia.—Constitutional Functions: Mr. Playford and Sir John Downer. Finance, Taxation, &c.: Sir John Bray. Judiciary: Mr. Kingston.

Tasmania.—Constitutional Functions: Mr. Clark and Mr. Adye Douglas. Finance, Taxation, &c.: Mr. Burgess. Judiciary: Mr. Clark.

New Zealand.—Constitutional Functions: Sir George Grey and Captain Russell. Finance, Taxation, &c.: Sir Harry Atkinson. Judiciary: Sir Harry Atkinson.

Western Australia.—Constitutional Functions: Mr. J. Forrest and Sir James Lee-Steere. Finance, Taxation, &c.: Mr. Marmion. Judiciary: Mr. Hackett.

Motion (by Sir SAMUEL GRIFFITH, *with concurrence*) agreed to:

That, in the event of the absence of any member of a committee, the delegation by which he was chosen be empowered to choose another member in his stead.

The PRESIDENT: It seems to me that the next business should be to appoint a time for the meeting of those committees.

Mr. DEAKIN: Perhaps it would be better for the first day if the committees met at the usual hour of 11 o'clock, and after that they could meet at whatever time they like to fix themselves.

The PRESIDENT: Perhaps it would be convenient if some intimation were given as to whether, when the committees are withdrawn, the Convention is to go on with its ordinary course of proceedings.

Mr. GILLIES: I would point out that as our proceedings are conducted according to the rules of the House of Commons, the select committees will not be able to meet during the sittings of the Convention, and it will therefore be necessary that we give them permission to sit on days when the Convention does not meet.

The PRESIDENT: Perhaps some hon. gentleman had better make a motion to that effect.

Mr. BARTON: The ordinary practice is to give committees leave to sit during any adjournment of the House, and let them fix their own time.

Mr. ABBOTT: I suggest that it would be much better to give the committees leave to sit at any time, and I would move:

That the committees have leave to sit at any time.

Question resolved in the affirmative.

The PRESIDENT: If I am permitted, I will announce on behalf of the Convention that the committees will meet at 11 o'clock to-morrow. It has been hinted to me, though I think it was hardly necessary, that the committees will have the use of this chamber, and any of the adjoining rooms.

Mr. BARTON: It has just occurred to me that no quorum has been fixed for the committees. I think it desirable that this should be done, and would suggest that in the large committee the quorum should be six, and in the others three.

Mr. GILLIES: In committees a majority is always a quorum!

The PRESIDENT: As far as I can form an opinion, from the attendance of members at the Convention, I think there can be little doubt that the committees will be fully attended; but perhaps it might be as well to fix the quorum.

HON. MEMBERS: A majority!

Mr. BARTON: I will adopt the suggestion thrown out, and will move:

That in the committees appointed a majority do form a quorum.

Question resolved in the affirmative.

Motion (by Mr. McMILLAN) agreed to:

That the Convention adjourn until 11 o'clock on Tuesday morning.

Convention adjourned at 5·16 p.m.

TUESDAY, 24 MARCH, 1891.

Judiciary—Adjournment.

The PRESIDENT took the chair at 11 a.m.

JUDICIARY.

The PRESIDENT: I have received a rather lengthy letter from Mr. Justice Richmond, a judge of the Supreme Court of New Zealand, in reference to the creation of a judiciary for Australia. I think it is too long to be recorded in the ordinary way.

Sir JOHN DOWNER: Refer it to the Judiciary Committee!

The PRESIDENT: I have shown the letter to the hon. member, Mr. Clark, the chairman of that committee, and I was going to suggest that some hon. member should move that it be printed. I think that would be the best course.

Mr. DIBBS: What is the letter about?

The PRESIDENT: It is couched in unobjectionable terms, and it contains the opinions of a judge of some eminence upon certain features of the judiciary.

Mr. CLARK: I wish to state that the President handed the letter to me as chairman of the Judiciary Committee, and asked me to make any observations upon it I thought fit. I have written a number of observations, and have had them printed, and I am quite prepared to move that the letter and my observations thereon be printed, not only for the use of the Judiciary Committee, but for the use of the whole Convention. I move:

That the letter sent by Mr. Justice Richmond, together with Mr. Clark's notes thereon, be printed.

Mr. ADYE DOUGLAS: I would suggest that the letter be read!

The PRESIDENT: It will take a long time to do that. I have already explained that I have adopted the course of handing the letter to the hon. member, Mr. Clark, who undertook to read it, to see if it was of such a nature that no objection could be offered to its being printed. We have the assurance of the hon. member, Mr. Clark, that there is no objection whatever to the printing of the letter, and, indeed, that it is a valuable contribution to our proceedings.

Mr. ADYE DOUGLAS: It seems to me that anything connected with our proceedings, if it is of sufficient importance to be referred to a committee, is also of sufficient importance to be referred to the Convention.

Mr. CLARK: The hon. member will be able to have printed copies of it!

The PRESIDENT: I will undertake to have it printed during the day.

Question resolved in the affirmative.

ADJOURNMENT.

Sir SAMUEL GRIFFITH: I have had the honor of being elected chairman of the Committee on Constitutional Powers and Functions, and I have to inform the Convention that that committee has not yet finished its labours, and is not in a position to bring up the report which it was instructed to prepare. I therefore have to suggest that some hon. gentleman should move that the Convention now adjourn. I think it would be convenient, if hon. gentlemen generally approve, for the Convention to meet again on Thursday afternoon, as at that time we shall be able at any rate to give the Convention some definite information as to when they may expect the full report of the committee. I think it is right to add that I have with some surprise seen published in the daily press what purport to be reports of the committees on finance and judiciary. One of those reports has been handed to the committee on constitutional powers in part—not complete, the other has not been handed to them at all, and I have reason to believe that what purports to be a copy of it in the press, is not a copy of the report that the committee has prepared. I mention the fact because it is very inconvenient that the proceedings of the select committee, which it was understood would be kept private, at any rate until they were complete, should appear in the press before hon. members of the Convention see them. As a matter of courtesy, if not of parliamentary practice, hon. members are entitled to see the reports first. I do not know, nor does any other hon. member, how this happened; but I think it right to call attention to it, and to express my very great regret that it has happened.

Mr. ABBOTT: I beg to move:

That the Convention do now adjourn until Thursday afternoon, at half-past 2.

Question proposed.

The PRESIDENT: I am requested to state that the officials at the table have had nothing whatever to do with the publication of the reports. They have been very careful—even scrupulously so—to destroy the very paper that had been used by members of the committees. How these particular reports obtained publicity I, with the hon. and learned member, Sir Samuel Griffith, cannot form any conception whatever. I can only say that I have not seen them myself.

Mr. MUNRO: As chairman of the Finance Committee, I must confess that I was very much surprised this morning when I saw that one of the morning newspapers contained what purports to be a report of that committee, and also what purports to be a report of the other committee. As the Vice-President has said, I handed to the chairman of the committee on constitutional powers a copy of the report of the Finance Committee, as far as it went, very late yesterday afternoon, and the appendices to that report have not been handed to him yet. I noticed, however, that copies of that report were distributed to hon. members either through the post or by hand last night. For instance, when I returned to the hotel late last night I found that a copy had been sent to me. It is quite possible that some members of the committee did not receive the report last night, and, as reporters are generally anxious to pick up anything going about, they may have got it in that way. I do not believe that any member of the committee gave the report to the press, nor that any of the officials did. It must, therefore, have got into the hands of the reporters in some way which we do not know anything at all about. With regard to the question of the adjournment, I think that for the convenience of hon. gentlemen we ought to know what we are expected to do. I know that it is very pleasant for all of us to be in Sydney, but I shall not be able to go on with my business in future if I remain here much longer. Our entertainment will be too good, and life too pleasant for us to go back to work any more. But if we are to remain here over the Easter holidays, we ought to know something as to why we are to be kept here. If it is merely for us to be called here on Thursday afternoon to be informed that there is nothing for us to do, I think it will be very much better for us to adjourn until Tuesday morning. This would enable those of us who can afford the time to take a run back to our different colonies, and to attend to some business there which we cannot possibly do here. I merely mention this for the purpose of doing what is most convenient for hon. delegates; for unless we

receive some assurance that when we meet on Thursday we shall be called upon to proceed with business, I do not think any good will result from meeting then for an hour or two, and then being told we cannot meet again until the following Tuesday. I think that under these circumstances it would be far better that the adjournment should take place until next Tuesday, when we should expect the committee would be prepared to lay the bill before us, and we would go straight on.

Mr. CLARK: As chairman of the Judiciary Committee I wish to say that I was as much surprised as was the Vice-President and the chairman of the Finance Committee, to see what purported to be a report of the Judiciary Committee in one of the newspapers this morning. That report is a copy of the first draft that was brought up, and evidently a copy in that imperfect state went astray and got into the reporters' hands. It is very incorrect in some paragraphs. It contains paragraphs that will not appear when the report comes up, and it does not contain several paragraphs that will appear in the report when it comes up.

Mr. BARTON: I think some hon. members, I do not allude to those who live out of Australia, might have an opportunity to go home for a couple of days, if it is not certain that we shall have the bill by next Thursday. I invite the attention of hon. members more particularly to the suggestion of the hon. member, Mr. Munro. It does seem that it would be a pity for the Convention, which requires a quorum of twenty-five members, to meet here next Thursday unless we are certain of having business to go on with on that day, and it would be better for hon. gentlemen who can do so to go to their homes and not be brought here until next Tuesday.

Sir SAMUEL GRIFFITH: I think I may say that there is very little probability that the committee will be able to make a complete report by Thursday. There is a great deal of mechanical work to be done in the printing office and elsewhere, and the committee as a whole must have an opportunity of revising that work carefully before they bring up their report. I think it is physically impossible that it can be ready by Thursday, but we may be able to give the Convention more definite information then. On the other hand I think there is little doubt that on Tuesday morning the committee will be able to make a complete report on their labours.

Mr. BAKER: Will it not be possible, sir, for the committee, when their report is ready, to send a copy through the post to each member of the Convention, so that he may be able to study its contents, and be ready to go on with its consideration when the Convention meets again? If we see the report for the first time on Tuesday it will be very difficult for us—certainly for myself, and I believe for most hon. members—to grasp its whole meaning and intent on Tuesday morning, and go straight on then with its consideration.

Sir SAMUEL GRIFFITH: Quite impossible!

Mr. BAKER: I would, therefore, suggest if it is feasible that as soon as it is ready, even if we do adjourn, the committee circulate the report among the members of the Convention.

Sir JOHN BRAY: I think there is a good deal in the suggestion of my hon. friend. Perhaps it will be understood that if the report of the Constitutional Committee is ready before Tuesday, if we adjourn until then its chairman may hand it to the President who can cause a copy to be sent to each member of the Convention so that it may be perused before we meet on Tuesday.

Sir SAMUEL GRIFFITH: Confidentially!

Sir JOHN BRAY: I do not know that it matters really very much once the committee agree to the form in which they are going to submit their report to the Convention if it is made public then. For it cannot be altered after it is handed into the President as the final report of the committee. I think we should have the report, if possible, before we meet as a body again.

Mr. THYNNE: I rise to move, by way of amendment, that the Convention do adjourn until Tuesday next at half-past 2 o'clock.

Mr. ABBOTT: I am quite willing to withdraw my amendment and to propose in lieu thereof the adjournment of the Convention until Tuesday afternoon at half-past 2 o'clock. If the Convention adjourns until Tuesday afternoon, hon. members will be able to get a copy of the report as soon as it is brought up. I do not think it is desirable that the reports should be made public until they are submitted to the Convention. Hon. members will have Tuesday afternoon and Tuesday evening to consider the report, and the Convention can meet on Wednesday morning. Therefore, with concurrence, I withdraw my motion, and move in its stead:

That the Convention at its rising do adjourn until Tuesday next at half-past 2 o'clock.

Mr. DIBBS: I desire to say a word or two as to the suggestion made by the hon. member, Sir John Bray. I submit that as soon as the report of the Constitutional Committee is prepared, and finally adopted, it should be handed to the press.

An HON. MEMBER: No, to the President!

Mr. DIBBS: It is all very well for the hon. member to say, "No"; but he represents only a part of the public out of doors. The moment the report leaves the hands of the committee it must come before the Convention. I want to point out that we, as representatives of the public, have a right to give the people of Australia the earliest possible intimation of what we are doing. Now, if the report is laid on the table on Tuesday, the public will know its contents through the press on Wednesday morning, and if they can get that information on Tuesday morning, why should we attempt to keep it back for one hour or twenty-four hours? What we are doing will be fully criticised throughout the country. The public have a right to this information at the earliest moment, and it is almost reducing our proceedings to a farce to withhold the knowledge after the reports have finally left the committees. It is far better to give the press a fair and true copy of the report than to have a garbled edition published in Tuesday's or Wednesday's papers. I think that if that idea is embodied in the motion it will meet with the approval of hon. members here. I am quite certain unless we do that people out of doors will say that by our action we are depriving them of the right of knowing what we are doing to the fullest possible extent.

Sir JOHN DOWNER: As regards the confidential circulation of the report at any reasonable time before Tuesday, I entirely agree with the suggestion; but as regards its publication in the press, I think my hon. friend, Mr. Dibbs, forgets that probably when the committees present their reports they would like to give a short explanation of the reasons for the conclusions at which they have arrived before submitting their reports baldly to be commented upon by others. I think it is only a reasonable thing that the committees, through their chairmen, should have an opportunity of explaining their reasons before their reports are made matters of public comment.

Mr. BARTON: I think that there is a great deal of cogency in what has been said by the hon. member, Sir John Downer. Any measure which is brought up by a committee and laid before the public without such explanation as the committee will undoubtedly give at the hands of their chairman is liable to misconstruction. Moreover, we are proceeding according to the rules of Parliament. Certainly our standing order applies only to debates, but by analogy we are proceeding in all respects, I hope, according to the rules of Parliament, and it would be an unheard-of thing that a committee instructed to

report should place their report in the hands of members, and so necessarily in the hands of the public, because the experience of the last two or three days shows that the two things are one and the same, to some intents and purposes at any rate. It would be a mistake that these reports should be handed about at all until the committees come forward in an authoritative way and explain the reasons for adopting the conclusions at which they have arrived. I am sure it will not do hon. members any good to have the report put in their hands, not being themselves cognizant of the proceedings of the committee and of the manner in which the conclusions were arrived at, until the various reasons which actuated the committee one way or the other are fully explained. That will be done when the bill is introduced, and no doubt a statement will be made when a report is brought up by the chairman of the committee. I think we might well, for the purpose of adhering to a rule which has worked out well, and which is the result of long experience, possess ourselves in patience until we in the ordinary and proper way get the reports of the committees. That can be done, we are assured, by Tuesday next. I am quite sure the President can scarcely know, unless this debate develops the sense of the Convention as a sort of instruction to him, what to do with the report when it reaches him. He will not know whether he ought to have the report printed and circulated amongst hon. members, or whether he ought to wait until the committees, through their chairmen, move the adoption of the reports. I think he is entitled to have the sense of the Convention on that point. I would suggest that unless grave reason can be given for the course, the ordinary parliamentary procedure should not be intermitted.

Mr. J. FORREST: The only objection I have to the ordinary parliamentary procedure in this instance is that it will involve delay. If we receive the report of the committee on Tuesday afternoon, it will be necessary to adjourn until Wednesday or Thursday, so that hon. members may consider the report and bill, whereas if the bill were ready on Saturday it might be in the hands of hon. members by Saturday evening, thus giving them a day or two to consider it before the Convention reassembled. It seems to me that however convenient it may be to those gentlemen who are resident in Sydney, and who are able to carry on their own business at the same time that they attend to their duties at this Convention, and to those gentlemen who can go home and return in a day, to follow the ordinary parliamentary procedure, it will be inconvenient for those who come from a long distance. Speaking for myself, I can only say that I should be very glad to remain here for a considerable time, but the exigencies of the public service will not permit of my doing so. I may say that I and my colleagues have taken our return passages to Western Australia by a steamer leaving Adelaide on the 15th April, and that it will be impossible for us to remain here longer than that.

Mr. CLARK: The labours of the Convention will be completed by that time!

Mr. J. FORREST: I think the proposal of the hon. member, Mr. Barton, will cause several days' delay. Of course we all regret the appearance in the press of garbled reports of the deliberations of the committee. At the same time I see no reason whatever why the report of the committee should not be submitted to members of the Convention confidentially at the earliest moment. I therefore move:

> That a copy of the report of the Committee on Constitutional Machinery, so soon as prepared, be forwarded by the President to the delegates of this Convention.

Mr. BAKER: I second the motion.

Mr. MUNRO: I presume that this is an amendment which cannot be moved upon a motion for the adjournment of the Convention?

The PRESIDENT: I have no doubt the hon. member, Mr. Abbott, will withdraw his motion of adjournment.

Mr. ABBOTT: I am quite willing to withdraw my motion, although what I had moved was not that the Convention do now adjourn, but that it should at its rising adjourn until Tuesday next.

The PRESIDENT: Before putting the motion of the hon. member, Mr. J. Forrest, I do not know whether I shall be deemed in order if I make two or three observations.

HON. MEMBERS: Hear, hear!

The PRESIDENT: I think the hon. member, Mr. J. Forrest, and others who agree with him, will see at once that if the report be not ready before the end of the week it will be impossible for it to reach him in Western Australia, or even in South Australia, or in Victoria in time to be considered before the Convention meets on Tuesday next.

Mr. J. FORREST: I shall be here!

The PRESIDENT: I understood the hon. member's first argument to be this: that the course proposed by the hon. member, Mr. Barton, was all very well for persons on the spot, but that those at a distance were differently situated. I understood that argument to imply that the hon. member would be leaving Sydney.

Mr. J. FORREST: No!

The PRESIDENT: If the hon. member remains in Sydney that argument is not of much use. But it would be hardly proper for me to say much on that aspect of the question. I do wish, however to impress upon members of the Convention that while this proceeding would be very irregular it would be productive of scarcely any good whatever. It is hardly right for a report to be considered, as proposed, until it is produced in the Convention with such light as its authors can throw upon it, and I doubt very much whether the mode of proceeding with this report and the bill attached to it, when it is forthcoming, will not be of a character very similar to that of the second reading and consideration in detail of an ordinary bill in Parliament, and whether, therefore, the proceedings will not be of a character that would render it extremely difficult for the public to understand the matter until it has been, to some extent, debated in the Convention. I think, therefore, that it would be an inadvisable course on all grounds—quite irregular, according to the proceedings of any legislative body—and that it would be really productive of no good. Beyond expressing that opinion, I have nothing further to say, except that I am very glad the motion has been made, so that, if the course of distribution, as proposed, be followed, it may be under the strict orders of the Convention.

Question proposed.

Mr. MUNRO: I agree with you, sir, that the proposed course is quite irregular. I may say also that it would be quite ineffective. I am assured by delegates upon the committee, that the time at their disposal for the preparation of a draft constitution, and for the submission of it to their own body, will be quite short enough, supposing the Convention reassembles on Tuesday afternoon, and considering that the holidays intervene. If that be so, of what use will it be for us to pass a resolution which is not only contrary to the standing orders we have already adopted, but which in itself would be ineffective.

Mr. BAKER: It is not contrary to the standing orders!

Mr. MUNRO: We have agreed to be guided by the standing orders of the House of Commons, and those orders certainly do not permit of copies of bills being sent to members of the House of Commons before they are brought before the house itself. That, so far as I am aware, is not done by any deliberate body, and it would be contrary to all precedent to adopt the course on this occasion. I am

as anxious as is my hon. friend, the Prime Minister of Western Australia, to save time, and I am sure that the proposed course will not save time. But I would like to point out to hon. members the way in which I think it can be saved. What I would suggest is, that when the bill is submitted to us on Tuesday afternoon next we should thenceforward make up our minds to refuse all entertainment, and to meet in the evening, as well as during the day, until we have completed our consideration of the bill. Our whole attention should be directed to dealing with the bill, and if that be done we shall all get away by the 15th April. That is the proper way to proceed—to let everything else go, and when we have got the bill before us, to pay attention to nothing else until we have done with it. To carry this motion would be subversive of all the rules and precedents of Parliament. It would be absolutely useless to the committee, and it would not be right to send a copy of the report or of the bill to members before it is submitted to the Convention.

Mr. DONALDSON: I am as desirous as any hon. member can be to see the report as soon as possible. At the same time I think we should be adopting a very wrong course if we ordered it to be distributed before it is presented to the Convention in the usual way, as is done in Parliament. There will probably be a discussion on Tuesday afternoon, and it will be well to have the debate which then takes place published in the newspapers simultaneously with the report and bill. If the report be circulated before the debate takes place, it is more than likely that it will be published in the newspapers. The newspapers may make adverse comments upon it, and it would probably take a great deal of time and trouble for us to eradicate the effect which such comments will have on the public mind. It will be far better for us to wait patiently for the report. It should be considered fully by the committee before it reaches the Convention, and we should not try to hurry the committee in any way whatever. Such a course would be far better for every member of the Convention. I trust the hon. member, Mr. J. Forrest, will not persevere with the motion.

Sir JOHN BRAY: If we were meeting from day to day, it would be exceedingly objectionable for the report to be made public before it was handed in to the Convention; but as, owing to the Easter holidays, we propose to adjourn for a week, it is the height of absurdity to imagine that if this report be agreed to on Saturday night, and the delegates remain in Sydney, they will be satisfied to wait until Tuesday to know what that report is. We ought to adhere to parliamentary practice as far as we possibly can, and if we were meeting every day I should be quite willing to wait for the report until it is presented to the Convention. But we know very well that if the report is agreed to before Tuesday, no delegate will rest satisfied until he gets a copy, and the sooner every member gets a copy and the public know what the report is the better it will be. Therefore I think that my suggestion, which has been supported by the hon. member, Mr. Dibbs, is really the proper one. If the report cannot be drawn up before Tuesday, then no harm will be done. If it is agreed upon before Tuesday, however, it should be handed to the President and copies furnished to members and to the press. The hon. member, Sir Samuel Griffith, has not said that immediately he brings forward the bill on Tuesday he will be prepared to explain it.

Sir SAMUEL GRIFFITH: I should be sorry to do so before members are furnished with a copy of the report itself.

Sir JOHN BRAY: I quite agree with the hon. member that it would not be reasonable to expect such a thing. Well, if the report is brought up on Tuesday afternoon, the press will publish it and make comments upon it before it is considered by the Convention. It seems to me that it would be more convenient if the report were handed to the press and the public as soon as it was agreed upon. I agree that until the report is definitely agreed upon, the less said about it the better; otherwise I think we shall save time by publishing the report as soon as possible.

Sir SAMUEL GRIFFITH: I hope that the hon. member, Mr. J. Forrest, will withdraw the motion. It must be remembered that the members of each delegation are in communication with their colleagues. I presume they consult each other. I know that I consult my colleagues from time to time—not only those on the committee but also those who are not on the committee. If this committee proceeds as other committees do, there will no doubt be three or four drafts of the report submitted before it is finally agreed upon. The nature of these drafts will no doubt be communicated to the members of each delegation, so that they will know what is going on. They will not know the exact terms of the final report of course, because no one will know that until the report is agreed upon. I do not see any possibility of having the report drawn up in a complete form before Tuesday next, unless indeed all the members of the committee are willing to sit on Good Friday and Easter Monday, and possibly Sunday.

Mr. LOTON: Does the hon. member mean the draft report or bill?

Sir SAMUEL GRIFFITH: I mean the report in the form of a bill. The committee wish to bring up a bill that will commend itself to the Convention, and that will not require verbal amendment. It is a case in which the more haste the less speed. The careful revision must be done by a small committee, not by a large one. I hope the hon. member will withdraw the motion, and, as I have pointed out, he can ascertain all that it is desirable to know by other means. He will know what is going on, and he will be able to make suggestions to his colleagues on the committee.

Sir GEORGE GREY: Before the motion is withdrawn, I would like to express my own opinion that I really believe this difficulty has arisen entirely from the rule laid down that the committees should be secretly conducted. The more I think upon that subject the more satisfied I am that it was a mistake. Now, presuming that the argument was used that many members would be unwilling that the crude ideas which they had held should be made known to the public, they having altered them after argument in the committee. That very reason, it seems to me, would show that we have made a mistake. Again, an hon. member has said that it is quite possible, if this report were published before being submitted to the Convention, the press would publish adverse comments upon it, the effect of which we should never afterwards be able to get out of the public mind, or, at all events, not for a considerable time. That appeared to me to be a conclusive argument against the committees being conducted in secret; for if hon. members meeting in committee did in the first instance take mistaken views upon a subject, and then the reasoning in committee convinced them that they were wrong, so that they withdrew their opposition and adopted other views, if that were made known to the public, the public would have the same advantage of having wrong views confuted by proper argument. The public throughout the whole of Australasia would read those views on both sides of the question. The probability is that the particular wrong arguments which it is anticipated the press would use would have been discussed in committee, and would have been confuted there; and the press therefore would never have instilled into the public mind ideas which members of the Convention could not afterwards eradicate. It seems to me that the whole subject would have been fairly discussed, as it were, in the presence of the whole of

New Zealand and Australasia; that owing to the telegraphic communication to every part, the whole public of Australasia might really, as it were, have sat in the committee; and would have known every view that had been proposed; that certain views were confuted, and others adopted. Such information must have done the greatest possible good in educating the public mind with regard to their future constitution; and to deprive them of an advantage of that kind was a true misfortune to the public. Anything that might still bring the matter under discussion would be an advantage to the whole of Australasia, to every man, woman, and child in the country; and we should rather try to promote the spread of information of that kind than to keep back most necessary information to enable the public to make up their minds ultimately on the form of the constitution recommended for their adoption. All information which could enable them to do that should be freely and fully given now, as it ought to have been from the first.

Mr. J. FORREST: As it appears that the members of the committees may communicate freely with their colleagues, my point will be gained in another way; and, therefore, as it appears to be the wish of hon. members that the motion should not be put, I desire to withdraw it.

Motion, by leave, withdrawn.

Motion (by Mr. ABBOTT) agreed to:

That the Convention at its rising, do adjourn until Tuesday next at 2·30 p.m.

Convention adjourned at 11·57 a.m.

TUESDAY, 31 MARCH, 1891.

Address—Death of a Delegate—Report: Constitutional Committee—Commonwealth of Australia Bill—Adjournment.

The PRESIDENT took the chair at 3·30 p.m.

ADDRESS.

The following address was read by the secretary:—

To Sir Henry Parkes, G.C.M.G., President, and the hon. members of the Federal Convention.

May it please the members of your honorable Convention:—

We, the members of the United Licensed Victuallers' Association of New South Wales, approach your honorable Convention with sentiments of the deepest respect.

We desire to give expression to our sincere congratulations upon the assembly in Sydney of a body of such eminent statesmen to consider questions so fraught with momentous issues to the Australian nation as are involved in the great work of federation.

We also express a hope that, whatever decisions may be arrived at by your honorable Convention, they will be designed for the best interests of the people of the whole of the colonies; and that from the foundation being laid to-day there may arise a superstructure which shall give practical effect to the now historic aspiration—one people, one destiny.

Signed on behalf of the members of the United Licensed Victuallers' Association of New South Wales.

FREDERICK ALBERT ALLEN, President.
J. H. HUNT, Vice-President.
J. H. KEARY, Vice-President.
JAMES H. RAINFORD, Vice-President.
JAMES P. KAVANAGH, Vice-President.
F. F. SWEENEY, Treasurer.
F. BEVILL, General Secretary.

DEATH OF A DELEGATE.

Mr. McMILLAN: I am sure it must be a matter of deep regret to every member of this Convention that, after the short adjournment which we have made, upon reopening the proceedings we are overshadowed by the sorrow of the death of one of the ablest men in our midst, the Hon. John Murtagh Macrossan. It is not likely that I can speak in as full terms of the hon. member whose death we deplore as many who have known him for years, and to whose particular colony he belonged; but I had the great pleasure and honor of making Mr. Macrossan's acquaintance twelve months ago at the federation conference in Melbourne, and there all of us who came into contact with him knew that we had one of the superior minds of Australia in our midst. We knew from the words which he uttered that he was a man of great thought and of comprehensive reading; and, as a debater, for preciseness of utterance, for putting into the smallest possible compass the largest body of ideas, I should say he had probably no superior in Australasia. His health had been failing for some considerable time. Those who saw him at Hobart three months ago must have seen that he was working up under a high sense of duty against physical infirmities, and probably if he had consulted his own health he would have remained in Queensland during the sittings of this Convention. But he was a man of simple piety—I use the word in the highest sense—with a high sense of honor and duty, and he came here to give the last few hours of his life to the service of his adopted country. I have, therefore, a sorrowful pleasure in moving:

That the members of this Convention desire to record the expression of their deep regret at the death of the Hon. John Murtagh Macrossan, one of the delegates from Queensland, and their mournful sense of the great loss which the Convention, and the whole of Australia, has sustained by the sad event.

Sir SAMUEL GRIFFITH: As a representative of Queensland, I desire to express, on behalf of that colony, my sense of the deep loss which it, as well as Australia, has sustained by the death of Mr. Macrossan. I have had the advantage of his acquaintance for many years. For, I think, more than seventeen years we sat in the same house of Parliament, and during nearly the whole of that time we were opposed to one another in local politics. The opposition sometimes, as will happen, became strong and even bitter, but the result of those long years of experience has been that there was no man in the colony of Queensland for whom I entertained a higher regard as an honorable opponent and a true servant of his country. Apart from matters of local politics or such matters as divide men who otherwise would be together, he was one of those men on whom you could always count when the higher interest of the country were at stake. You always knew where to find him, and that he would be fighting on the right side. Such men are not too numerous, and his loss is much to be deplored. On the subject on which we are now met—the federation of Australia—I believe no man in Australia had a wider knowledge or a clearer sense of the work to be done. He had studied the subject profoundly, and sincerely believed in the cause of federation; indeed, I am satisfied that if it had not been for his high sense of duty, to which the hon. member, Mr. McMillan, referred, and which impelled him to be present with us at the risk of his life, he might still have been spared to Australia for some time. The death of such men is a national loss, and Mr. Macrossan's death will be so felt in Queensland. I hope those of us who remain behind may be actuated by the same high sense of duty as always actuated him in his public life.

Sir PATRICK JENNINGS: It is not without feelings of emotion that I rise to say a word or two in honor of the memory of a great and good man, who has passed away from us in the execution of his duty to his country. I had an acquaintance which ripened into friendship with that hon. gentleman for the last twenty years. I watched his career, and I formed an intimacy with him based upon that acquaintance; and never in the whole course of my experience and dealings with men, have I met a more honorable,

truthful, upright, and patriotic man than the late John Murtagh Macrossan. I am glad that the Premier of Queensland has come forward to testify his sense of the loss which the colony which he represents will have to endure in the death of such a man. No more valuable testimony to the worth of Mr. Macrossan could be offered than that given by one who was for so many years a political opponent. I believe that, in coming to the Convention, he was so strongly actuated by a sense of public duty that, although he knew his health was failing from day to day, he cast aside every consideration for the furtherance of what he thought was and ought to be the noblest aim of every Australian citizen and patriot—the cause of the federation of Australasia. I am sure we shall all miss him in our deliberations; and the placing on record of this little tribute to his memory will be a graceful act which will be appreciated by those who survive him.

Resolution agreed to.

Resolved (motion by Mr. McMillan):

That a copy of the resolution be sent to the widow of the late John Murtagh Macrossan, Esquire.

REPORT: CONSTITUTIONAL COMMITTEE.

Sir SAMUEL GRIFFITH: I have the honor to bring up the report of the Committee on Constitutional Machinery and Distribution of Functions and Powers, together with appendices. I move:

That the report and appendices be printed.

Question resolved in the affirmative.

COMMONWEALTH OF AUSTRALIA BILL.

Sir SAMUEL GRIFFITH: With the permission of the Convention, I should like to move, without notice:—

That the draft bill to constitute the commonwealth of Australia, brought up by the Constitutional Committee, be referred for consideration to the Committee of the Whole Convention.

If I am allowed to submit that motion, I propose, by the desire of the committee, to make a few observations which may assist hon. gentlemen in following the bill when they come to read it.

The President: As there is no objection, I assume that the Convention gives its unanimous assent.

Sir SAMUEL GRIFFITH: The Committee on Constitutional Functions were directed to prepare a bill to establish the federation of Australia. They have endeavoured to perform that duty, and they have framed a bill which forms appendix A to the report just submitted. In framing it, the committee had the advantage of having received the reports of the other two committees—on Finance and on Judiciary—to which they have given their most careful attention. I propose now, as briefly as I may, to offer a few observations on the bill, and to call attention to some of those matters which may be new to the members of the Convention who were not on the committee, and also to briefly indicate why we have chosen one of several possible courses when called upon to make a choice. First, sir, as to the frame of the bill. The bill must necessarily be passed by the Parliament of the United Kingdom, but it occurred to us that the constitution of the federation should be a document by itself. If the federation is established it will be an historic document, and we thought that it would be just as well that it should be complete in itself. We have, therefore, framed this bill as a bill to be introduced into the Parliament of the United Kingdom, constituting the commonwealth and declaring the constitution, the constitution—which may be called a schedule, if you please—standing as a separate part of the bill. The name that the committee selected for the federation was, "The Commonwealth of Australia." It is not necessary, I think, to give any special reasons why that name was selected.

Sir John Bray: Yes!

Sir SAMUEL GRIFFITH: It is no doubt new to some hon. members; but I think they will find, as I myself found, that, after being accustomed to it for two or three days, it will come to be regarded as the most natural and proper name. We are, I believe, about to establish a great commonwealth in Australia under the Crown, and, that being so, there is no reason why we should not call it by that name. I am merely indicating the arguments that prevailed in the committee. Of course, I do not wish it to be understood that in a matter of this sort, involving so many points of difficulty, the committee were unanimous on all points. That is a thing that could not possibly happen, I suppose. The committee have brought up the bill collectively, reserving their right as individual members of the Convention to dissent from and to express their dissent from such provisions as they think are not wise, or for which they think others may be substituted with advantage. I think that I need not trouble the Convention with any reference to the few clauses which are the enacting clauses of the bill proposed to be passed by the Parliament of the United Kingdom. There are only seven, with an eighth saying that "the constitution of the commonwealth shall be as follows;" and in order to facilitate reference in the future—I hope a long future—it is divided into chapters: First, the legislature; second, the executive government; third, the federal judicature; fourth, finance and trade; fifth, the states; sixth, new states; seventh, miscellaneous provisions; and, eighth, amendment of the constitution. It is proposed that the legislative powers of the commonwealth shall be vested in a parliament, consisting of the Queen, a senate, and a house of representatives. Those are the names which, after full discussion in committee, we adopted for submission to the Convention. With respect to the salary of the governor-general, it is proposed that it shall not be less than £10,000 per annum, the parliament having power to alter it in other respects, as they think fit, but not to reduce it below that amount. As to the constitution of the senate, the committtee have ventured to depart—and I hope they will be pardoned for departing—from the strict letter of the instructions conveyed in the resolutions adopted by the Convention. Instead of providing for the retirement of an equal third every two years, they propose that the number of members shall be eight from each state, and that half of them shall retire every three years. One reason I think I may indicate now, which prevailed with many members of the committee was, that, as the duration of the parliaments of the colonies does not exceed three years, by that means no parliament would have an opportunity to make two elections of senators. If they had, it might happen that in some states, at any rate, two-thirds of the senators would be chosen by one parliament, and half of these just as that parliament was ceasing to exist. It is proposed that they shall be directly chosen by the houses of the parliament—that is to say, that the members of the houses shall themselves directly choose the members of the senate. The manner in which they shall exercise that power we propose to leave to them until the parliament of the commonwealth makes a uniform provision, which we propose they shall do if they think fit. The term for which senators are to be chosen is six years—the first senators to be divided into two classes by lot, one set to go out at the end of three years, the other remaining in office for the full six years. With respect to the qualification of senators, the only one necessary to call attention to is that they must have been residents of that which forms part of the commonwealth at the time of election for a period of at least five years, so

as to ensure that no novices in the affairs of Australia shall take part in the senate. No such restriction is proposed in respect of the house of representatives. It is proposed that the members of that house shall be chosen for three years by the people of each state, according to the number of its population, and that, until other provision is made by the parliament of the commonwealth, each state shall have one representative for every 30,000 people, with a proviso that the minimum for any existing colony shall be four members. With respect to the qualification of the electors—a subject discussed in this Convention—the proposal of the committee is that it shall be the same as that for the electors for the more numerous branch of the parliament of each state. I have used the word "state." I should have earlier pointed out that the committee propose to use the word "state" to indicate the component parts of the commonwealth. Three names have been suggested for those component parts, namely, "colony," the present name of most of them, "province," the name adopted by South Australia, and the other term "state," which, on consideration, the majority, at any rate, of the committee thought was a higher term, and would more properly indicate the nature and functions of the entity of which we are speaking. We, therefore, adopted the word "state" as distinguished from "commonwealth." I have pointed out the qualifications of the electors. We did not see our way to provide for a uniform qualification in all cases. That would have involved a complete and elaborate electoral system, and it might have been suggested that it would interfere too much with the internal affairs of the states themselves. It is provided also that in any state where there is a race of people not admitted to a share in the representation there, it shall not be counted in reckoning the number of members to be elected to the parliament of the commonwealth. Provision is made for a periodical apportionment of the representation of the different states after each census, but not to take effect during the existing parliament, and for either an increase or a diminution of the number of members of the parliament of the federal commonwealth by that parliament, but so as not to interfere with the proportion of representation prescribed by the constitution. There are, of course, many formal matters relating to both houses, such as the election of president and speaker, disqualifications, the issue of writs, elections, and so on, with which I shall not on this occasion trouble the Convention. It is provided, then, that each member of either house shall have an annual allowance for his services, which is proposed to be fixed in the meantime at £500 a year. The ordinary disqualifications are inserted as to members holding offices of profit, with the exception of ministers of the Crown, or becoming public contractors and other similar provisions. Having dealt with the constitution of the two houses, we then had to deal with the legislative powers of the parliament. This subject occupied much of the time of the committee, and will, I am sure, receive most careful attention and consideration from the Convention, as it will from the people of the different states, because the powers given to the parliament of the commonwealth are proposed to be powers paramount over those of the states. It is, therefore, very necessary, bearing in mind the original limitation in the first of the resolutions which you, sir, moved in the Convention, to see that we do not exceed that limit, and do not propose to transfer from a state parliament to the parliament of the commonwealth any power which can be better exercised by the state parliament, or the exercise of which by the parliament of the commonwealth is not necessary for its good order and government. That is the rule which we have had before us, and how far we have succeeded in making the division of course is a matter upon which the Convention and the public will express their opinion. I propose to call attention to some of the powers, not to all, in the list. Many of them require, I think, scarcely any comment; they will be admitted as being powers which ought to be within the province of any federal legislature:

1. The regulation of trade and commerce with other countries, and among the several states;
2. Customs and excise and bounties, but so that duties of customs and excise and bounties shall be uniform throughout the commonwealth, and that no tax or duty shall be imposed on any goods exported from one state to another;
3. Raising money by any other mode or system of taxation; but so that all such taxation shall be uniform throughout the commonwealth;
4. Borrowing money on the public credit of the commonwealth;
5. Postal and telegraphic services;
6. The military and naval defence of the commonwealth and the several states.

Then there are matters which may, perhaps, be considered as a fuller enumeration of the subject of trade and commerce, such as navigation, fisheries, census, and what may be called generally mercantile law. It is also proposed to give to the parliament of the commonwealth power to deal with the subjects of naturalisation of aliens, marriage and divorce, immigration and emigration, the influx of criminals, external affairs and treaties, and the relations of the commonwealth to the islands of the Pacific. All these matters, I think, require no comment—at any rate, not at the present moment. Another power to which I would call special attention is No. 27, which reads as follows:—

> River navigation with respect to the common purposes of two or more states or parts of the commonwealth.

That is a matter which requires careful consideration, and which received careful consideration from the committee, who chose these words as best indicating the precise object intended. Another, perhaps, somewhat novel subject is:

> The control of railways with respect to transport for the purposes of the commonwealth.

Of course it is necessary for the purposes of the commonwealth that it should have the control over all means of communication. Another provision to which I desire to call special attention is No. 30, which reads thus:

> The exercise within the commonwealth, at the request or with the concurrence of the parliaments of all the states concerned, of any legislative powers with respect to the affairs of the territory of the commonwealth, or any part of it, which can at the date of the establishment of this constitution be exercised only by the Parliament of the United Kingdom or by the Federal Council of Australasia, but always subject to the provisions of this constitution.

We are aware, sir, that there are many things now upon which the legislatures and governments of the several Australian colonies may agree, and upon which they may desire to see a law established; but we are obliged, if we want that law made, to go to the Parliament of the United Kingdom, and ask them to be good enough to make the law for us; and when it is made we will obey it. I contend, for myself, as I have had an opportunity of saying before, that after the federal parliament is established anything which the legislatures of Australia want done in the way of legislation should be done within Australia, and the parliament of the commonwealth should have that power. It is not proposed by this provision to enable the parliament of the commonwealth to interfere with the state legislatures; but only, when the state legislatures agree in requesting such legislation, to pass it, so that there shall be no longer any necessity to have recourse to a parliament beyond our own shores when once this constitution has been passed by the Parliament of the United Kingdom. With respect to these subjects, it is not proposed to give the parliament of the commonwealth exclusive jurisdiction; they will have paramount

jurisdiction; but it is proposed that, until they exercise those powers, the existing laws shall remain in force, and that, until they choose to make laws to the contrary, the state legislatures may go on exercising their existing powers. It is only when the federal parliament comes to the conclusion that it is necessary to make laws on those matters that the powers of the states will be excluded, and then only to the extent to which the federal legislature chooses to exercise its functions. In addition to the powers to be exercised in that way, not interfering with the existing rights of states until the federal legislature thinks it necessary to do so, it is proposed to give some exclusive powers to the legislature of the commonwealth. One of them is to deal with

the affairs of people of any race with respect to whom it is deemed necessary to make special laws not applicable to the general community; but so that this power shall not extend to authorise legislation with respect to the aboriginal native race in Australia and the Maori race in New Zealand.

I am sorry that my late colleague and co-delegate for Queensland, Mr. Macrossan, is not here to express his opinion on that proposal. I am satisfied, notwithstanding that during all his political career he was a representative of northern constituencies in Queensland—constituencies where the question of black labour was a burning one—that he would have most cordially supported the proposal, and would have insisted upon the necessity of that power being given to the legislature of the commonwealth of Australia, and not to the legislature of any particular state, because the introduction of an alien race in considerable numbers into any part of the commonwealth is a danger to the whole of the commonwealth, and upon that matter the commonwealth should speak, and the commonwealth alone.

Mr. DONALDSON: Mr. Macrossan expressed himself to that effect!

Sir SAMUEL GRIFFITH: Yes, in Brisbane. The next subject of exclusive power relates to the government of any territory which may, by the surrender of any state or states, and the acceptance of the parliament, become the seat of government of the commonwealth. I need say nothing about that subject. The next subject relates to departments of government which are to be taken over by the government of the commonwealth. As soon as the parliament of the commonwealth takes over these departments, it must alone have power to control them; but hon. members will find later on a provision continuing all the existing laws of the colonies on that subject until such laws are made by the federal parliament. Then there is a formal enumeration of "such other matters as are by this constitution declared to be within the exclusive powers of the parliament." That may be said to be a clumsy way of doing things; but it was found to be impracticable to do it in any other way. Before I pass from the subject of powers, I may mention a subject which was anxiously considered by the committee—namely, whether having enumerated so many powers, which some people may say are to take away the autonomy of the several legislatures, we ought not on the other hand to have done as they did in Canada, and enumerated the subjects which are left to the state legislatures. It would have been, to begin with, unscientific, and, in the second place, it would have been impossible, because I do not think that anybody could attempt to enumerate them all. But I will take this opportunity of just mentioning a few of the subjects which are left, for the benefit of those who think that this Convention has some sinister object or desires in some sinister way to deprive the state legislatures of their autonomy. Their constitutions, the borrowing of money, the complete control of the government of the state, all the laws relating to property and civil rights, the whole subject of public lands and mines, registration of titles, education, criminal law and its enforcement, hospitals and such matters, all local works and undertakings, municipa institutions, imposition of licenses, the administration of justice, both criminal and civil, and the establishment of courts, and an absolute power to dispose of their revenue in any way they think fit—these are some of the subjects, and if they are not enough for a state to exercise its functions upon, then the state must be very eager to do a lot of work. I will venture to ask any member of the Convention, or any person who thinks that by this scheme too much is taken from the state legislatures, to take up any volume of the statutes of the state legislatures, and see how few of those statutes deal with subjects with respect to which powers are taken from the states. Having dealt generally with that branch of the subject, the committee had next to consider the vexed question of money bills. As to that, I do not think it is likely that any scheme will be propounded that will satisfy everybody; but the committee have proposed a method of dealing with money bills which they, or at least a majority of them, submit with considerable confidence. We recognise that in a federation the laws—and the laws affecting money as well as others—must be passed by the consent of a majority of the people of the commonwealth and also with the consent of a majority of the states; but it must also be recognised that if both houses were to have absolutely equal rights in respect of money and taxation bills there would be danger of serious friction and of the machinery of government not working. That is not desired. It is not proposed by the bill to enable either house to coerce the other. It is proposed, however, to give to the upper house, that is to say, the senate, that power of veto which must be enjoyed by any house if it is to be a house of legislature at all; but it is not proposed to give it the power to amend in detail bills for the annual appropriation of revenue and for the imposition of taxation. The senate is, of course, entitled to have its opinion upon such matters heard. With the exception of those two classes of bills, it is proposed—and I venture to think in accordance with the general result of discussion which took place in the Convention—to give an equal right of amendment to both houses; but, as to those two classes of bills it is proposed that although the senate shall not be entitled to amend them, they may, if they so desire, point out to the house of representatives any objectionable items. This they will have the opportunity to do, so that it may not be necessary for them to take the extreme course of rejecting a bill because they do not like something in it, or that, on the other hand, they may not be compelled to adopt something which they believe to be wrong. They will at least be entitled to make known their opinion to the other branch of the legislature. The suggested method, or compromise, as it may, perhaps, be called, has been working in South Australia for many years, and, I am told, with great success. I, for my part, feel very confident in recommending it, as far as an individual member of the Convention is entitled to do so, to the consideration and acceptance of the Convention. Careful provision is made against the coercion of the senate by what is commonly called tacking—that is, the putting of a disputed provision into a bill dealing with the general subjects of appropriation or taxation. It is proposed that a bill dealing with taxation shall deal—excepting, of course, in the case of the imposition of customs duties—with one subject of taxation only, and that any extraordinary expenditure shall not be included in the ordinary appropriation bill of the year. These provisions will give the senate power to do anything except interfere with the carrying on of the ordinary government of the federation, and that would be a very undesirable thing for them to do. I do not propose to say anything further now as to that clause. It will doubtless receive in the Convention as careful consideration as it received at the hands of the committee. I refer to

clause 55, chapter I. The 2nd chapter deals with the subject of executive government, which is declared to be vested in the Queen, and to be exercised by a governor-general as her representative. It is to include a government appointed by her Majesty's representative, and holding office during his pleasure. This part of the bill practically embodies what is known to us as the British Constitution as we have it working at the present time; but the provisions of the bill are not made so rigid that our successors will not be able to work out such modifications as their experience may lead them to think preferable. It is proposed that the ministers of state, the number of whom at first, and until the provision has been altered by the federal parliament, shall not exceed seven, may sit in either house of parliament. That is the practice under what we know as the British Constitution, and no doubt under the practical working of our constitution ministers here will also be required to sit in parliament, except in cases where a minister may for a longer or a shorter time be unable to obtain a seat there. It is not proposed that ministers excepting office shall submit themselves for re-election. Considering the extent of territory, the distance which some of them might have to travel, and the possibility of delay and inconvenience in the administration of the government—for these, and many other reasons, it was not considered necessary to insist upon the adoption of that rule. The appointment of the civil service it is proposed to vest in the governor-general-in-council. These provisions introduce what we call responsible government—not necessarily party government, which is another division of responsible government, but a government responsible in name and form to the head of the state and in substance to the parliament of the commonwealth. It is proposed that its executive authority shall be co-extensive with its legislative power. That follows as a matter of course. In immediately starting the business of the commonwealth, it is provided that certain powers may be taken over at once by the executive government of the commonwealth, namely as to customs, excise, posts and telegraphs, military and naval defence, ocean beacons and buoys and ocean lighthouses and lightships, and quarantine. Other matters are left to be dealt with by the federal legislature from time to time as they may think fit. The 3rd chapter deals with the federal judicature. The report of the Committee on Constitutional Machinery embodies in substance, though not in form, the recommendations of the Judiciary Committee. It is proposed to authorise the establishment of a supreme court of Australia to have jurisdiction to entertain appeals from the supreme courts of the several states—that is to say, there is to be an optional right of appeal to that court on the part of any person desiring to appeal—and it is proposed to give to the parliament of the commonwealth power to say that all appeals should be taken to that court instead of to the Privy Council, and that its decision shall be final, except in certain specified cases embodying practically the limitations now applied in the administration of her Majesty's prerogative of allowing appeals to herself from Canada—that is to say, that when the public interests of the commonwealth, or of any other part of the Queen's dominions, are concerned, the prerogative to allow an appeal to the Queen herself in Council is reserved. These cases are few in number, and I know that many members of the Convention think that even this exception should not be included. Others, again, are of opinion that there should be a provision expressly giving the right of appeal to her Majesty in all cases. It is proposed also to establish what may be called courts of first instance to administer the laws of the commonwealth in the different parts of the commonwealth, and to give these courts in certain cases jurisdiction which may be exclusive of, or concurrent with, that of the courts of the states. The next chapter deals with the subject of finance and trade. We all know that this branch of the subject has given rise to certain difficulties. The collection of revenue is comparatively a simple matter; but when you come to deal with its distribution after it is collected a difficulty arises. It is proposed that the federal parliament shall have the sole power to impose customs duties, and also excise duties upon those articles upon which customs duties are collected, and to grant bounties; but that power is not to be taken away from the states until the Federal Parliament has imposed such duties; but when once uniform duties of customs are imposed for the commonwealth, then the powers of all the states to impose duties of customs or excise, or to grant bounties, are to come to an end. In the meantime the duties will be collected by the federal officers, and with the control of customs and excise will pass over the necessary property belonging to them. In the meantime, also, the present laws will continue, but as soon as uniform duties are imposed, the trade of the commonwealth by any means is to be absolutely free. Every member of the Convention knew that a provision of that nature must be in the constitution. A great difficulty has been experienced in dealing with the question of the apportionment of the revenue. The provisions of the constitution in that respect will no doubt receive very full discussion in the Convention, as indeed they should, because in considering whether the states will adopt the constitution or not, it is very important to be able to make it plain to them that they will not be doing themselves a serious injury in trade or revenue. The main principle laid down here is that after the expenses of the government of the commonwealth have been deducted from the revenue, the balance shall be returned to the states as nearly as possible in proportion to the amounts contributed by them. That of course is a difficult thing to work out.

HON. MEMBERS: Hear, Hear!

Sir SAMUEL GRIFFITH: I ask hon. gentlemen to bear in mind an observation once made to me by a very distinguished governor of this colony, that when there are several courses possible, and you determine to follow one, everybody at once can see all the objections to that course, but they say nothing about the objections to all the other possible courses. Therefore I ask hon. members when they consider this difficult question, and when they see all the objections to the one course proposed, to also look at the objections to the other possible courses, so that they may see on which side the objections are the greater. There are objections and practical difficulties in the way of any mode of adjusting this question so as to deal fairly with the states and the commonwealth. I have pointed out how this is proposed to be done. The great difficulty—and it is a difficulty peculiar to this constitution, as far as I have any knowledge—is that the customs revenue of the colonies in all cases forms a very large share of the means of meeting the expenses of government; and as we should take over only a very small part of the expenditure, the commonwealth would start with an enormous annual surplus of many millions, which it could not retain or expend, but must return to the different states. That is a difficulty almost as great as the difficulty of making a levy upon the different states as states. It is a great difficulty, but we have to face it, and the question is, what is to be done? As long as we deal with the existing customs duties there is no difficulty, because we know exactly what each state raises. But this must not be forgotten: that the circumstances of the various parts of Australia with regard to the consumption of dutiable articles are very different. The consumption in some colonies is at least double what it is in other colonies. For instance, one colony may have a very large proportion of its population composed of persons

who do not consume a large quantity of dutiable articles, whereas the case might be quite the reverse with another colony of the group. Take a colony with a specially sober, thrifty, and frugal population, like, say, that of South Australia, where there is a large proportion of non-consumers of dutiable articles. They would receive very much more than they paid in customs duties if the surplus were returned in proportion to the population. In the case of other colonies which did not possess the same class of population they would get back much less than they contributed to the customs revenue. These facts cannot be lost sight of. If we were a complete homogeneous commonwealth, with similar population in all its parts, the conditions would be equal; but I cannot look forward to such a state of things when I take into consideration the difference in the climate in the north and the south, and the different conditions of life which must always prevail. This difficulty exists, and you must bear it in mind in solving the question. I myself believe that some day the difficulty will be found to be so great that the federal parliament and the parliaments of the different states will come together and make provision for transferring on a fair basis such obligations of the states to the commonwealth as will absorb all the federal revenue. It must come to that, because the inconvenience will be found to be so great. In the meantime we have this great surplus, and we have to make provision to meet the difficulty. At present we derive a very large share of our revenue from customs duties; but it does not follow that that will always be the case. I think myself that it will always be the case; but that is only a matter of opinion. We must have power to impose direct taxation, and the imposition of direct taxation would be as unequal, or it might be as unequal, as the imposition of customs duties. For instance, a stock-tax might be imposed. I mention a tax on that particular kind of property because it has been discussed in many of the parliaments. If such a tax were imposed, New South Wales and Queensland would pay about two-thirds of the whole, which would be somewhat unfair. I point out these matters now in order to ask hon. gentlemen to bear them in mind when they are considering this proposal. We felt that there are so many difficulties in the way that every member of the committee will feel indebted to members of the Convention who will debate the matter fully.

Sir JOHN BRAY: Did the committee get any help from the Finance Committee on that point?

Sir SAMUEL GRIFFITH: Yes; and I hope we shall get further help. It is only fair to point out that in this particular we have not followed the recommendation of the Finance Committee. The Finance Committee had not considered the question of the proceeds of direct taxation. Direct taxation in proportion to the population would bring about quite as strange anomalies as there are in connection with the customs revenue.

Sir JOHN BRAY: Why impose taxes which you do not want?

Sir SAMUEL GRIFFITH: We do not know what taxes we may want; and we are framing a constitution for the future. I believe the customs duties will be absorbed by increasing expenditure until the surplus is gone; but in the meantime we must try to bring about the most perfect fairness we can. The disposition of the surplus must be provided for in some way. As I have said, there are great difficulties in working this out. We suggest, as a means of working it out, the principle of distribution in proportion to the amount contributed, which, if it can be worked out, would, I maintain, be perfectly fair. An estimate should be made of the dutiable goods consumed in the different states, and the duties collected upon them; and each state should get credit for the revenue paid by it to the commonwealth in respect of the duties on goods actually consumed in that state. It cannot be done with absolute accuracy. It is a matter upon which I know experts differ. Some of the experts in the colonies say it cannot be done; others say they see no difficulty whatever in doing it, and are prepared to show those who say it cannot be done how to do it. It is not my function at the present time to do anything more than point out the state of the matter; it is not my business to argue on either side. I should say here that provision is made that until the parliament of the commonwealth has made the necessary provision for carrying on the government by legislation, the existing laws of the states shall apply to the collection of money, to audit, and to the administration of the departments, and so on. There is a provision also that the parliament of the commonwealth may take over the whole or any part of the debts of the different states; but as that is a matter involving each in a liability for the debts of the others, it is proposed that it shall only be done with unanimous consent. Chapter v deals with the question of the states, and I will read the 1st clause, because it is a very important one, and ought, I think, to remove from the minds of those who think that we are here engaged in prosecuting a conspiracy against the liberties of the states—I believe there are such people—it ought to remove that impression from their minds, because we say:

(1.) All powers which at the date of the establishment of the commonwealth are vested in the parliaments of the several colonies, and which are not by this constitution exclusively vested in the parliament of the commonwealth, and all powers which the parliaments of the several states are not by this constitution forbidden to exercise, are reserved to, and shall remain vested in, the parliaments of the states respectively.

That is to say, all existing powers are reserved except those taken away, and state legislation will remain until superseded by federal legislation. Then, there is a clause to which I should refer—the 5th of chapter v—which proposes that the governor-general shall be the only medium of communication with the outer world; that, in point of fact, Australia is to be one—one government to the outer world—that all communications to her Majesty, or anybody else that are made outside of Australia, shall be made through the governor-general; that her Majesty's pleasure shall be communicated through him in all cases in which it is necessary to be communicated to any part or state of Australia. Without some such provision, of course, we should still be sovereign states, all, perhaps, pulling in different directions at Downing-street, and giving rise to the same sort of difficulty of which we have seen so much in the past few years. It is proposed, as we were directed to do, to make provision to enable the parliaments of the states to deal with the appointment of their governors. We do not interfere with them. We propose to give them power to deal with that matter, and that this should be part of the constitution of the commonwealth.

Colonel SMITH: You compel them to go to the governor-general for confirmation of their bills!

Sir SAMUEL GRIFFITH: Certainly not. It is not proposed to give the governor-general or the parliament of the commonwealth any power of interference whatever with the states; but to make the governor-general the channel of communication with the Queen, which is a very different thing, and which I venture to think is necessary if Australia is to present one united front. It is proposed not to allow members of the federal parliament to sit in the local parliaments. Much may be said on either side, but that is the provision we propose. With respect to the admission of new states into the commonwealth, it is proposed to let all those who do

not come in at once come in afterwards—that is, the existing colonies—and then to allow the parliament of the commonwealth to admit others from time to time, and on doing so to impose conditions as to the extent of representation in either house of parliament. It may be said that that is unreasonable; whether such conditions should be imposed in a particular instance, is a matter, I think, that may be open to a great deal of argument in each case. But, take an illustration: Suppose it were proposed to divide Western Australia into two states, would it be reasonable to give those two states between them sixteen members in the senate, or would the parliament be likely to admit a state under those conditions? The same question might be asked if it were proposed to divide Queensland into three states. Would the parliament of the commonwealth be likely to agree to give them twenty-four senators? I mention that merely to show that the matter is one that must be considered. Then there is a provision enabling the parliament of the commonwealth to deal with the provisional administration of parts of territories either in Australia or in the Pacific which are not fit to be admitted to the full rights of a state. I may mention, by way of illustration, the north-western part of Australia, and also Fiji, and New Guinea, which I apprehend will, when the commonwealth is established, become an appanage of the commonwealth, and not be attached, as it is at the present time, to the colony of Queensland. But the powers of the parliament of the commonwealth to exercise any of these functions are expressly limited so that they cannot be put in force without the consent of the parliament of the state affected. The rights of the state in regard to territory and everything else are preserved absolutely intact. Nothing can be done except by the consent of the states themselves. The vexed question of the capital had to be considered, and we propose that it shall be determined by the federal parliament; but in the meantime, as there must be some place where the first parliament shall meet, that the governors of the several states that come first into the confederation shall determine the question among themselves, and that if they are equally divided in opinion, then the governor-general shall determine it. There must be some method, and we suggest that as a reasonable one. With respect to amendments of the constitution, it is proposed that a law to amend the constitution must be passed by an absolute majority of both the senate and the house of representatives; that, if that is done, the proposed amendment must be submitted for the opinion of the people of the states to be expressed in conventions elected for the purpose, and that then if the amendment is approved by a majority of the conventions in the states it shall become law, subject of course to the Queen's power of disallowance. Otherwise the constitution might be amended, and by a few words the commonwealth turned into a republic, which is no part of the scheme proposed by this bill. I should say a word before I sit down as to the mode in which this constitution should be adopted. There are two ways of adopting a constitution like this. One is for the Parliament of the United Kingdom to pass a bill creating a constitution, and then to leave the different colonies one after the other to come in and give their adhesion to it, so that when a certain prescribed number have given their adhesion, the confederation shall be constituted by the Queen's proclamation. That is one way, and it was the plan adopted in the case of the federal constitution of Australasia, and, as far as legislation was concerned, in the case of the South African Confederation, which did not come to anything because the states never came in. The other way is to frame a constitution, and let it be adopted by the colonies, or a certain number of them, and then for the Parliament of the United Kingdom, at the request of those colonies, to constitute them a confederation. That is the course we propose ot follow. This constitution has been framed as an instrument of government which may be accepted by a state or not. If a sufficient number of states give their adhesion to it, then the powers of the Imperial Parliament, which are the only powers at present existing for the purpose, should be exercised and a confederation established. That is what, technically, I think we were directed to do, though, no doubt, we should not have hesitated to suggest another plan if we had seen anything to recommend it. The adoption of this constitution, with such amendments as the Convention may make, should be followed by a recommendation—it can be no more,—to the different parliaments to make provision for submitting it for the adoption of the people in such a way as the Convention may direct, with the recommendation also that when three of the states shall adopt the constitution their governments shall be authorised to request the Government of Her Majesty in Great Britain to introduce the necessary legislation. This will, however, of course form the subject of subsequent and substantive resolutions in the Convention after the adoption of the constitution. I have endeavoured to explain the bill as briefly as I could, and in conclusion I have only to say that we have given it our best attention; we have endeavoured, with what success it is for others to say, to form a plan which, so far as regards simplicity of structure and language, will not be unworthy of the English tongue; and as regards the more important matter, the substance, we have endeavoured, with what success it is again for others to say, to lay down a broad and just foundation upon which a commonwealth may be established in the southern seas that will dominate those seas, of which any man may be proud to be a citizen, and which will be a permanent glory to the British empire.

Mr. WRIXON: I do not know whether it is the desire of the Convention to continue the discussion on this motion to-night. If it is not, I beg to move:

That the debate be now adjourned.

Mr. McMILLAN: This might be the proper stage at which to decide whether the discussion should be continued practically as a second reading debate, or whether we should go into Committee at once. I think it will be well to decide this evening as to the course which it is intended to pursue. As far as I have been able to ascertain, the general view is that we should go into Committee at once.

Mr. DONALDSON: I have not had an opportunity of reading the bill, and I do not think that hon. members who have not been members of the committees have been able to form an opinion upon it. Therefore, I think it will be far better to adjourn the debate now, and to let the discussion of the whole bill take place before we go into Committee, because in Committee a member is supposed to speak only on the clause before the Committee. If we now discuss the bill as a whole, any amendments that are to be proposed can be made in Committee afterwards. It will be far more convenient to have a second reading discussion of the bill as if it were before Parliament.

Hon. Members: No!

Mr. DONALDSON: That is my opinion, and I would strongly support Mr. Wrixon's motion.

Mr. BAKER: I would point out that it is extremely unfair for members of the Convention who have not been on the committees, and who have just seen the bill for the first time, not to be allowed to discuss the measure as a whole. The various points are so interdependent on each other that when we get into Committee—if we are confined to the particular clause under discussion—we cannot properly give publicity to our opinions. There are a great

number of members of the Convention who have been on the committees, and who have had opportunities during the last fortnight of studying all these points. But we who have not been members of the committees think it only right that we should have an opportunity of placing on record our opinion of the scheme as a whole. I strongly object to being debarred from discussing this important measure so far as it is a whole scheme.

Sir JOHN BRAY: None of us would wish to prevent the full discussion of the bill; but I trust that we shall not each consider it necessary to give our views on the scheme as a whole before going into Committee and again afterwards to go into every detail. If we do that we shall find, after we have gone through the details of the bill, that we shall have a desire to go into a discussion on the whole scheme as it comes out of Committee. That is the most important stage at which we shall arrive, whatever we may say on the bill as it stands now. It is not a bill to every detail of which the Committee themselves are pledged. Certain alterations will be made in it in Committee of the Whole, and it will be far more important for us, and for the people of Australia, to know the opinion of the delegates upon the bill, as it comes out of Committee than to know their opinion of it before it goes into Committee. I, for one, will not agree to prevent members from giving full expression to their opinions; but I ask members not to consider it necessary to express their opinions at too great a length on the bill as it stands now. I can soon express my opinions upon the bill. I do not quite like it altogether, but I can say all that I have to say when we get into Committee. Although I feel confident that no one would wish to debar Mr. Baker, or any other member, from giving full expression to his opinions, I ask him to consider the importance of letting the people know what we think of the bill after it comes out of Committee.

Mr. MACDONALD-PATERSON: I cordially support the motion of the hon. member, Mr. Wrixon, that the debate be adjourned, and for these reasons: I think it was suggested—and not only suggested, but really declared and understood by every member of the Convention—that when this bill came before the Convention it would be treated as a bill that was before us for the second reading. Hon. members have only to refer to what transpired some ten days ago to clearly recollect that that was the common understanding. The next reason is that nearly half of the members of the Convention were not on any of the committees at all, and under the circumstances it is but fair that the request of the hon. member, Mr. Baker, should be acceded to at once, and that we should have an opportunity of going through the bill, which we have only for the first time seen a little while ago, in order to decide whether we shall speak on it. If we do speak, I am certain that the same quality of compression will characterise the observations to be made on this draft bill which has been displayed by every member of the Convention. I sincerely trust that members of the Convention who think that we are looking to the public opinion in our separate colonies on the bill as it may come out of Committee, will not prevent hon. members from speaking at the present stage.

Question resolved in the affirmative.

Convention adjourned at 4·52 p.m.

WEDNESDAY, 1 APRIL, 1891.

Commonwealth of Australia Bill—Adjournment.

The PRESIDENT took the chair at 11 a.m.

COMMONWEALTH OF AUSTRALIA BILL.

Debate resumed (from 31st March) on motion by Sir Samuel Griffith:

That the draft bill to constitute the Commonwealth of Australia, brought up by the Constitutional Committee, be referred for the consideration of a Committee of the Whole Convention.

Mr. WRIXON: I desire to ask the attention of the Convention for a short time to the consideration of this bill before it goes into Committee. I think that is the best course to shorten proceedings and to save time, for I have generally found in parliamentary procedure that where a bill is allowed to go without discussion on the second reading, on the understanding that it is to be discussed in Committee, more time is lost than saved. I wish to point out certain features in the bill which I should be glad to see amended; and I prefer to give notice of the points upon which I think the bill requires amendment rather than bring them forward at a moment's notice when we are in Committee. I desire to say that I think our thanks are due to the Constitutional Committee that has so carefully and ably discharged its duty in framing the principles of the bill, and are also due to my hon. and learned friend, Sir Samuel Griffith, for the effective manner in which he has embodied those principles in the bill. So much am I impressed with the value of the bill as it stands, that if I could get no other form of federation than this I would be prepared to take it even as it stands. But, nevertheless, I think there are certain points in which it requires amendment, and which it behoves us to endeavour, if possible, to get amended; because we must observe that when we go back to our different provinces we hope to get the bill adopted in those provinces, and adopted without further amendment on their part. It is, therefore, very important for us to see what principles we settle upon here. Also I notice, on referring to the bill itself, that whenever it comes into operation it will be exceedingly difficult to amend it. There must be an absolute majority of the dominion parliament in the first place, and then there must be a vote of conventions in all the states, giving a majority thereto in each separate state, before any amendments can be made in the bill. We, therefore, are engaged, in a very serious matter, and it behoves us to look carefully to the principles of the bill of which we are asked to approve. I think the plan of the bill is good. I think it carries out what we agreed to in certain resolutions in the Convention. It is not proposed by us, and it is not proposed in the bill, to make a unified government. Certain powers are given to the federal parliament which are specified in the bill, and everything outside those powers is left under this scheme of constitution to the states. That is the scheme which we have had before us, and that is the scheme embodied in this bill. I do not think there need be the slightest fear on the part of those who represent states—I do not think there need be the slightest fear as far as that portion of the bill goes—of the rights of the states being entrenched upon. The different subjects which the federal parliament is to legislate upon are carefully specified, and I think it would be hard, in going over the list, to point out any topics which do not properly belong to the federal parliament. If, however, there are any, if any hon. member of the Convention thinks there are any, that, of course, will be matter for full consideration in Committee, and we can eliminate any power which we do not think ought to be given to the federal parliament. Therefore, so

far, I think the bill faithfully carries out our view, and may command our approbation. But there is a portion of the bill, namely the latter portion, which is devoted to the states, chapter v, headed "The States," which seems to me to depart from this principle upon which we have agreed, and to interfere with the states in a manner not consistent with a unified government. For example, I find in chapter v a provision arranging for the states having power to appoint or elect their own governors. Now, I am not aware of how that comes within our Convention, or of how it comes within the scope of this federal government which is not a unified government. It is not a matter concerned with our federation; it is not analagous to the case of Canada, where the different states were presided over by deputies appointed by the governor-general. Here are vast dependencies, whose position is not to be interfered with, except in regard to certain specified topics of legislation, and we are asked to go out of our way and provide for them power to elect their own governors. That seems to me an instance of our gratuitously interfering with what is the business of the states, and importing into our task—which, I am sure, is difficult enough already—a new difficulty. I doubt whether a majority of people will approve of this proposal to enable us to have an elected governor, with the system of responsible government known to the English Constitution. I do not see how the two would very well work. An elected governor would, no doubt, be the most powerful politician whom his party could produce, and they would take care to run—as the American phrase is—for this office of governor the strongest political man that they could get. That is all very well if you are in America, and if you are dealing with the American form of constitution; but if you are going to have the English form of responsible government, I do not see how the two would fit together. It seems to me a genuine case of putting new wine into old bottles. I apprehend that under such arrangement the vast prerogatives of the Crown, and they are very vast, would revive and become a reality in this prominent politician who would be in the governor's chair, and who thus would not merely reign, but govern. He would naturally feel bound by a spirit of allegiance to the party who put him there, so that if he had a ministry for the time belonging to another party, I apprehend, without any imputation on his honesty, or the slightest reflection on his general integrity, that he would be very apt to lean towards facilitating the party to which he belonged rather than the party of his responsible ministers. In truth, the two things are incompatible, and if you mean to keep up the English Constitution, you had better not take the American system of electing governors. I merely point that out to show the difficulty you have when you go out of your way to interfere in a matter which seems to me not within our function, and which is a matter entirely for the states to determine as they think proper. Another point in which it seems to me that this bill departs in chapter v from the principle with which it started is where it provides that all references to the Queen from any province or state must be made through the Governor-General. That would be very well if you had a unified government; but with our vast territories, with our vast states, I apprehend it would be found highly inconvenient. Suppose, for example, that the Attorney-General in any state desired to convey advice to her Majesty—that would, of course, be to her responsible adviser at home—with regard to any bill which was in the province, or with regard to any proceeding in which the province got involved, he would be in this somewhat awkward, and, I think, humiliating position, that he would have to send his advice and all his papers through the governor-general of the dominion. That seems to me to be going out of our way to unify, contrary to the principle on which we started in the bill, which is not to unify, but to pick out certain matters which we give to the federal government, and as to the rest to leave the states untouched. Another power which, I think, transgresses the principle on which the bill starts, and which is also contained in chapter v, is a power given herein to the federal parliament to annul the state laws in certain cases. That seems to me a very serious power, and an inadvisable one. If the state law has exceeded its functions, there is no need to annul it, because it is void in so far as it goes beyond its functions, and any person affected by it can raise the question in any court and have it determined by a competent legal tribunal, whether or not the law which the state has passed is within its functions. That is the course taken in the United States. A state there may pass a law which it is quite incompetent to pass, but the central government never thinks of annulling it, or of interfering with it, but leaves it to the operation of the law, and that is found to work satisfactorily. If a law touches and affects nobody, no harm is done; if it does touch or affect anybody, he can go to a competent tribunal and have the law declared invalid; but in this case, if we retain such power as this, we shall put the federal parliament in the position of sitting as a sort of master over the provincial or states parliaments, and taking on itself to judge whether or not a law should be annulled. I think this is a case in which we are exceeding our power, and are departing from the principle with which we started. I think also that the provision contained in another part of the bill, enabling the federal parliament at any time to confer with regard to any matter original jurisdiction on the Supreme Court, and thereby to oust the jurisdiction of the states courts, is exceeding the lines which we have sketched out for ourselves, for at any time we might find that the federal parliament would step in and take away some important function which the states courts had been discharging. No limit is placed to it—no bounds are assigned. I think that that is a case in which we are departing from the principle of not having a unified government. I am afraid, sir, that you will find, if we adopt these provisions, that not alone are you impairing the principle on which I understand we go, but you are creating a feeling of alarm in the states as to how far they are giving over their rights, privileges, and liberties in submitting to this federation. Therefore, to that extent I would be happy to see the bill amended, and I would be glad if those in charge of the bill would consider these points before we get into Committee, because I know from experience how unfair it is to any one in charge of a bill to start points and endeavour to make amendments at the legislative table: nothing can be more unfair. If amendments are to be made, they ought to be made on deliberation and consideration, and I therefore hope that this view which I have presented will be considered, and that the clauses which I have indicated in chapter v will not be insisted upon when we get into Committee. The next point to which I would ask the attention of the Convention is the question of state rights and finance. Hon. members, sir, are aware how this question arises. It is a very important question, and it is worth thinking over for a moment how we come to be faced with it. Of course it arises in this way: We have already agreed, when the House was sitting in Convention, to the principle of giving every state, however small, the same representation in the senate as has any state, however large. Thus, Western Australia, with 40,000 or 50,000 inhabitants, has precisely the same voice in the senate with New South Wales, with 1,250,000 inhabitants. It thus becomes a very serious question what sort of body this senate is to be, because if you make the senate a very powerful body and give it a very controlling position, then most certainly you are

providing for the government of the mass of the population by a very small proportion of the population, and the fact that they live in certain districts, or states, does not get over the difficulty. If you make the senate strong, you enable a few to govern the majority, and, in particular, if you give the senate a controlling voice in finance, you undoubtedly enable it to govern the government. For nothing is more certain under our English system of government, where you have the administration of the day in parliament, than that the legislative power which dominates finance will really control the government. Any of us may know that from our experience in our own province. We know what would happen if an upper house were able to control the financial operations of the government. And undoubtedly in this case of the senate, which will be a more permanent body than the house of representatives, and a more select body perhaps, if you give the senate power over finance, you give to the representatives of the very few a great power over the government of the majority. That is the importance of this whole question. I sympathise with the efforts which the Constitutional Committee have made to get over this difficulty. I am quite aware of the difficulty which it presents, and I do not wish to pose as simply raising objections, and not being in a position to appreciate the question with which they had to grapple, and with which they grappled in the manner which hon. members see in the bill. They set out that money bills are to originate in the house of representatives, and they go on to make certain provisions which are limitations on the ancient rights of lower houses under the English system, but with which I quite agree, and which are perfectly reasonable limitations, namely, that a tax bill is to be confined to one object, and that the appropriation bill is to be confined to the expenditure for the year; and then they go on to what we are asked to believe is to be a settlement of this financial difficulty between the two houses, and they provide in a paragraph which is before hon. members, that, with regard to those bills which the senate may not amend, it at any time may send a message to the house of representatives asking it to strike out any particular item, and that thereupon the house of representatives may eliminate it if it likes. The difficulty which I feel about accepting this as a solution of the question is first the ambiguity as to the meaning of the clause, and secondly, the fact that it makes no provision for finality. As to what the clause means, I confess that that is undoubtedly a difficulty, and there cannot be a better proof of the difficulty than the fact that we ourselves here now interpret it differently. Of course it may be useful, I admit, if you simply want to get a thing passed, because in that light you can put the provision in two aspects. If you address a people's-rights man, you can say, "True, that provision is in the bill, but it means nothing; it is only providing that that may be done which may be done now. Any upper house may lay aside any bill, or send a message down to the lower house, and request it to be amended, and if the lower house chooses to amend the bill it may. Therefore, my people's-rights friend, you need not be alarmed—it is nothing but the ordinary law." If, however, you want to satisfy a state-rights man, it can be put in a different light. You can say, "The mere fact that this new provision is there shows that something is intended. This clause makes arrangements for the senate scrutinising the details of the estimates, which function does not properly belong to an upper house now; but it provides for so doing, and it provides the machinery for it objecting to any item of which it may disapprove. If the house of representatives will not accept that machinery, and will not act upon it, then, according to the plain meaning of this bill, the senate is entitled to fall back on its right to reject, and that not a right such as now belongs to upper houses—a right to be exercised in an extremity, but a right to be exercised in the ordinary vindication of its undoubted privilege under this bill to scrutinise items in money bills and in the appropriation bill." In fact, this power of rejecting *in toto* money bills, which is now only the occasional medicine of the constitution, under this bill will become its daily food, and whenever the upper house finds that the house of representatives refrains from respecting its wishes it is clearly entitled under that clause to throw out money bills altogether. The difficulty, I feel, is in our accepting as a solution a proposition which is two-faced, and which you may read in one way or in another way, reminding us, in fact, of what we learnt in our school days of the oracles of old, who, whenever they had to give a reply to some powerful potentate, whom it was disagreeable to offend, produced a reply in words which might be read in one way or in another way—in one way giving him complete satisfaction in regard to his wishes, and in the other way being quite contrary to his intentions. That is the sort of oracular deliverance ——

Sir JOHN DOWNER: The words are clear enough!

Mr. WRIXON: But the meaning is not. I confess that at first when I read the provision I said, "Oh, that is nothing; it can be done now; we need not trouble about it."

Sir JOHN BRAY: Can it be done now?

Mr. WRIXON: Certainly.

Sir JOHN BRAY: In Victoria?

Mr. WRIXON: Unquestionably.

An HON. MEMBER: No!

Mr. WRIXON: Of course I do not say in so many words what is contained here, but the same result can be accomplished. The upper house may at any time lay aside a bill.

Sir JOHN BRAY: And send a message afterwards!

Mr. WRIXON: I do not say when they send their message.

Sir JOHN BRAY: The hon. member did just now!

Mr. WRIXON: It was a slip of the tongue. It is a matter of indifference to me when the message is sent. The point is that it can be done now under the ordinary parliamentary procedure in regard to any bill, and it has been done.

Colonel SMITH: Asking for a committee!

Mr. WRIXON: Asking for a conference, or for a committee. Apparently with a view of strengthening the state-rights man's idea of this question, I notice in clause 54 that the old verbiage of all acts of Parliament, I think, with regard to money bills is dropped, and that they are not called money bills any more, but laws.

Mr. CLARK: Proposed laws!

Mr. WRIXON: No; it says laws—"laws appropriating any part of the revenue"——

Mr. CLARK: They are not laws until they are passed!

Mr. WRIXON: "Or laws imposing any tax"; and indeed it goes so far as, in clause 57, to fall into a manifest slip such as, of course, might occur in drafting any bill, because it says:

> When a law passed by the parliament is presented to the governor-general for the Queen's assent.

Mr. CLARK: That is a slip!

Mr. WRIXON: Of course we all know that a bill is not a law until it gets the Queen's assent. But apparently with the object, I say, of strengthening the state-rights man's view, and of showing that really some new power is to be given, these bills are called laws, which, I apprehend, is an inaccurate term. For example, in the case of an appropriation bill, the preamble shows that it is different from an ordinary law. Financial grants are grants by the mass of the taxpayers to the government: they are different from ordinary legislation, and they are subject to different conditions. If I could get nothing better,

rather than see federation defeated I would take this bill. But I am bound to point out that I think we are only postponing the difficulty, I think we are creating a difficulty with regard to the large states, and to our getting the people of those states to assent to this bill. I think that if the bill is assented to, and should become law, you are only postponing the difficulty of this Convention to the federal parliament, and that the question will still have to be fought out as to what is the meaning of this clause, for undoubtedly a conflict of powers will exist. There will be the states-right party in the federal parliament anxious to make their weight felt, and there will be the masses of the people represented in the lower house anxious to govern, and in this clause I am afraid you only provide a platform for the fighting out of their differences. It is, in short, a *cul de sac*—leading nowhere. There is no solution. Therefore, I think that if you did retain this clause, the least you could do would be to add to it a proviso or sub-clause to the effect that where this did happen, that is to say, that where the senate sent down a representation with regard to a certain item, and the lower house would not eliminate it, the two houses should meet together and vote in common. You would then have some end to the question. At present there is none. You lead us up to a certain point and there you leave us. You guide the legislative bodies up to a point of antagonism and there you bid them good-bye. You ought to go further, and if you keep this method of procedure you ought to provide either for the two houses voting together, or, if you like, make a provision that after a general election the voice of the lower house shall prevail. That, of course, will not apply to the appropriation act, which must be kept separate, and which cannot afford to wait. The next point to which I ask the attention of the Convention is the establishment of constitutional government, and this a question which I address rather to my learned friend, Sir Samuel Griffith, and to my other learned friends who may be here. There is a portion of this bill establishing constitutional government, and I think it was truly said yesterday that the effect of that portion would be to establish in this federation in its ordinary working responsible government. But the form in which ministers are to be appointed, I think, wants a little consideration, because it involves a very serious point. In clause 4 of chapter II, page 13, it is provided:

> For the administration of the executive government of the commonwealth, the governor-general may, from time to time, appoint officers to administer such departments of state of the commonwealth as the governor-general in Council may from time to time establish, and such officers shall hold office during the pleasure of the governor-general, and shall be capable of being chosen and of sitting as members of either houses of the parliament.

Now, the point I wish to draw attention to is that I do not think the provision will convey to those officers thus appointed by the governor the great power and authority which, under the English system of government, belongs to a responsible minister of the Crown. That is something distinct from the position of an officer appointed to administer a department. My learned friends present will remember the remarkable case of Buron *versus* Denman, in which the captain of a ship of war had illegally destroyed certain property of a trader. After that had been done Lord Palmerston wrote a letter saying that he thoroughly approved of what the captain had done. An action was brought by the owner of the property which had been illegally destroyed, and it was held by all the judges at home that the mere fact of a minister of the Crown writing a letter expressing approval embodied the approbation of the Sovereign herself to that act, although it was admitted, of course, that she knew nothing whatever about it. That is a very great power; but it is a very essential power if you are to have every day government satisfactorily carried on. It is a vast power; but it is necessary that it should be given to a minister of the Crown under the system, and I am convinced that if the question were raised hereafter as to whether one of these officers appointed to administer a department really stood in the shoes, to use a common expression, of one of her Majesty's responsible ministers, the courts would hold that he did not. They would say, "Here is a statutory provision as to what the position is; nothing is said about responsible minister; nothing is said about minister of the Crown either. The officer is appointed to administer a department."

Mr. CLARK: Read the last line. The clause provides that the officers shall be members of the federal executive council!

Mr. WRIXON: It does not connect them with the Sovereign.

Mr. CLARK: It makes them ministers; it is done in Canada!

Mr. WRIXON: In Canada the act says ministers shall be members of the Queen's Privy Council.

Mr. CLARK: It is the same thing here!

Mr. WRIXON: I apprehend it is not the same. At any rate, the question has never been raised in Canada; but I think the question certainly would be raised here; and, according to my view, I think there can be little doubt but that the courts would hold that ministers so appointed did not inherit all the great powers of the Queen's ministers, and which powers are yet necessary for the carrying on of the Government. If a few words will meet this point, I think it is most important that it should be met. I will now say a few words about the question of appeal to the Queen-in-Council. I observe that the bill provides practically that that appeal shall be taken away in all cases except where the public interests are concerned. That is practically the effect of the bill. I must say that I consider that a mistake. I do not think we should take away the right of appeal to the highest legal authority in the realm. It is said that this limitation of the bill is based upon the view which the Privy Council have taken of the proper reading of the Canadian act, and that it merely embodies that view. If that be so I would suggest that we take the terms of the Canadian act also, and leave the Privy Council, as they doubtless would, to take the same view of them. That would meet the difficulty. But as the matter stands you are in this position; you hold yourselves out to the world as saying that you will not allow an appeal to the highest legal tribunal in the realm unless there be some great public question involved. But there are vast industrial interests between England and these colonies; a vast amount of English capital is invested in these colonies, there are vast mercantile negotiations and businesses going on, intertwining one with the other, and I apprehend that the owners of capital and the projectors of business in the old country will view with anything but satisfaction a determination on the part of these colonies to prohibit them in the case of a conflict involving large interests on their part from having the opinion of the best judges in the land upon the question involved. I would here remark, with reference to the judicial part of the subject, that I observe an appeal is given by the bill to the federal court in criminal cases. That, with great respect, I think a mistake, and I should be glad to see the provision omitted. I am not aware that it has been asked for by any of the provinces, and the effect of an appeal to the federal court in criminal cases, seeing that the court might be sitting at uncertain times, would necessarily be to cause great delay, and to give a great handle to persons who could command means in some cases to render it almost impossible to carry out the criminal law. I am aware of the popular and plausible argument, that when you give an appeal as to a small amount of property, you ought also to give it in regard to a man's life. To that I

can only reply that the necessity of the thing is that the criminal law should be promptly administered, and I believe you will impede the administration of the criminal law, and not assist it, if you leave that provision in the bill. These are the principal points to which I wish to call attention at this stage. I notice that a point which was mentioned in the Convention, namely, that the federal government should have some power of controlling the railways of the states, so as to prevent a war of railway tariffs, has not been dealt with at all in the bill. It is a point that deserves attention, because if we are to have perfect freedom of trade between the different provinces it will be important to enable the federal government ——

Mr. DEAKIN: It is in the bill. It comes under the general powers, chapter I, clause 52!

Sir JOHN DOWNER: Look at clause 12, page 18!

Mr. WRIXON: If it is intended to cover that by the regulation of trade and commerce among the several states, a question might arise as to whether it is really covered by that provision.

Mr. DEAKIN: Then there is the other clause referred to by the hon. member, Sir John Downer—page 18, clause 12!

Mr. WRIXON: I am glad that the question has been considered, because it is undoubtedly an important point if we are going to have free-trade between the states. The language does not seem to me to be as precise and definite as could be wished, and it may be a matter for consideration in Committee whether we should not more definitely point to the question of controlling railway freights. So long as we are satisfied that the matter is dealt with, it will meet the views of the Convention generally.

Mr. ADYE DOUGLAS: That was not taken into consideration by the committee!

Mr. WRIXON: Several members of the committee seem to consider that it was, and certainly those clauses to which my attention has been drawn may possibly meet the case. They do not meet it expressly, but they may cover it. As long as it is intended to cover it, that is the important point. It is a mere matter of verbiage how we do it. There is another point I wish to refer to. I do not gather from the bill that the federal government will have sufficient control over the revision of the electoral rolls for its own electorate. There are clauses which give it power with regard to the conduct of the elections, but I think the federal government should also have the power of controlling and revising the electoral rolls, so as to be able to ensure the purity of the rolls by which the members of the federal parliament will be returned. It is a matter which I hope will engage our attention in Committee. There is only one other point which I will mention—it is perhaps more a matter of verbiage than anything else—that is, the clause which provides that a convicted criminal shall not be entitled to sit in the new parliament until he is discharged or pardoned. That is rather an unhappy clause. It is not a cardinal principle of the bill; but it is an unhappy provision, and I should be glad to see it omitted altogether. These are the chief points to which I will direct the attention of the Convention. I feel that at this stage the more we compress our observations the better it will be, so as to bring the bill as soon as possible into Committee, so that we may press it forward there with all reasonable speed. The subject is a great and a vast one; it is too great to allow of any small, petty, or provincial feeling intervening to cause delay or prevent our united wish that we may be able to make this bill as perfect as possible, so as to command the assent of the provinces and the assent of the people of the whole of this community. I think all our efforts will be directed to that end, and I hope the views I have suggested will have consideration, so as to avoid the necessity of making amendments when we actually get into Committee.

Mr. BAKER: I understand that it is the wish of hon. members, and I am sure it is my own wish, that this debate should be as short as possible. Therefore I am not going to address any remarks to any subject which I myself do not believe is of the utmost importance. I agree with a great deal that has fallen from the hon. member, Mr. Wrixon; but I do not intend to follow his example by criticising the whole of the bill, because I think it will shorten my remarks and meet the wishes of hon. members if I do not adduce any arguments which may be better adduced on matters of detail in Committee. There is only one point to which I will address my remarks —that is, our old friend, the question of state rights and state interests.

Mr. MUNRO: Our old friend? Old trouble!

Mr. BAKER: It may be our old enemy, but I look upon it as an old friend. We are sent here to form a federal government, and with all deference and humility, it seems to me that the bill which we are now discussing is not a bill to form a federal government. The quintessence of federation is left out, for this reason: that so far as the states themselves through their representatives are concerned, they will have no voice in matters of federal legislation. It is quite true that equal representation is afforded to the smaller states in the senate. But what is the good of equal representation in one branch of the legislature if you deprive that branch of the legislature of all its powers? I quite agree with the President in his disapprobation of paper constitutions. I hold that experience, wherever we can get it, is a far safer guide than theory, and we cannot in all federal questions obtain experience except from one or two countries. But we have in America a people practically of our own race, speaking our own language, brought up under the same circumstances as ourselves so far as political institutions are concerned, and we should be wanting in wisdom if we were to refrain from learning lessons from the experience which they have gained. I would first of all point out that according to the experience of America the federal constitution, although it is reduced to writing, yet is an exceeding plastic document—that although the form may remain, the substance is entirely changed by the mighty force of human nature acting on political institutions. I crave leave of the Convention to give one or two quotations from two celebrated American writers in support of that proposition. Mr. Woodrow Wilson, whose name is very well known to all the members of the Convention, tells us that

> there has been a constant growth of legislative and administrative practice, and a steady accretion of precedent in the management of federal affairs, which have broadened the sphere and altered the functions of the Government without perceptibly affecting the vocabulary of our constitutional language. Ours is, scarcely less than the British, a living and fecund system.

He tells us further on that

> the central government is constantly becoming stronger and more active, and Congress is establishing itself as the one sovereign authority in that government. In constitutional theory and in the broader features of past practice ours has been what Mr. Bagehot has called a composite government. Besides state and federal authorities to dispute as to sovereignty there have been within the federal system itself rival and irreconcilable powers. But gradually the strong are overcoming the weak. If the signs of the times are to be credited we are fast approaching an adjustment of sovereignty quite as simple as need be. Congress is not only to retain the authority it already possesses, but is to be brought again and again face to face with still greater demands upon its energy, its wisdom, and its conscience—is to have ever-widening duties and responsibilities thrust upon it, without being granted a moment's opportunity to look back from the plough to which it has set its hands.

And Mr. Clason, in a book called the "Seven Conventions," a history of seven of the most celebrated conventions in the United States, says:

> Within less than a century the Constitution has become exactly what they who framed it and they who accepted it

neither understood it to be nor meant it to be—a government of numbers by numbers for numbers, instead of government by states for states.

Now, if these forces of human nature, to which I have referred, have had that effect in America, where the Senate, which was supposed to represent the states, has had not only all the power which the most strenuous advocate of state rights in this Convention wishes to give the senate here, but in addition has the great power and privilege of being one of the chief executive branches of the Government, has the power of making war and declaring peace—if the result has been in America that the central government has become stronger and stronger; if the government has become more and more government by numbers for numbers, and that the power of the states, as states, has constantly diminished in regard to federal matters—what can we expect if we pass this bill in its present form? I cannot understand those hon. members of this Convention who are so exceedingly anxious to guard the rights of majorities. Why, majorities will always look after themselves. It is the rights of minorities that have to be considered. It has been stated that the best test of liberty in any representative government is: Are the rights of minorities properly guarded? We need not apply ourselves with any great assiduity to protect the rights of the majority, because the majority always will protect their own rights. It is absurd to say that the minority is going to rule. As far as I know, nobody in this Convention has ever set up the claim which, it has been asserted in the newspapers, has been made, that the minority shall rule the majority. I, for one, would not think of uttering such an absurdity. But it is a very different thing to claim the right to command and enforce obedience, and to claim the right to be consulted before a command is given. That is all we ask for—we who advocate the rights of the smaller states—that is all we have ever asked for. What I understand to be the contention of hon. members who represent Victoria is this: that all the powers shall be concentrated in one branch of the legislature.

Mr. DEAKIN: No!

Mr. BAKER: I think I shall show that that will be the ultimate result, that all powers shall be concentrated in one branch of the legislature, in which the majority, and the majority only, shall rule. What they claim is this: not government for the people by the people, but government by the people of Victoria and New South Wales for Victoria and New South Wales and all the rest of the colonies. That is what it comes to. If all the power is concentrated in one branch of the legislature, in which branch those two colonies, with their large populations, have a preponderant voice, that is what it comes to—government by the people of Victoria and New South Wales, not only for themselves, but also for the other colonies. A great deal has been said in the Convention and outside about these two great colonies not giving up their rights of self-government, the privileges for which they have struggled so long. I entirely agree with those sentiments; but are not the rights and privileges of the 350,000 people of South Australia as dear to them as the rights of the 1,250,000 people of New South Wales are to them?

Colonel SMITH: Their interests are identical!

Mr. BAKER: The hon. member says that their interests are identical. How does he know? If their interests are identical at the present moment, how can he tell whether in twenty or thirty years' time they will be so or not? It seems to me that the plasticity of this constitution which we are asked to adopt will be manifested in a very short time, and that there are four causes which will operate to make the senate a mere dummy. First of all, there is the right of the initiation of money bills—and, as Mr. Wrixon says, finance is government and government is finance—and is it not an immense power to give to one house over the other that all financial measures shall be initiated in that house? And, in the next place, there is the refusal to allow the other branch of the legislature the alteration of money bills. That of itself is an immense power. Then when we come to the third point, that we are to have responsible government, the executive to be a committee of one house, what will become of the senate? Will the senate have any power?

An HON. MEMBER: ————

Mr. BAKER! This bill does not say so. The hon. member, Mr. Munro, will admit that if we have a responsible form of government, which means that the executive shall obtain and hold the confidence of one branch of the legislature, and of only one branch, that that branch will undoubtedly be the lower house, for this reason, if for no other, that that house has the control of the finances. If that is the constitution of the senate, what chance is there that men of character and position, to whom the President has referred, will seek to become members of the senate? Will not all the most experienced, all the most energetic men, all the most able men become members of that house which has the power concentrated in it? Is it likely that a man who has spent his life in directing the fortunes of the country, in controlling, perhaps a turbulent legislature, will seek elevation to the senate, where there is really nothing to do except to register the decrees of the lower branch of the legislature? It seems to me that these four forces will actually make the senate perhaps even less powerful than some of the upper houses at the present time, and that is the reason why I say that the quintessence of federation is left out of the bill.

Mr. GORDON: It has a bias against federation!

Mr. BAKER: I understand that one of the great reasons which actuate the minds of the members of this Convention who desire to unduly, it seems to me, curtail the powers of the senate, is the fear of a deadlock. They say, "What is the ultimate solution in case the two branches of the legislature disagree?" Well, we know perfectly well that unless there is an absolute autocracy all forms of government are liable to deadlocks. The chance of deadlocks is the price we pay for our liberties; but how can anybody who has had experience in government in these colonies, where it is possible for a deadlock to occur any day, not only because of a conflict between the two houses of parliament; but even if the executive, the governor, or any other body exercise all the constitutional powers which are legally theirs, be afraid of a deadlock? We know very well that a deadlock is only obviated by the discretion of those who administer the government, and what right have we to suppose that there will be less discretion in both branches of the federal legislation than in our local parliaments? I would again ask to be allowed to give the result of experience in America in reference to this question of deadlocks. We know that no deadlock has occurred in America for 100 years, although the Senate there is the most powerful house, and although it has co-equal powers in every respect, except in the initiation of bills for taxation, with the lower house, and the reason for this is given by American writers. Mr. Woodrow Wilson, after making some preliminary remarks upon the subject, says:

> But there is safety and ease in the fact that the Senate never wishes to carry its resistance to the House to that point at which resistance must stay all progress in legislation; because there is really a "latent unity" between the Senate and the House which makes continued antagonism between them next to impossible—certainly in the highest degree improbable. The Senate and the House are of different origin; but virtually of the same nature. The Senate is less democratic than the House, and, consequently, less sensible to transient phases of public opinion; but it is no less sensible than the House of its ultimate accountability to the people, and is, consequently quite as obedient to the more permanent

and imperative judgments of the public mind. It cannot be carried so quickly by every new sentiment; but it can be carried quickly enough. There is a main chance at election time for it as well as for the House to think about.

It is put in another way by Mr. Bryce, where he says that the two branches of the legislature in America are both servants of the same master, whose will they must ultimately obey, and that that master is the sovereign people of America. And the master of both the houses of this commonwealth, if federation is brought about, will be the people of Australia. I do not care in what way you frame the constitution, the people of Australia will mould and modify it in accordance with their ideas and sentiments for the moment, although its outward form may remain the same. I will not detain the Convention any longer; but I must say that I am exceedingly doubtful whether, if this bill is passed in its present form, with such a weak, impotent senate, the smaller states of Australia can safely join the confederation. I would call the attention of hon. members to the wording of clause 54—I do not know whether it is intentional or not—on this very same question:

> Laws appropriating any part of the public revenue, or imposing any tax or impost, shall originate in the house of representatives.

That means nearly every bill that is introduced. Almost every bill introduced either appropriates part of the public revenue or imposes a tax or impost. I know that in South Australia, where we have the same words as these in our constitution, all the important bills, and four-fifths of all the bills, come under this category. It is quite true that in the next clause bills imposing a tax or impost are defined; but bills appropriating part of the public revenue are not defined. I do not know whether it was the intention to convey the same idea in both of these clauses; but it seems to me that they contradict one another. Clause 55 says:

> The senate shall have equal power with the house of representatives in respect of all proposed laws, except laws imposing taxation and laws appropriating the necessary supplies for the ordinary annual services of the government.

That is quite contradictory to clause 54.

Mr. BARTON: No: it must be read subject to clause 54!

Mr. BAKER: If that is the intention, why not put it more clearly, and strike out, in clause 54, the words "any part of the public revenue," and insert "the necessary supplies for the ordinary annual services of the government?" There seems to me to be an inconsistency between the clauses, and this accentuates the point which I wish to make as to the exceedingly limited powers given to the senate—powers which, in my opinion, make it incompetent to perform the duties of a federal senate, and to protect the interests of the states which ought to be confided to its care.

Mr. CLARK: There seems a disposition on the part of some members of the Convention to get into Committee as soon as possible. I have no wish whatever to take up the time of the Convention: but it has been thought by some members of the Constitutional Committee that at least one member of it ought to defend the bill against some of the attacks which have been made upon it by the two speakers who have addressed the Convention this morning. I had no wish whatever to take this particular task upon myself, and I very much regret that the chairman of the Constitutional Committee, Sir Samuel Griffith, was absent during the whole of the time that the hon. member, Mr. Wrixon, addressed the House; but, in his absence, I took a number of notes of Mr. Wrixon's speech. I concur with the hon. member, Mr. Wrixon, that it very often saves time in Committee to ventilate some matters of detail in general debate, so as not to spring amendments or objections upon hon. members in Committee. I listened with very great pleasure to the careful and intelligent criticism of the bill by the hon. member, Mr. Wrixon; and I think I may say for every member of the Constitutional Committee that we shall each and all be only too happy to listen to any number of speeches of the same kind as his, showing such a careful study of the bill, such an intelligent appreciation of its provisions, and containing so many suggestions for our consideration with regard to the possible improvement of the measure as it did. But I think that my hon. friend, Mr. Wrixon, misconceived the purport and effect of some of the clauses to which he referred. He devoted his attention particularly to chapter v, which deals with the states, and he seemed to think that the whole of that chapter was out of place because it did not deal with the question of federal government at all, but was an attempt to interfere with the internal affairs of each state. But I would like to put before the hon. member and before this Convention what appears to me to be a very important consideration with regard to this bill, and with regard to the future federation which we hope will arise under it, and that is, that every resident of the commonwealth of Australia, after this bill becomes law, will be a citizen of two distinct governments, and he has a right to look to each of those governments for the protection of certain fundamental rights and privileges; and this chapter dealing with the states only attempts to interfere with the action of the states in so far as the federal government thinks it right to do so for the protection of its individual citizens. I think if hon. members will read through all the provisions which appear to interfere with state action, or which do deliberately prohibit such action in certain subjects, they will see that it is for the protection of certain fundamental rights and liberties which every individual citizen is entitled to claim that the federal government shall take under its protection and secure to him. So much for chapter V as a whole. Coming to the clauses in particular which the hon. member, Mr. Wrixon, criticised, I will refer first of all to the clause which says that the states shall adopt what mode they like for the appointment of their governors. It appeared to me that the hon. gentlemen had come to the conclusion that this clause had directly invited the different states to adopt the system of popular election for their governors; but I think no such reading as that can be given to the language used. It simply leaves the states to decide for themselves in what manner their governors shall be appointed. We know that each and all of them can now obtain an amendment of their constitution from the Imperial Parliament, enabling them to alter the mode of appointing their governors, and this clause simply says that, without having to go to the Imperial Parliament, they shall have that right secured to them from the date of federation. It does not follow that they will go in for the popular election of their governors at all. In all probability most of them will continue for a long time to come to have their governors appointed as at present; and so far from being in any way an interference with the right of the people to say in what mode their governors shall be appointed, this clause leaves them absolutely free to do as they like.

Mr. CUTHBERT: What necessity is there for it? It is only a saving clause!

Mr. DEAKIN: Do not argue it now!

Mr. CLARK: I am only replying to the criticism of the hon. member, Mr. Wrixon, who seemed to think that this clause was a direct invitation to the people to adopt the system of popular election. The next clause to which the hon. gentleman objected was that which provides that references to the Queen shall go through the governor-general. I think we are all agreed that the object of federation is to make us one nation or one community with regard to the outside world; and if we are to be one nation and one community with regard to the outside world,

we surely ought to have only one channel of communication with the outside world. That is the sole object of that clause. It has no intention whatever of interfering with the executive government in the several colonies, or to give the governor-general or his ministers any power whatever to interfere with the executive affairs in the several colonies. If hon. members believe, and can show, that this method of communicating with the Queen will cause irritation and produce unforeseen results of a disadvantageous nature, I am sure every member of the committee will only be too happy to hear criticisms of that kind, and, possibly, on reflection, to alter their opinions with regard to the utility or necessity of this provision. On one subject to which the hon. delegate from Victoria referred I am entirely in accord with him. I refer to the clause authorising the federal parliament to confer original jurisdiction on the supreme court in additional cases. Of course it is well understood that every member of the committee reserved to himself the right in Convention to differ from any of the details of the bill. It is not to be expected that fourteen members would be absolutely unanimous on every point. Therefore I do not think I am guilty of any breach of decorum when I say that personally in the Judiciary Committee and in the Constitutional Committee I strenuously fought against this provision; but I was outvoted. I shall, therefore, be happy to join the hon. member, Mr. Wrixon, in attempting to get the clause excised. Then my hon. friend approached what is perhaps the knottiest and most difficult question in the whole bill, and that is the relations of the senate and the house of representatives with regard to money bills and the question of finality with regard to legislation in general. I thought that the Convention had substantially adopted the compromise which is now embodied in the bill.

Mr. WRIXON: Oh, no!

Mr. CLARK: But if I am wrong in that impression, of course I must only wait to hear what other objections can be urged against it when the bill gets into Committee. I will not attempt to discuss the question now. But I will say with regard to the question of finality that if there is to be any system proposed by which finality shall be arrived at in all matters of legislation, so that the senate may be ultimately outvoted on any matter whatever, then it certainly ought to be put on a perfect equality with the other house with regard to money bills, so far as the right of amendment is concerned. It is, therefore, a choice whether you will accept this compromise with regard to amendments, or give the senate absolute power of amendment, and provide some system of obtaining finality on any matter, whether it is a money bill or not. The reference which the hon. member, Mr. Wrixon, made to the use of the word "law" instead of "bill" I believe is perfectly correct in regard to the use of the word in several cases. I believe it has been a mere slip on the part of the draftsman.

Sir SAMUEL GRIFFITH: No!

Mr. CLARK: In clause 57 it is evidently a slip, because a measure is a bill when it is presented to the governor-general; it is only a law after it has been assented to.

Sir SAMUEL GRIFFITH: The word may be wrong, but it was used deliberately!

Mr. CLARK: One of the most important points touched upon by the hon. delegate from Victoria was the question of constitutional government. He seemed to think that the clause providing for the appointment of officers in charge of the various departments of the state did not provide for constitutional government as we understand it, with the very large and necessary powers which a minister of the Crown always possesses in a British community having responsible government. I interjected at the time that I thought the hon. member had overlooked the last line of clause 4, chapter II, which says that such officers shall be members of the federal executive council; and I think the hon. gentleman will find, upon reflection, that the words that I have quoted constitute those officers what we ordinarily call ministers of the Crown, and that, being ministers of the Crown, they will have all the powers which the officers called ministers of the Crown at the present time in the constitutions of the several colonies by law possess. With regard to appeal to the Privy Council, I understand that the only objection the hon. member takes to the clause dealing with that question is that it attempts to set out the interpretation which the Privy Council has already put upon the language contained in the British North American Act reserving the right of appeal to her Majesty-in-Council. If it is simply a question as to whether we should use the language of the British North American Act, which was at one time doubtful, and a subject of great argument, but which has now been interpreted, or whether we should use the very language used by the interpreting authority, I do not think there ought to be much hesitation in choosing the direct interpretation, given by the constituted authority of that which before was doubtful and arguable. That is our justification for adopting that method, instead of repeating the language of the British North American Act. On the question of the control of the railway tariffs, I think we have sufficient power to prevent what are called differential rates, under the "power to regulate commerce." At least we know that in America they have passed an act called the Inter-State Commerce Act, in which they absolutely prohibit any railway company giving better terms to any number of its constituents than they give to others, or better terms to any localities than they give to others. Now, if in America, where the railways are all owned by private companies, the Congress has power in its Constitution to pass a law which says that no company shall give better terms or advantages to some of its constituents than to others, or to some localities than to others, we surely can adopt the same method in preventing one colony owning railways attempting to take traffic from another by running at lower rates for some people than for others, or running at lower rates for goods from some localities than from others.

Mr. WRIXON: A member of the committee stated that it was not considered by the committee!

Mr. CLARK: Stated it was not considered by the committee?

Mr. ADYE DOUGLAS: That point was not considered!

Mr. CLARK: I do not say that it was deliberately considered. I only speak in so far as I am concerned; and I believe other members of the committee are convinced that under the power to regulate commerce we have the power to prevent any colony attempting, by running at lower rates, to take away traffic from another colony.

Sir JOHN BRAY: No!

Mr. CLARK: Well, I believe we have.

Mr. BARTON: Each colony has supreme power within its own boundaries!

Mr. ADYE DOUGLAS: That matter was never discussed!

Mr. CLARK: I do not say that it was; but I say that it is the opinion of several lawyers that we have that power.

Mr. ADYE DOUGLAS: It is not so in America. The only provision there is this: they must not charge more to one state than to another. They can make any charges they like upon their particular lines; but they must not give a preference to one state over another state.

Mr. CLARK: That is not a provision of the Inter-State Commerce Act, as I will show the hon. gentleman when the proper time arrives. There is only one

other matter to which I will refer. One hon. member seemed to think it was undesirable to allow an appeal in criminal cases to the federal supreme court, because he thought the execution of criminal law ought to be speedy. There is no doubt that when a man's life is involved, it is a very unsatisfactory state of things to have his fate suspended for any length of time. That is one objection, and that is the great objection, to appeals in criminal cases to the Privy Council. The hon. member, however, will see at once that an appeal to a court in Australia will not create the same lengthy delay as an appeal to the Privy Council in England does, and beyond that, appeals in criminal cases will not be always in regard to cases in which capital punishment is concerned. If the hon. member will look through the reports of criminal cases in England, I think he will find that the appeals in capital cases are very few indeed; but there are numerous appeals in cases of larceny, forgery, embezzlement, and fraud; and in those cases where life is not involved a man may be kept in prison until the point in dispute is settled. If it is settled in his favour he is discharged; if it is not settled in his favour he is left to complete his sentence. I do not think any very serious injury is done to the individual in cases of that kind, compared with the benefit to the whole community in obtaining the best and most authoritative decision on the points involved for the purposes of future practice. I said at the outset that I had no wish whatever to trespass upon the time of the Convention at this particular juncture; but several members of the Constitution Committee thought someone ought to take up some of the points mentioned by the hon. member, Mr. Wrixon. For that reason only I have trespassed on the time of the Convention, and I will leave anything further that may be suggested to me by hon. members' remarks for discussion in Committee.

Question resolved in the affirmative.

Motion (by Mr. SUTTOR) agreed to:

> That the Chairman leave the chair, and that the Convention resolve itself into a Committee of the Whole to consider the draft bill.

In Committee:

> Clause 1. This act may be cited as "The Constitution of the Commonwealth of Australia."

Mr. MUNRO: I think that a very important question arises here as to the title of the federated colonies. I do not think that the committee succeeded in securing a happy title. It is a title with which we are not familiar, and a title which historically raises rather serious questions—questions that suggest a good deal of controversy in the minds of many people. Without taking up the time of the Committee, I beg to move:

> That the word "Commonwealth" be omitted with a view to insert in lieu thereof the words "federated states."

I think that that will answer our purpose very much better, and will be more easily understood.

Sir JOHN DOWNER: Say "Federation"!

Mr. MUNRO: "Federated States" will properly convey our meaning.

Sir JOHN DOWNER: So will "Federation!"

Mr. MUNRO: If you merely say "Federation," that does not convey our meaning. Our meaning is that we are to be federated states, and for that reason I move this amendment. Before we go to lunch I think we should have some understanding as to how late we are to sit to-day. Some hon. delegates think that we ought not to have an adjournment after dinner, and if we are not to have an adjournment after dinner, I think that we should sit at all events until half-past 6. I merely mention this matter so that we shall have an understanding not to run away at half-past 5 or 6.

Mr. DEAKIN: Sit to-night!

Mr. MUNRO: If we sit until 6, we shall see what progress we make.

Sir SAMUEL GRIFFITH: There is no hon. member in this Convention who is called home more urgently than I am; but notwithstanding that, and the great hurry which I am in to get home, I think that a great deal more harm will be done by rushing through business as proposed by the hon. member, Mr. Munro. If I had had this bill put in my hands yesterday afternoon, I should certainly not have been prepared to rush through it either to-day or to-morrow, or until next week. Some hon. members may have quicker apprehension and be able to do so; but, considering the vast importance of the subject that we have in hand, I protest against anything like undue haste. It is better to occupy two or three more days about it, and get our work done well.

Sir JOHN DOWNER: There has been too much haste already.

Sir SAMUEL GRIFFITH: As the hon. member says, there has been too much haste already. I feel that the work done during the last fortnight has been almost more than fairly could be done in that time, and if every hon. member is to be asked to express his final matured opinion either to-day or to-morrow I fear that we shall make poor work of it.

Mr. MUNRO: We do not want that!

Sir JOHN BRAY: I should like some understanding as to what we are to do this evening. If the majority of hon. members are prepared to go on, I think that we should do so. I agree with those who suggest that we should not hurry, but we should not lose time. If hon. members are prepared to go on with the discussion, I trust they will support the suggestion of the hon. member, Mr. Munro, and go on as long as hon. members are prepared to do so; but of course not press any matter unduly to division. I at the same time agree with the hon. and learned member, Sir Samuel Griffith, that it is possible to make too much haste, and I think that the Constitutional Committee made too much haste in rejecting the recommendations of the Finance Committee as quickly as they did. I trust that as long as hon. members are prepared to carry on the discussion, without hastily pressing for a division, hon. members will be willing, even at some little inconvenience, to sit in the evening.

Mr. GILLIES: I do not know whether this is to be considered a conclusive expression of opinion with reference to the time we are to sit, or whether we are to return to the subject after lunch.

An HON. MEMBER: We can talk it over before we meet this afternoon!

Mr. DEAKIN: The word proposed has, like every other word that can be suggested, some disadvantages; but in the opinion of a majority of the committee, it possessed more advantages than any other name that was suggested. In the first instance, it is a distinctly English word, and a well-known word. It is a title which has a pacific signification which, from the tone that has been taken in regard to the defence proposals in the measure, is an advantage. It indicates that the state is formed for a pacific purpose—for the common good of its people, for their common-weal. It is a name which has not yet been applied. It is not open to the objections which may be urged to such combinations as "federal states" or "united states," titles which have already been employed in one part of the world or another. It is an old word, but it is a new name as applied to a state. There is no existing state which is known as a commonwealth, although Great Britain is frequently referred to both by orators and political writers as a commonwealth; and the word has been already applied on occasions when speaking of Australia as a whole. It is, therefore, a word which I fancy we are justified in appropriating, and I trust that the Convention will not lightly change a word which was adopted after very full consideration by a majority of the committee, and that even those who may have some

sentiment against the name will take full time to consider the objections that can be urged to any other title.

Sir JOHN DOWNER: It is quite true that a majority of the committee arrived at the conclusion that it would be expedient to make this new departure, and adopted a term which has not been usual in countries under a sovereignty.

Mr. DEAKIN: Oh, yes, it is usual in countries under sovereignty!

Sir JOHN DOWNER: Commonwealth is a very nice word indeed, but it is very important to recollect, as the hon. member, Sir Henry Parkes, pointed out at a somewhat early stage of the proceedings, that we have to consider, not only the technical meaning of the law, but also the popular understanding of the law, and the popular understanding of the word "commonwealth" is certainly connected with republican times.

Mr. DEAKIN: No!

Sir JOHN DOWNER: It is, in my opinion, connected with republican times, and it is certainly disconnected with that loyalty which we all, I am sure, not only profess, but very honestly feel towards the Crown.

Mr. DEAKIN: The most glorious period of England's history!

Mr. CLARK: Hear, hear.

Dr. COCKBURN: Was it under the Crown?

Mr. DEAKIN: There was then no Crown!

Sir JOHN DOWNER: It may have been the most glorious period; but as my hon. friend, Mr. Baker, says, it certainly was not the union under the Crown, which we are all of us most desirous of bringing about at the present time. I do not think that in the initiation of this matter we should mix up two conflicting propositions—one that we are thoroughly loyal, and the other that we are going to adopt in our very initiation a title which is certainly connected with ideas other than those which are strictly loyal. I do not much like the word which has been proposed in the place of the word "commonwealth."

Mr. MUNRO: I am quite willing to accept a better one!

Sir JOHN DOWNER: When that is disposed of I shall suggest that the name be Federal Australia.

Mr. PLAYFORD: In committee I was in favour of the words "United Australia," and then of describing the parliament of the federation as the union parliament, so that we might use the expression, "union parliament," right through the bill. But the word "commonwealth" was carried by a majority, and I am fain to confess, along with the hon. member, Sir Samuel Griffith, that the more I have thought over the matter the more I like the word "commonwealth." At first I was—well I do not say prejudiced against the word, but I did not care about it very much. I believe that even if we get a majority to strike out the word we shall have some difficulty in getting a majority to substitute any other word. We shall find in the first place that those who go for the words "Federal Australia" will not be able to carry a majority, and in the second place that those of us who were originally in favour of the words "United Australia" will not be able to carry a majority. And we may find that after all there will be a larger number of us in favour of the word "commonwealth" than for the substitution of any other word. My hon. friend, Sir John Downer, has stated that we are not acquainted with the word "commonwealth" in connection with a monarchy. But if he will go back to English history, before the time of the Commonwealth, he will find that that great English poet, Shakspere, constantly alluded to the state of things in England as a commonwealth. We know very well that it is derived from common-weal, which is described in the dictionaries as the meaning of commonwealth.

Sir JOHN DOWNER: It means differently now!

Mr. PLAYFORD: No, it does not. Ogilvie, in his dictionary, defines the word "common-weal," in the first instance, to mean a commonwealth, and he introduces this Shaksperian quotation. "So kind a father of the common-weal." The writer goes a little further, and under the heading of "commonwealth" he divides the word into two parts, and gives its primary meaning and its secondary meaning:

> "Commonwealth" is derived from common and wealth, meaning strictly common wellbeing or common good.

Surely we are all desirous of forming this constitution so that it shall redound to the common good of the people of this great continent.

Sir JOHN DOWNER: It means common goods now!

Mr. PLAYFORD: The primary meaning of the word is:

> The whole body of people in a state ——

Surely that is a very good description of what we mean when we are forming a federal Australia:

> the body politic; the public.

And another Shaksperian quotation is given:

> You are a good member of the commonwealth.

So that if we go back to the time of Shakspere we find that the word is distinctly understood to mean a state under a monarchy. The secondary meaning of the word is given as the commonwealth which was established by Cromwell under the Protectorate. Now, discarding altogether the secondary meaning of the word, let us go back to the good old English meaning of the word in the time of Shakspere. When we are about to establish a union of these Australian colonies let us, if we can, hit upon a new name which shall unmistakably describe what we are all aiming at, and that I contend is the common wellbeing, the common good with regard to the whole body of the people in a state, the common good of the whole body politic. This word commonwealth commends itself to my judgment as the very best word that we can use, with regard to this union of the various colonies of Australia. I shall unmistakably support the retention of the word.

Sir GEORGE GREY: I ought, perhaps, to state to the Convention that I believe I first proposed the name of "Federal Australia," and I thought it was a good proposition; but when I heard argued out the question whether the word "commonwealth" should not be used instead of the words I had proposed, and which others thought should be adopted, I was convinced that the word "commonwealth" would be the better term, and I therefore voted for it. I think it right to state that I have changed my mind. I now have no doubt that the word "commonwealth" is the better word to use. We are, I take it, assisting to create a commonwealth in terms of the strictest loyalty, love, and veneration for the Queen, who is absolutely made a member of our parliament. It being quite clear that we seek to do no wrong to the exalted individual who is made a member of our parliament, I think it is quite clear we ought not to be frightened by a bugbear such as has been suggested into an alteration of a resolution arrived at after long consideration.

Sir SAMUEL GRIFFITH: Like the hon. member, Sir George Grey, and the hon. member, Mr. Playford, I was one of those who did not like the word "commonwealth" when it was first mentioned, but I confess that I now think it a very good word indeed. The result of the arguments used in the committee was to satisfy me that it was better than any of the other words suggested—better, indeed, than any other possible word. I think the prediction of the hon. member, Mr. Playford, will probably be verified, and that there may possibly be a majority of this committee who, if the question were put now, would probably reject the word "commonwealth;" but who, on the other hand, might not be able to agree to any word in substitution for it. Would it not, therefore,

be better if the hon. member, Mr. Munro, instead of proposing the omission of the word, proposed to insert before it some other word? If we take the different proposals one after the other, and if, as I expect, they are all rejected, we shall probably come unanimously to the conclusion that the word "commonwealth" is the proper word.

Sir JOHN DOWNER: We must omit the word before another word can be inserted!

Sir SAMUEL GRIFFITH: Why?

Sir JOHN DOWNER: Because it is the parliamentary practice!

Sir SAMUEL GRIFFITH: Surely parliamentary practice is made for the convenience of discussion and determination. Are we the slaves of parliamentary practice? I do not know of any reason why it should not be proposed to insert instead of to omit. If the result of the insertion of a word were to render necessary the omission of other words these words would be omitted. I believe there are about half a dozen members of the Convention who would like to have inserted the words "federal states;" others, again, like the word "federation;" others like the words "United Australia;" and these would consequently all combine in the rejection of the word "commonwealth." The course I suggest would be in strict accordance with parliamentary rule. It is not the way in which amendments are generally made, because it seldom happens that it makes any difference which way it is done, although in this case it does. I would remind hon. members of the practical inconvenience that would result if we should strike out the word "commonwealth," and should subsequently be unable to agree to any other.

Sir JOHN DOWNER: The hon member assumes that that will be the case!

Sir SAMUEL GRIFFITH: Surely any hon. member is right in arguing upon the possible consequences of any proposed action. I am assuming a possibility. I assume that if this question were to go to a division this afternoon there would very likely be a majority against the word "commonwealth" and I am equally positive that next Monday there would be a majority in favour of it. In the meantime, 500 or 600 amendments would have been made in the bill, which would have to be restored to its original form—amusing work for some one.

Mr. WRIGHT: The hon. member, Mr. Deakin, in speaking just now, said the word "commonwealth" had a special signification. I agree with the hon. member; but I think it is anything but a savoury signification, and that it is, therefore, altogether an improper word to use. It appears to have been assented to by many members of the committee for æsthetic reasons rather than for any other.

Mr. PLAYFORD: The hon. member evidently believes in the glorious memory of Charles I!

Mr. WRIGHT: And it is possible that there are certain members who have in their mind's eye a future Oliver Cromwell, who would say, "Take away that bauble," meaning by the bauble the allegiance we owe to Her Majesty the Queen and the United Kingdom of Great Britain. I think the question might be solved by striking out the word "Commonwealth," and by merely leaving the words "Constitution of Australia." We are proud to consider ourselves by birth or by adoption citizens of this great country, and I therefore think my suggestion would meet the views of a majority of members of the Convention.

Mr. BARTON: I do not know that there is much necessity for me to address the Committee, because I am satisfied with all that the hon. member, Mr. Playford, has said. But I rise chiefly for the purpose of referring to the suggestion of the hon. member, Mr. Wright, that the title "Commonwealth" has an unsavoury signification. How that can be I do not know. If we are to be frightened away from the use of any proper word, or the expression of any proper idea from the fact that it has been usurped or perhaps misused by others who have gone before us, we shall be deterred from doing a great deal we ought to do. If there are those who think that, under the great Protector—whose name, as we live longer to understand history, will always be more venerated among English-speaking people—the process of republicanism as associated with the title given to the English body politic under him was inimical to the commonweal, and who think that on that account we ought to depart from the title, I would remind them that it was a name inherent in the minds of Englishmen long before that time. If any hon. member thinks, however, that such a reason should be sufficient to prohibit us from using a title which absolutely designates all that we desire to designate, then as we go through this bill I am afraid we shall find ourselves rapidly denuding it of some of its best features. There can be nothing unsavoury in a title which means, according to the best authority, "the nation, state, realm, the commonwealth"—the word being interposed between "realm" and "republic," showing that it is used to signify the common good, and that it has that signification whether under a queen or a republic. "Nation, state, realm, commonwealth, republic, commonweal, nationality." The words used by Roget as synonymous are among others "national" and "public." If these are the expressions associated by the highest authorities with the word commonwealth, why seek better? Shall we take confederation or federation? I will not give all the words which are stated as synonymous, because some of them express almost too much; but we find these, "league, alliance, coalition, confederacy, confederation." These are not altogether what we wish to express, because we know that although we have embodied the operation of federal action in this commonwealth, still we seek to constitute a national government for national purposes. Our purposes of government may be national while we preserve the utmost loyalty to the monarch whom the constitution sets over us. As the hon. member, Sir George Grey, has expressed it, we have constituted the Queen a member, and the highest member, of our parliament. The association of the Queen with the action of the commonwealth is distinct, and is firmly embedded in the whole bill. If that is done, there can be no association of the idea of republicanism with this bill. However appropriate the name "commonwealth" may be to a republic, it has been clearly shown from the quotations made by the hon. member, Mr. Playford, from Shakspere to be associated in the minds of Englishmen with government for the public good—with government for the people—and as it so expresses in itself the very essence of government for the good of the people, and because we cannot suggest anything else which expresses the idea in one word, I hope we shall retain this name, and I believe that if we do, we shall all live to be proud of it.

Mr. J. FORREST: I objected in committee to the use of this word, and I have seen no reason whatever to change my opinion. The name is inappropriate for more than one reason. In the first place, it designates too much. If we were founding an independent nation, and not federating, it might be a very appropriate term to call it "The Commonwealth of Australia." That, however, is not the case. We are a number of independent sovereign states desirous of being federated, and we desire to have a name which will signify exactly what we are doing. On the face of it, I do not think it can be said that "The Commonwealth of Australia" would signify that a number of states had joined together in a federal union. In my opinion a much better term would be "the Federated States of Australia," which exactly signifies what we mean. That might be regarded as too long, and we might say, "Federal Australia." Another reason why this name should not be adopted is, that

in the minds of many people the word "commonwealth" is associated with a period of English history which was not very glorious. There is considerable divergence of opinion as to the good conferred on England by the Commonwealth. No doubt many historians believe that it was a very glorious one, but no one will deny that others hold an opposite opinion. If possible, we should adopt something new, and not follow a name which would give rise to unfavourable opinions such as the term "commonwealth" would certainly give rise to. The term "federated states" would show exactly what we intend, and if it is desired to shorten the name, "Federal Australia" would serve the purpose very well.

Mr. MARMION: It seems rather strange, after sitting here for a considerable period, that this assembly should, for the first time, now hear of this term "commonwealth." As a member coming from a remote portion of Australia, I have been sitting here many days anxiously and patiently listening to the words of wisdom from hon. gentlemen, but never on any occasion did I hear the term "commonwealth" mentioned. After the select committee sat for a considerable time, and after we had waited patiently for their report, we were surprised very much to find that a new term had been imported to denominate what shall hereafter be the great nation of united Australia.

Mr. BARTON: It was proposed at a very early stage in the committee!

Mr. MARMION: I do not allude to the committee, but to the distinguised assembly which appointed the committee. One would imagine that the select committee would act in the manner which is usual when a deliberative body is selected by a greater body. In this particular case it seems curious that the word "commonwealth" was chosen. I can see no reason why we should try to originate a newfangled idea with reference to the denomination of the new federated Australia that we are seeking to form. Why should not the word "Australia" be used in its pure and natural simplicity? We are all either native-born Australians or we have chosen Australia as the land of our adoption, and when we visit other lands we speak of Australia as our home. Why should we not speak of this as the constitution of Australia, which would explain itself not only to Australians, but in all its purity and simplicity would explain itself to people who live in the outside world? If a man living in Europe, Asia, or America, intended to come here, what necessity should there be for him to say that he was about to visit the commonwealth of Australia? Why should he not say, "I am going to visit Australia?" In the case of America there was a good reason for using the words "United States," because America forms one great continuous continent, both North and South, and divided into a great number of various countries. Such is not the case in Australia. We are an island, united to a very great extent, and we hope to be united to a still greater extent under a federal dominion or nation. Then why should there be any reason for the use of this word? It is superfluous and unnecessary. Although many hon. gentlemen may think that the commonwealth was associated with a glorious period of the history of Great Britain, yet there are a great number of people living in Australia and outside of it who do not consider that it was a brilliant period in English history. I say it is our duty here as statesmen, supposed to represent the intelligence, rising genius, and talents of this young country, to beware of those old associations and ideas which may cause discord in the minds of those who are endeavouring to form this great nation. I should be sorry to see this word chosen, and I trust that it will not be chosen, no matter how euphonious it may be, no matter how beautiful its meaning may seem in the various dictionaries which hon. members have been quoting. I trust that we shall choose a name that will be simple and easily understood—something that can be regarded with confidence by Australians and the world, and recommend the adoption for its simplicity of the "Constitution of Australia." It may be said that there is some objection, because we have two other colonies which are likely to join the federation, one called Western Australia, and the other South Australia; but that is really no great objection. Canada has two divisions, Upper and Lower Canada; but no one speaks of coming from or going to Upper or Lower Canada. It does not matter what part they belonged to, they speak of going to or coming from Canada. A person who has been born in any Canadian state speaks of himself as having been born in Canada. It will be the same with Australia. A man will speak of coming from Australia, not from the commonwealth.

Mr. PLAYFORD: What about the "Dominion" of Canada.

Mr. MARMION: You meet with that name when reading a work which goes into the history of the country; you do not hear of it in common parlance.

Sir SAMUEL GRIFFITH: We are not writing a geography now!

Mr. MARMION: No, nor have I any notion that I could convey any knowledge to the hon. member's mind. I am not so foolish as to imagine that the words I use will have much effect upon those who are listening to me. Whether they will have any effect or not, I feel sure that if the word is adopted the day will come when hon. members will recognise that what I have said was not all folly, but that there was some wisdom in it.

Question—That the word proposed to be omitted stand part of the clause—put. The committee divided;

Ayes, 26; noes 13; majority 13.

AYES.

Atkinson, Sir Harry	Grey, Sir George
Barton, Mr.	Griffith, Sir Samuel
Bird, Mr.	Jennings, Sir Patrick
Brown, Mr.	Kingston, Mr.
Burgess, Mr.	Macdonald-Paterson, Mr.
Clark, Mr.	McMillan, Mr.
Cockburn, Dr.	Moore, Mr.
Deakin, Mr.	Parkes, Sir Henry
Donaldson, Mr.	Playford, Mr.
Douglas, Mr. Adye	Russell, Captain
Forrest Mr. A.	Rutledge, Mr.
Fysh, Mr.	Smith, Colonel
Gordon, Mr.	Suttor, Mr.

NOES.

Baker, Mr.	Lee-Steere, Sir James
Cuthbert, Mr.	Loton, Mr.
Dibbs, Mr.	Marmion, Mr.
Downer, Sir John	Munro, Mr.
Fitzgerald, Mr.	Wright, Mr.
Forrest, Mr. J.	Wrixon, Mr.
Gillies, Mr.	

Question so resolved in the affirmative.

Clause, as read, agreed to.

Clause 2. The provisions of this act referring to her Majesty the Queen extend also to the heirs and successors of her Majesty, kings and queens of the United Kingdom of Great Britain and Ireland.

Mr. RUTLEDGE: It strikes me that this clause is capable of some amendment. I do not know that it is, strictly speaking, grammatically correct. I think that the more correct phraseology to express the meaning of the Committee would be that used in some of our own local acts. I therefore propose:

That the words "kings and queens" be omitted with a view to the insertion in lieu thereof of the words "in the sovereignty."

Sir SAMUEL GRIFFITH: There is no objection that I can see to the amendment. It is rather an improvement in sound, though it uses a word of four syllables instead of monosyllables.

Amendment agreed to; clause, as amended, agreed to.

Clause 3 (Power to proclaim Commonwealth of Australia).

Mr. RUTLEDGE: Having in view the provisions of the bill, which refer to the time of the establishment of the commonwealth, I think that the words "and establish" should be inserted after the word "united," at the end of the clause. Such an amendment would make the clause clearer.

Sir JOHN DOWNER: No. The colonies are united; the constitution is established!

Clause agreed to.

Clause 6. The Federal Council of Australasia Act, 1885, is hereby repealed, but such repeal shall not affect any laws passed by the Federal Council of Australasia and in force at the date of the establishment of the constitution of the commonwealth.

But any such law may be repealed as to any state by the parliament of the commonwealth, and may be repealed as to any colony, not being a state, by the parliament thereof.

Sir JOHN DOWNER: I fancy that this clause needs a slight amendment. It provides for the repeal of the Federal Council of Australasia Act, but such repeal is not to affect any laws passed by the Federal Council and in force at the date of the establishment of the constitution of the commonwealth.

But any such law may be repealed as to any state by the parliament of the commonwealth.

Should it not be that the law may be repealed altogether? As the clause stands the federal parliament will be able to repeal a law as to a particular state, but not *in toto*. I would just raise the question by moving:

That in line 2, after the word "repealed," the words "or may be repealed" be inserted.

Sir SAMUEL GRIFFITH: Does not my hon. friend see that the amendment which he proposes is not correct? Of the colonies constituting the Federal Council some may come into the federation, but some may not, and the parliament of the commonwealth ought to have no power to repeal the laws of the council affecting those states which do not come into the federation. I take the cases of Western Australia and Queensland, which have fishery laws passed by the Federal Council. If either of those colonies do not come into the federation, why should the federal parliament have the power to repeal their laws? These laws may, however, be repealed in any state which is part of the commonwealth.

Sir JOHN DOWNER: I agree with the hon. member, and will withdraw my amendment!

Mr. MARMION: Should not the repeal be made on the application of the state affected?

Sir SAMUEL GRIFFITH: No; because all the matters that could be dealt with by the Federal Council can be dealt with by the federal parliament.

Mr. BROWN: I should like to ask the hon. member, Sir Samuel Griffith, what would be the effect of this clause with regard to the repeal of the Federal Council Act during the period that will intervene between the time at which this bill is passed, and the time at which, under clause 3, it will come into operation? There will be a period intervening during which certain acts passed by the Federal Council, as, for instance, the Fisheries Act of Western Australia, will be repealed by this bill.

Sir SAMUEL GRIFFITH: If the hon. member will read the first part of the clause he will see that this does not repeal anything!

Mr. BROWN: I see my mistake.

Amendment, by leave, withdrawn.

Clause agreed to.

Clause 7. The constitution established by this act, and all laws made by the parliament of the commonwealth, in pursuance of the powers conferred by the constitution, and all treaties made by the commonwealth shall, according to their tenor, be binding on the courts, judges, and people of every state, and of every part of the commonwealth, anything in the laws of any state to the contrary notwithstanding; and the laws and treaties of the commonwealth shall be in force on board of all British ships whose last port of clearance or port of destination is in the commonwealth.

Sir HARRY ATKINSON: This will be an act of the British Parliament, and it may apply to British ships that may never reach here. Suppose a ship coming to Melbourne broke down at Gibraltar, any legal questions arising in connection with her would have to be dealt with by Australian courts, not by British courts. By this clause the ship would be part of the commonwealth.

Mr. PLAYFORD: No!

Sir SAMUEL GRIFFITH: I agree that these words appear rather startling. They are taken from the Federal Council Act of Australasia, and were inserted by the imperial authorities after consideration and in substitution for more limited words that were proposed by the Convention that met here in 1883. Finding those words there, and considering that the powers of the federal parliament are only to make laws for the peace, order, and good government of the commonwealth, it was thought perfectly safe to adopt them:

Mr. BAKER: Do I understand that if a ship leaves one of the Australian colonies for a British port, say London, having a British register, until she actually arrives in Great Britain, the laws of the commonwealth are binding upon her, and not the laws of Great Britain?

Sir SAMUEL GRIFFITH: No; but laws of the commonwealth, limited to laws for the peace, order, and good government of the commonwealth, will apply to her on her voyage. For instance, if it was necessary to send a prisoner to England, only such provisions as are essential for the laws of the commonwealth outside the 3-mile limit could possibly apply.

Mr. RUTLEDGE: I would point out that at the end of the clause the word "whose" appears to have been omitted before the word "port."

Sir SAMUEL GRIFFITH: I think that must have been a mistake in the copying!

Amendment (by Mr. RUTLEDGE) agreed to:

That the word "whose" be inserted before the word, "port," line 10.

Mr. BAKER: I may be rather dense, but still I do not understand this clause. It says, "The laws of the commonwealth shall be in force." That means, I presume, all the laws. Therefore, if a ship leaves London bound for any port in Australia all the laws of the commonwealth will be in force on board that ship until she reaches here. That is the effect according to the wording of the clause, but it surely cannot be the intention. It appears to me to be a rather startling conclusion that a British ship leaving London, presumably under the provisions of the British Merchant Shipping Act, shall not be under the British Merchant Shipping Act. At present, there is no such thing as a colonial ship; they are all British ships, and after they are outside the limit of our jurisdiction at sea, the laws of Great Britain are in force on board those ships. It is true that we have power to try persons for crimes committed on board the ships when they arrive in the colony; but we have that power by virtue of special acts of the Imperial Parliament, and the offenders have to be tried according to the laws of Great Britain. As I understand this clause, it seems to alter that state of things, and to arrive at a very startling conclusion.

Sir SAMUEL GRIFFITH: The words of this clause to which exception has been taken were framed by the imperial law officers in 1885 in substitution for words of a more limited application which we proposed to have inserted. The question arose specially, as far as my memory serves me, with regard to the power to legislate in connection with fisheries and territorial waters outside the jurisdiction and the extradition of offenders. The laws of the commonwealth

would only have effect within the land territory and 3 miles beyond. Of course parts of the commonwealth are separated from one another by sea, and the means of communication between different parts is, and will continue for a long time to be, by sea. It is absolutely necessary that these laws should extend beyond the territorial limit, and we asked for words which we thought would give effect to that idea. The imperial law officers substituted the words now adopted, which might possibly be thought to convey more than was intended. But, on consideration, I do not think that is the case. I do not see how any more limited words would give what we want. Take the case of the fisheries. A ship clears from an Australian port to the Torres Straits fisheries. She goes to no port in particular there. The laws are to be in force on board of her all the time she is away and until she returns to her port of clearance or destination. In the case put by the hon. member, Mr. Baker, of a ship coming from England ———

Mr. BAKER: And being wrecked at Malta!

Sir SAMUEL GRIFFITH: There are no laws that are within the powers of the commonwealth to pass that could apply to any person on board a ship under those circumstances. If the hon. gentleman will look at the words of limitation in the clause conferring legislative powers on the commonwealth, I think he will see that no laws in any of those provisions could apply to a person on board a ship under the circumstances mentioned.

Mr. GORDON: What about the Employers' Liability Act and the laws for the regulation of trade and commerce? Suppose you had a conflicting employers' liability act as between the commonwealth and Great Britain?

Sir SAMUEL GRIFFITH: The Employers' Liability Act is a matter affecting the rights of property in a state. It never occurred to me that such a thing would be within the powers of the commonwealth.

Mr. BAKER: There might be a question also as to the law of marriage and divorce!

Sir SAMUEL GRIFFITH; If the hon. gentleman will look at the bill he will see that the only laws which can apply are laws for the peace, order, and good government of the commonwealth.

Sir JOHN DOWNER: "According to their tenor!"

Sir SAMUEL GRIFFITH: As the hon. gentleman reminds me, the words, "according to their tenor," were inserted in this clause exactly for the purpose of indicating that.

Clause, as amended, agreed to.

CHAPTER I.—THE LEGISLATURE.

Part I.—General.

Clause 2. The Queen may, from time to time, appoint a governor-general who shall be her Majesty's representative in the commonwealth, and who shall have and may exercise in the commonwealth during her Majesty's pleasure, and subject to the provisions of this constitution, such powers and functions as her Majesty may deem necessary or expedient to assign to him.

Dr. COCKBURN: I should like information from the hon. member, Sir Samuel Griffith, or some other hon. member, as to the exact intention of this clause. Of course we know that, by letters patent, certain powers are at present delegated to the governors of the several colonies irrespective of their ministers. I think there is a feeling in the colonies generally, and also I think in this Convention, that the powers of those who hold the important office of ministers of the commonwealth should be in no respect—if it is possible to avoid it—inferior to the powers of imperial ministers. In such matters as the dissolution of parliament, and the inflicting of capital punishment, I think the powers of the ministers of the commonwealth should be absolute—that is to say, that instead of these two matters of exercising the prerogative of pardon and the power to dissolve parliament, being vested solely in the governor, they should be exercised by responsible ministers. I think it is much better that questions of this kind—the dissolution of parliament or the infliction of capital punishment—being strictly local questions, should be decided by the local authorities. Unless something is put into writing, I imagine whatever the Imperial Parliament may do in giving effect to this legislation, that it will be competent at any time, for imperial ministers, by letters patent, to continue to vest in the governor-general those powers which are at present exclusively vested in the governors of local states. I would ask the hon. member, Sir Samuel Griffith, or some other hon. member of the committee, whether it is intended that the ministers of the commonwealth should have no power in such a matter, for instance, as the dissolution of parliament?

Mr. PLAYFORD: The hon. member means the dissolution of local parliaments!

Dr. COCKBURN: No; the dissolution of the federal parliament.

Mr. PLAYFORD: That the governor should not have power to say whether he will grant his ministers a dissolution?

AN HON. MEMBER: How about a refusal?

Dr. COCKBURN: No case has ever been known for many years—I think for many hundreds of years—in which the Prime Minister of the Imperial Parliament has been refused a dissolution.

Mr. PLAYFORD: But the Queen has the power to refuse it!

Dr. COCKBURN: If the governor-general by letters patent is instructed to exercise that power, he will do so. Unless something is definitely stated on this point, I imagine the letters patent to the governor-general will be in this particular no different from the letters patent to the governors of the different colonies; and I wish to ask the hon. member, Sir Samuel Griffith, whether it is his intention, in connection with the commonwealth, with all the prestige which it will have, that an important matter such as the dissolution of parliament, which is purely a local matter, should not be vested in those ministers who are directly responsible on the spot to the people of the colonies?

Sir GEORGE GREY: I am afraid I shall lose my chance of moving an amendment to this clause if I do not do it at this stage. I move:

That the words "The Queen may, from time to time, appoint," line 1, be omitted, with a view to the insertion of the words, "There shall be."

The intention is that the governor may be elected. I feel that in bringing this subject under the notice of the Convention I am entering upon very delicate and very debatable ground. But I feel that, in point of fact, the future of vast multitudes of persons will depend upon the manner in which this question is dealt with. This is a question of the interests of nearly 4,000,000 persons at the present moment who look to us; and it appears to me extremely inexpedient that the power of appointing the governor-general to rule so vast a confederacy should be left in the hands of any minister of the day in Great Britain. The terms used are "the Queen shall appoint;" but we all know perfectly well that that means that the minister for the time being shall appoint such person as he pleases, whilst such appointment might be absolutely obnoxious to her Majesty herself. The meaning of the thing is that a friend or any other person chosen by the minister may be appointed without the people of this great confederacy being in any way consulted. I understand that the reason usually alleged for that by persons who support the appointment being made by the Queen is that a social appointment is to be made. That is the term usually applied—it is a social question, and not a political question. I contend that the question is twofold, and those two

things cannot be separated. The governor has political functions to exercise and he has social functions to exercise, and in either case I hold that a person so appointed is much less fitted to exercise those functions than a governor-general chosen by the people of the country would be. I do not understand how it can be said that any social ends whatever, or at all events, of any magnitude, are attained by the appointment of the governor-general by the Crown; but I do hold that social ties and social questions of the strongest possible kind require that the governor-general should be elected by the people of the confederacy. Take the case of a widowed mother, herself well educated, perhaps brought up as a teacher in one of your public schools, and possessing great ability; imagine her with her orphaned children, deprived of a father, night after night teaching those children, with a hope that the highest offices of the state of every kind may be open to them all. Is not that a social question—a social gathering of the highest and noblest kind? And hundreds, I may say thousands, of such social gatherings would be witnessed every night in this great commonwealth, if all the highest offices of state were filled by election by the people. If you follow it out, you will find that in all social relations of the family—fathers, mothers, children, brothers, sisters—this question is intimately concerned as being something which binds the whole family together for common objects, and opens paths of distinction to every one of them, if they prove themselves great and deserving men. Why should you say to all these 4,000,000 of people, "No one of you, nor any one of the other millions who are to occupy this country, shall have the slightest chance of ever attaining to an honor of that kind"—that it shall always be open, as it certainly or almost certainly would be, to distant persons with no claim whatever upon the inhabitants of this country, all of whom would be shut out from so great an opening as that of which I speak. It is more materially necessary that we should consider this point now, and that we should come to a just decision upon it, because I will show hereafter, as the discussion on the bill proceeds, that in every instance all hope is shut out from the great masses of the colony to succeed to any one of the important posts which under this bill will be open to the people of Australia. I say that, looking to our duty to our Sovereign, we owe it to her to select the worthiest man we know to represent her here—to be certain that the man so chosen is worthy to represent her; and in no other way than by his being chosen by ourselves from people whom we know can we be certain that the worthiest man will be chosen to represent the Queen within the limits of the great confederacy which we are about to constitute. Considering the openings that would be given to every inhabitant of Australasia under such a system as I propose, with so many families, as will necessarily do it, directing their every exertion and effort to raise up children worthy of the great opportunities laid open to them, I ask whether this is not to us a greater social question than a few balls and dinners given at Government House, at which none but those in the immediate vicinity can be present? I ask what comparison is there between these two things—one great and far-reaching, extending to millions, the other a mere sham, as it were, representing what passes in another place, as if one were looking through the wrong end of a telescope at some procession that was going on? All matters connected with Government House are diminished here as compared with Great Britain and the influence exercised there. There it is the influence of an hereditary monarch descended from a long line of ancestors. There it is the influence belonging to certain professions—the army and navy—who look to receiving honor from the hands of such a sovereign. Here there are no ties whatever of that kind; and yet for a mere imaginary show, or what is called the performance of social duties—entertaining strangers and also citizens immediately surrounding the vice-regal court, which are the only benefits that are absolutely gained—all those benefits that I speak of are lost. Let us look at in another way, which is also worthy of our consideration. What is the necessary consequence of having a governor-general of this kind, with an enormous salary, and vast expenditure upon various subjects—a salary more than adequate to the duties to be performed? You will find set down in this bill a salary of £10,000 a year.

The VICE-CHAIRMAN: I ask the hon. member not to discuss that matter, as the question of salary is dealt with in the next clause.

Sir GEORGE GRAY: I find a difficulty in separating the two questions. They may be separated in clauses; but the one argument will hardly carry the full meaning of what it is necessary for me to say so that the matter may be understood. I hardly see how it is possible for me to divide the subject, because if I admit that the governor-general should be appointed by the Crown, what is the use of my afterwards arguing about the salary? If, whilst I am arguing upon what must follow upon the appointment of governor-general, I cannot refer to the salary, how can I make the matter thoroughly understood? I would submit, sir, that this is a case in which clearly it is impossible to separate the two.

Mr. FYSH: Go on!

Sir GEORGE GREY: Well, I can allude generally to the subject of powers and functions. Limiting myself, then, to the use of the term large salary, may I say, without naming the exact amount, that the President of the United States, until but lately, received £6,000 a year for his salary for ruling 40,000,000 people, and at the present time I believe his salary is £10,000 a year for ruling 60,000,000 people, and daily augmenting in number. Here we are expected to pay at least as large a salary as is paid to the President of the United States for ruling 60,000,000 people, and to pay a governor-general nominated by the Crown. I ask is it just whilst so many poor people have to be taxed to pay their share of that salary, to deprive them of the honor, and, I may say of the just pride, of themselves electing some worthy man, known throughout so great an extent of country as Australia, to occupy that honorable post, with the certainty that such an example will operate upon every individual of the community, stirring noble faculties in many men, giving hope, perhaps, to some thousand or more of the people that they may possibly attain to such an honor? Is it right to make the people pay such sums of money, and to deprive them of honors to which they ought justly and rightly to look? And when, as I shall prove by-and-by, as we go on with the bill, each office is closed by some restriction or other to all chance of fair competition in the country, let us, at the very first, indicate in this clause that this great office shall be open at all times to that man in Australia who is deemed the greatest, and worthiest, and fittest to hold so noble a post, and to satisfy his fellow-citizens that they have wisely chosen one who will be an honor to the whole community. Can any of us believe that if at the time of the disturbances in the United States in regard to slavery a man had to be chosen by the British ministry of the day in London, there was the slightest hope that such a man as Lincoln would have come to the front to achieve the great and noble objects which he accomplished? I am sure the universal admission must be that there would have been no hope of such a thing. Yet from the forests of the United States there came one who had been a mere splitter of timber, worthy justly and rightly to exercise the highest power for a time in the United States and to accomplish the great ends at which he aimed. Are we in Australia to be told that we can find no man worthy to succeed to a post of that kind? Are

we to be told that we must forego the chance of selecting a man of that sort, and that some thousands a year must be expended unnecessarily, when the money might be applied to great and good objects? And if it should be so expended will it be for the benefit of the people? No. I say it will be to their detriment, by depriving them of such just objects of ambition—objects just in themselves, and which would soon be dear to the hearts of all. To my mind, to subject the people of this new federation to a rule of this kind is to degrade, and not to ennoble; is to lower them in their own estimation, instead of raising them in their own estimation; is to say that they are not worthy to compete with their fellow-men in other parts of the world. As far as it rests with myself, I know that I am venturing upon dangerous ground. I know that I must raise enmity in many minds by what I am doing.

Hon. MEMBERS: No!

Sir GEORGE GREY: But I feel it my duty to run this risk in order to tell what I believe to be impregnable truths, and to try to lead this Convention to do that which I am confident will stamp greatness upon every man who assists in obtaining that benefit for his country. I believe that those who force this clause into this bill, instead of not having done good to Australia, will virtually have conferred a great benefit upon the country by creating a necessity for a discussion of this question. If, now that the question has been raised, it is decided in favour of the people of Australasia—if they are told that this great boon is open to them; if this night we send a thrill from one part of the country to the other with the news that this great object has been attained, I say it will have been for all those who have aided in it one of the happiest days in their lives, and that they will be benefactors to countless generations yet to come in having obtained so great and good an object for them. And further than that, I say that to attain this object, to gain this principle will be to ensure for a long period of time the love of Australasia for England; to remove to a greater distance all chances of separation between the two countries, and to lead me, and I believe many others, to rest assured that a step of the strongest kind has been taken to strengthen the great union of Australasia for yet centuries to come, instead of endangering it, as I am certain will be the case, by blocking that union with the disastrous admission that we must take from Great Britain such governor-generals as she may please to send out, and that none of the citizens of this country may hope to obtain that great and, shall I call it, magnificent office. Actuated by these sentiments, I have felt it my duty to raise this question, and I trust that I shall have some support, if not a majority of the Convention, in favour of that which I ask for.

Amendment proposed.

Mr. MUNRO: I am rather surprised at the hon. member, Sir George Grey, bringing this question forward at the present time.

Dr. COCKBURN: He mentioned it in the former debate!

Mr. MUNRO: The hon. gentleman was a member of the committee which drafted the bill. Was not the matter thrashed out by the committee?

Sir SAMUEL GRIFFITH: We are not bound by the report!

Mr. MUNRO: I do not say we are; but the hon. gentleman told us that the arguments made use of in the committee were sufficient to convince him that he was wrong, and I thought the same course might have been followed on the present occasion, because if he was wrong in his views then most assuredly he is wrong now. The hon. member tells us that one of the great effects of electing our own governor-general would be to put him in the position of Abraham Lincoln—to give him similar powers and a similar position. Under our form of government that position is occupied by the Prime Minister, and no matter whether the governor-general were elected or not, he could not under constitutional government exercise the functions which Abraham Lincoln exercised. No governor-general could undertake that responsibility, whether appointed by the Crown or not. If the hon. member's argument were carried out to its legitimate issue the people of England ought to elect their sovereign. That is really what it means. The governor-general is to appear here as the representative of the Queen. Under our Constitution the Queen is to be in some sense present among us. The only way in which we can have her present is through her representative, and if her representative is to be elected by us, and not by herself, he will be not her representative, but ours. To carry the hon. member's argument to its legitimate issue, therefore, he ought to say that the people of the empire should elect their own monarch. That is what it means. If the hon. member is not prepared to say that, he ought not to go to the extent to which he wishes to go. I do not think, however, that this is a matter to which we ought to devote much time at this stage; because since we have already agreed—and we have done so—that we are to have a form of constitutional government under the Crown, we must allow the Crown the power of being represented in the union. If we carry out the proposal of the hon. member, the result would be that we must abandon the proposed union, and have a union in a different direction, certainly not under the Crown. The hon. member said the result of his proposal would be to strengthen the union with England; but I think few persons will agree with him in that respect. I think the people of Australia will agree with me that the result of his proposal would be to weaken the union. We should, in fact, begin to ask why we were connected with England at all. If we could appoint our own governor-general, if we could carry on all our legislation, and do the whole of our business, the question would soon be asked what we had to do with England, and then where would the connection be? I do not see the necessity for considering the hon. member's proposal at the present time. I am proud of being a citizen of the great British empire, and shall never fail to be proud of that position. I have no desire to weaken a single link binding us to that empire, whether as regards the appointment of a governor-general or anything else. I desire to hold those links sacred, and, if possible, to strengthen them, and I am satisfied that in making his proposal the hon. member is not consulting the feelings of the people of Australia.

Sir GEORGE GREY: I wish to answer a few of the arguments raised by the hon. member. I understood him to say that Abraham Lincoln would not be wanted here.

Mr. MUNRO: I did not say that. I said that our governor-general could not do what Abraham Lincoln did in America!

Sir GEORGE GREY: And that in that way he would have been unnecessary.

Mr. MUNRO: That he would be unable to do what Abraham Lincoln did!

Sir GEORGE GREY: But the hon. member has not touched upon this point: What would be the effect of opening this great office to all, of raising up Abraham Lincolns as ministers to advise the governor-general? That is the point. By raising such men, the governor-general would obtain better advice than he would be likely to obtain if the offices were not open. I have no doubt whatever that this is a complete answer to that question—that the one thing is to raise many Abraham Lincolns in the state. Should we be the worse for it? They might not be necessary to-day or at any particular moment, but undoubtedly it would be a great object. There is another phase of the question which the hon. member raised—that it would

amount to severance from the empire if the Queen did not appoint the governor-general. The Queen does not appoint the governors now. Ministers advise the Queen as to who should be appointed; but I say that you should rather allow the whole people to give the advice. Why cannot the united people of Australia be capable of choosing a man, and advising the Queen as beneficially as a person who knows nothing about us, and who may be in the hands of colonists at home who are spending large fortunes in an endeavour to get into high life in England, and who may possibly mislead official persons there as to what the desires of the colonists are. I have heard no single reason advanced that would induce me to change my mind in the least degree. Let me hear some good and conclusive answers given to my argument, and I will deal with them; but do not let the subject be dismissed without any reply being made. Let us fairly argue out one of the greatest questions that can occupy our minds in connection with this bill. I am ready to answer any arguments that may be brought forward; but I cannot see that there is any weight whatever in the arguments of the last speaker.

Sir SAMUEL GRIFFITH: I am, to a great extent, in sympathy with the object desired to be attained by Sir George Grey. I believe the highest offices of the state ought to be open to its own citizens; but I do not think it follows that the necessary way to bring about that result is to provide that the governor-general shall be directly elected by the people. Probably the greatest difficulties which have arisen in the United States are owing to the manner in which the president is there elected. If you have a direct election of the president by the people, or such an indirect election as has been substituted for it there, the practical result would be that at every election of the governor-general there would be a canvassing throughout the whole dominion or commonwealth by the representatives of respective parties, and the governor-general, when elected, would regard himself as the nominee or head of a party, and would devote a great part of his time and attention to securing his re-election. These are not the objects which the hon. member, Sir George Grey, desires to attain. I am inclined to think that this is one of those matters that will work out by itself. I am much inclined to think that before many years are over not only the governor-general, but the governors of the different Australian colonies, will practically be appointed, not, perhaps, by the direct election, but with the full consent and concurrence, known in advance, of the people of these colonies. I believe the tendency is strong in that direction at the present time. I know that other members of the Convention are of a different opinion. I am now expressing my individual opinion. I believe it will be to the interests of the Government of England to appoint the best men, men acceptable to the people of the commonwealth, and that they will exercise all proper care to bring about that result. I have no doubt, especially considering the greatly altered conditions of the commonwealth, that great weight will be paid to the wishes of the people, and that some means will be found of nominations being made, if not directly by the Australian commonwealth, yet under such circumstances as to secure appointments which would be known to meet with the concurrence of the people of these colonies. I am of that opinion; I cannot say how it will work out in detail. I believe, also, that when the people of Australia are of opinion—and surely an opinion may be shown in other ways than by an act of parliament—that it is desirable that a distinguished Australian should be appointed to the office of governor-general, some instances will be found—if, indeed, the course is not invariably adopted—in which distinguished Australians will be appointed to the position. That, I take it, is all that the hon. member, Sir George Grey, desires to attain; and it can, compatibly with the retention of our relations with the Crown, be attained by leaving the appointment as it is proposed to be left in the hands of the Queen.

Mr. KINGSTON: I cannot help sharing the sentiments which have been expressed by the hon. member, Sir George Grey, as regards the desirability of our possessing the power of at least altering the present practice with reference to the appointment of governors. We need not go very far back in our history to recollect occasions when the public mind was profoundly agitated on this question, and a desire was very generally expressed in some of the colonies, at least, that the people of Australia should exercise a much larger power in connection with the appointment of governors than they do at present. Looking at the bill, I find that this growing sentiment is recognised to a certain extent. It is recognised so far as the various states are concerned by provision being made in the bill enabling the state parliaments to alter the practice as they may see fit. We should be proceeding wisely and in a way which we should be able to defend, if we conferred the same power on the federal parliament. Sir Samuel Griffith has said that in the natural order of things something will be done to give effect to Australian aspirations in this direction. Something has been done so far as the states are concerned; and surely it is only a logical sequence that the same power should be given to the federal parliament.

Mr. MUNRO: We have not yet given that power to the states!

Mr. KINGSTON: The committee have recommended that we should recognise the principle that the people should decide the question through the medium of the local parliaments. It is quite logical that we should urge that the same power should be given to the federal parliament. I do not think that the hon. member, Sir George Grey, will be able to secure a majority at this stage to affirm that in future we should elect our own governor-general; but I think he can fairly claim a most substantial support for a proposition to enable the federal parliament from time to time to deal with the question, and to make such provision on the subject as will be in accordance with Australian sentiment. If he proposes to amend the clause in the direction I indicate, providing that the present practice shall continue until otherwise altered, I shall be happy to support him.

Captain RUSSELL: It is extremely difficult to follow with any chance of success an address so impassioned, so eloquent, and put in such charming language, as that of my hon. colleague, Sir George Grey. I dissent absolutely and entirely from the whole tone of his speech. I feel that I shall be only doing my duty by expressing the opinion that if his proposal is carried it will bring a great evil on Australia. He gave us a great deal of declamation; he told us about the unnumbered benefits which were to come to the rising generation of Australia; but what they were he did not explain. He led us to understand that we have now no men in our colonial parliaments who are men of note, of ability and independence, or worthy of public support. He told us that we had no Abraham Lincolns amongst us. If I may use such a word, I would say that that is all nonsense. We have lots of men who have not so extensive an arena as Abraham Lincoln had, but who have devoted the whole of their time, ability, and intelligence to the service of the country. They only need a wider arena to perform deeds equal to those of any statesman. We have every inducement to make us aspire to the high positions of premiers and responsible ministers. So long as that is the case, the mere desire to be elected governor of his own state, or of Australasia, will not deter any man from coming into public life, and serving the country to the best of his ability. But let us go a little further. If the proposition of my hon. and venerable colleague be given effect to, we had better at once tear up the bill we have prepared, because it

will be useless for any purpose whatever. Although I was a member of the committee which prepared the bill, I will not say that I agree with the whole of it. But the whole basis of the bill is responsible government. And what do we propose to do if we resolve that the governor-general shall be elected by the whole people of Australasia? We intend either to make him an absolute dummy, an absolutely useless man under the thumb of the ministry of the day, or we intend to confer upon him such absolute power that the ministry of the day will be absolutely useless and effete. He must be either an autocrat or a useless image set up to represent the governor-general, which, I venture to say, is not what we desire. Further than that, what are his powers and functions? That seems to be forgotten. And here I will point out to the hon. member, Mr. Kingston, that we are not by any means agreed on the question of electing the governors of the states. The divisions in the select committees on that question were very close. It yet remains to be proved that this Convention will by a majority agree with the principle of electing the governors of the states. It seems to have escaped the observation of hon. members who have spoken on this point that the functions of the governor of a state, and pre-eminently the function of the governor-general of Australasia, is that he represents not alone the state or people of Australasia, but that he is the type of, and represents imperial interests—the connection which binds the whole British empire together. Are we to destroy that? I believe that my colleague, Sir George Grey, desires that there shall be separation from the Imperial Government. The hon. gentleman says that it is not his desire. I can only say that the impression upon my mind is that such is the case. The hon. gentleman says that it is not so, and I accept his statement from the bottom of my heart. But the inevitable result of the election of the governor-general must be to declare that the people of England shall have no power whatsoever in connection with Australasia; that they shall have no power of dealing with any imperial matter. I believe that would be an injury to Australasia, and if it were on that ground only, I would object to the governor-general being elected by the people.

Sir GEORGE GREY: I feel it necessary to reply to some of the things that have been said. From the bottom of my heart I believe that those men who do not want to have an elected governor are themselves likely to bring about a disruption between this country and Great Britain. I believe that the hon. member, Captain Russell, is the man likely to do that, and not myself. There are two classes of men in the country. There are the men who for a long time under the system of plural voting have exercised a vast influence—men who will by their wealth exercise a vast influence as long as there is not an elected governor here. Honors might, perhaps, be obtained from home. I said "honors," but I should have said "decorations," because the meaning of honors is something given for great services performed. So long as there are governors-general sent here from England, so long, I believe, there must inevitably be what is called an aristocratic British party resident in Australasia, who never will cease attempting to carry out their objects. Such is almost a necessity of the case, and I firmly believe that those who say that the people here are worthy to choose their own governors, and ought to have the power, are those who are fighting for the cause of Great Britain and for the union of the colonies with Great Britain for a long period of time. How can it be said that there will be no tie to bind the colonies to England unless we have a governor-general appointed from home? Is there not a sufficient tie in the fact that we have to send every one of our laws home for the Queen's approval? We place ourselves so absolutely under the power of the British Crown that every law has to be sent for her Majesty's approval. What stronger tie can there be than that?

An HON. MEMBER: We do not send all our laws home!

Sir GEORGE GREY: Yes we do. The hon. member does not know what he is saying. Every one of our laws goes home for the Queen's approval. The hon. gentleman who denies that knows nothing of the Constitution. Although our laws are assented to here, they go home to the Queen. Assent being given to them here only brings them into immediate operation. Hon. members are entirely ignorant of what they are talking about. Full power is given to the Queen to allow or disallow our laws. There can be no stronger tie than that binding us to Great Britain. Just fancy 4,000,000 people going to the Queen as soon as they have an opportunity to make their own constitution, and saying, "We will still send every law we make to that Sovereign whom we—I was going to say almost adore—in order that she may assent to or dissent from the measure." What stronger tie than that can bind us to Great Britain? What stronger proof can we give of our devotion to the British interests? What will a few balls at Government House, or the presence of a governor here, do to alter that? The very gentlemen who argue in that way say to me: "First you make a governor-general something that he ought not to be; he is advising his ministry instead of his ministry advising him." Then immediately afterwards they say, "You must have a governor-general appointed by the British ministry in order that he may let them know what the British interests are, and look after them." The two things are absolutely contradictory. If hon. members will fairly consider the subject they will see that I ask nothing but what is just, nothing but a right which the people have, nothing which derogates from the powers of the Crown, nothing which does any evil to the country, but something which would confer blessings in every direction. We are told that there are many Abraham Lincolns here. Now, I accept that. Suppose the country is in such a blessed state that it has a number of men of that kind, how many more would it have if new objects of just and legitimate ambition were opened to them to rouse their faculties in a way in which they have never been roused until the present day, to make them feel their dignity as men, and not to go home, as I shall to-night if this is carried, feeling that no fair opportunity is given to me, not of becoming governor-general, but of exercising my ordinary faculties when you tell me that I have no chance of having great offices open to me, that I am standing on a lower level than my fellow-countrymen in Great Britain, for they have the chance there of obtaining by influence good appointments which the whole of the 4,000,000 of Australasia can never know and never have bestowed upon them. To tell truths of this kind is called declamation. But I ask, can any one contemplate on the one hand without shame the idea that he is to be shut out from all the great offices of the country, and on the other hand, can he do anything but feel great fervour when he contemplates the advantage to his countrymen that would ensue from all those offices being open to them? It may be said that this is declamation; but I say that it is the honest truth, a great truth, and a holy truth, which no man can utter without feeling raised somewhat above his ordinary mood and manner of life. I admit that I do feel that, I rather glory in entertaining this feeling; and I feel sorry that no single voice is raised to aid me in what I believe to be a truly great and noble object.

Mr. DEAKIN: If no voice is raised to support the hon. member, I believe it is because most of us are utterly unable to take the same view which he does of this particular office, and of the ambition which is supposed to exist to fill it. I should be loath to say a single word that would appear to derogate from the great dignity and honor attaching to the office of governor of one of the colonies, and much more to that of the governor-general of Australasia, a most high, and honorable, and dignified position

But is it a position to which any number of the people of the colony are ever likely to aspire? In my opinion there is nothing in it to arouse the ambition of those who claim to stand on the liberal side of the community. What they seek, if they seek anything, if their ambition is a worthy one, is to give effect to the principles in which they believe—to be able to do something, to strike some blow, to be able to do some small deed which shall establish their principles in the government of the country. What can a governor or a governor-general do to give effect to the highest principles which he holds? Nothing. What do his convictions count for in a country such as this is and will be? He may cling to his principles with an ardour and devotion equal to that of any other man, but he of all men in the community is the one who is debarred from the privilege of doing anything to advance them. Setting aside the tacit, the silent, personal influence which such a man inevitably exercises upon those who surround him, he is as much removed from the interests and the future of the country in which he lives as if he were still a resident in the mother country. What we say is, therefore, that the ambition of the democracy of this country is an ambition to shape its laws, to guide its destinies, to widen its opportunities, to make life in this country better worth living than it has been hitherto. For this purpose the position of a representative in any of these colonies is infinitely superior to that of governor-general. We say that any man who has received his authority direct from the people, who is commissioned to devote his abilities to great tasks, and who joins his fellowmen in performing public duties, fills a position, politically, higher than the post of social distinction occupied by the governor-general. When the hon. member points to the splendid example of Lincoln, the hero of America, his proposal to make such a man a governor or a governor-general is almost grotesque. Lincoln exercised powers such as will never be possessed by any governor-general. If we have any Abraham Lincolns in this country who desire to fulfil the same destiny, the position of governor-general is the very last into which we should put them. If we ever possess a man of his rude, rugged, magnificent nature we should not offer him an office of this kind which, indeed, he would not deign to accept, because he would feel that in it his splendid powers would be wasted. What should we do with such a man? I trust that we should make him premier of Australia; and I should say then that he was filling the office for which he was fitted, that he had stepped into the position in which he could best employ all his ability, that he had found the worthy object of his ambition, and that he could fulfil his own destiny and the destiny of his people. It is because we take this position, because we cannot see that the office of governor or governor-general is one so much to be desired by those who take the democratic view of it, and because we have a better use to which to put our great men, that we feel so little concern about the matter. For my part, if I can see established in Australia responsible government in the fullest acceptation of the term—a government in which the governor can take no action which is not countersigned by his responsible advisers, who must answer for their conduct to their parliament, and in which the governor-general, so far as his political status is concerned, has no authority whatever except to chose his advisers subject to the approval of parliament, I shall be satisfied. It is proposed by one hon. gentleman that even his power of refusing a dissolution should be taken away. It is proposed to reduce the governor's political powers, more than ever though he may at any time increase his social and personal influence. In a community such as ours, with the future which we believe to lie before it, the office of governor-general is not one to which a democrat will aspire. To make it an object of ambition you must change its character altogether, and make it an office like that of the President of the United States—a high executive office in which a man can carry out his ideas and give effect to his principles. If you do that, you must consider his election. We should insist upon it. If he becomes a personage in the political life of the country, his office must be elective. We cannot afford to have in our constitution any man exercising authority, unless he derives it from the people of Australia. At the present time we say that the governor-general exercises no such authority. He exercises the power of the Sovereign of Great Britain, and no more than the people of Great Britain feel degraded and limited, because no one there can hope to aspire to be the monarch of that country, do we feel degraded and limited because we cannot aspire to be governor-general. We are satisfied with all the other offices in the state being open to us, it being possible for the meanest, humblest, and poorest to aspire to the highest office in the commonwealth—that is, the premiership. We feel no regret through being debarred from this one ceremonial office. High though it may be, it is but ceremonial, and we feel no deprivation in any sense because it is closed to us. So, while cordially echoing all the sentiments to which the hon. and venerable member has given utterance, and though in full sympathy with his opinions, the younger democrats must confess themselves to have no sympathy with him in this particular aim on which he has set his heart. We cannot help regretting that even on what we consider a small point, we should not be found fighting on the same side with him. Our minds, however, run in such a different channel, and we fix upon such a different object as the summit of Australian ambition, that we regard with little favour the title which seems to him so valuable, but which appears to the active politician to be little better than a glittering and gaudy toy.

Sir JOHN DOWNER: Listening, as I do, with the greatest pleasure to everything that falls from the hon. member, Sir George Grey, I should be anxious in every way to agree with him if I could by any means bring myself to concur in his views. If the hon. gentleman had commenced his argument by asking what was the necessity for a governor-general, or for a governor at all, he might have appealed to the sympathies of a good many of us, because, as Mr. Deakin said, the office both of governor-general and of the local governors must in the nature of things be so much of the character of ceremonials, and have so little substantial authority, that had the hon. gentleman suggested that we should dispense with these—as some persons might consider them—baubles, there might have been a good deal to be said in favour of the proposition. But when the hon. gentleman, who I think generally believes in the British Constitution, at the same advocates with such earnestness, eloquence, and seriousness the appointment from amongst ourselves, and from our own population, of the gentleman occupying the position of governor-general, I would ask him in what position will the governor-general be when he is elected? If he is elected by the voice of the people, does the hon. gentleman assume that history will not repeat itself, and that the governor-general will not assume a position something like that of the President of the United States, so that the cry amongst political parties will be, "Who is for the president, and who is against him?" If what we want to do is to get rid of the authority of the Queen, and to make the real substantial authority of the realm the person in the position of governor-general, the way to do it is to appoint the governor-general in the way the hon. gentleman suggests; but if we want to retain the authority in the people—apart from the question whether it is to be in the senate or in the house of representatives, or in both co-ordinately—subject to

the authority of the Sovereign, it would be inviting at once an interference with that authority to put at the head of the government a person elected by the people, and who, from the very nature of his election, would speak with authority, and assume a dominion over the commonwealth, which we are certainly not prepared to concede. I think the hon. gentleman must not attribute to any one of us the slightest disrespect, or feel hurt because we do not arrive at the same conclusions as he has arrived at, because, although, as the hon. member, Mr. Deakin, said, as a general principle, we think that all authority should come from the people, and that all officers should be elected by the people, we are not prepared to interfere with the cardinal principle of our Constitution, and that is, that the nominal head of the government should be only the nominal head of the executive, and not become a real, substantial, legislative force in the community.

Sir GEORGE GREY: I have two sets of arguments which run in very nearly parallel lines to answer. The first of the two last speakers, I should say, has overlooked one point altogether. The Sovereign of Great Britain has a great stake in the empire and in Great Britain—the preservation of the throne for her race—and she has also great authority. Hon. gentlemen also overlook this fact, that on many occasions the Queen has been the adviser of her ministers. She has been consulted by them, and her advice has been gratefully taken. It has been the advice of one agitated by no political passions, by no feelings of animosity against different persons such as are engendered by debate, and in many instances this advice has been of the greatest possible use to the nation, and I contend that over and over again crises have taken place in these colonies where the opinion of a governor elected by the whole of Australia, who was also a man of ability, and therefore entitled to respect of the highest kind, might have been of the greatest possible use. I believe that if in dealing with all these labour questions we had such a man, of philosophic mind, of trained intellect, not agitated by the passions of debate in parliament, not elected by a certain party in the state, and therefore representing them and bound to protect their interests—I believe that if the government had had an adviser of that kind many and great difficulties would have been avoided. He must have taken their advice, and he would have done so with cheerfulness and goodwill, and endeavoured to render it successful when they persisted in it; and that there should be such a power to help and guide them would, I am certain, be of the greatest possible advantage to the country. These arguments apply also to the speech of the hon. gentleman who last spoke. I feel sure that if he will reflect over it in his own mind he will see that it will be far better to have a man of that kind here than one sent from Great Britain, possibly bound up strongly with a political party there, and anxious to create a political party here, which Government House influence would enable him to a great degree to do. I believe that the presence of such a person in the state would be infinitely more injurious to it than would be the presence of an elective governor chosen by the people of the country. I thank the hon. member, Sir John Downer, for his remarks about the feeling with which the opposition to all I say has been made. I feel no anger at all. I am delighted that hon. gentlemen have spoken as they have; that the whole matter has been fully and completely discussed. But all that I have heard simply confirms me in my opinions more and more. I am satisfied that I am right. As I stand here I feel satisfied that if to the people of Australia themselves was left the power of expressing their views on the subject, an enormous majority would be found to agree with me, and I only hope yet that if this mode of appointing the governor-general is determined upon, petitions will come to parliament from this country, and I believe that those petitions will be so largely signed that parliament will feel that the great strength of Australian opinion is in favour of the election of the governor-general by the people, and that parliament will yield to what it finds to be the belief of the people, and that that will ultimately become law if a constitution is to be given to us; for however hon. gentlemen may persuade themselves that they have the opinions of the people with them, I am satisfied from my knowledge of the persons in various parts of the country with whom I have been in correspondence that a totally different opinion really does subsist, and that a much larger majority of the people than they believe hold the views that I have expressed to-day, and which I have done my very utmost to get approval given to by this Convention. I am sorry naturally that I have failed in my object; but I cheerfully submit to what is the will of the majority. I will endeavour to render everything they do successful for Australia in every form, though adverse to my own views. But feeling all that, at the same time I feel that I have wisely, and, I believe, justly, advised the Convention this afternoon.

Question put—That the words, "The Queen may from time to time," proposed to be omitted, stand part of the clause. The Committee divided:

Ayes, 35; noes, 3; majority, 32.

Ayes.	
Atkinson, Sir Harry	Gordon, Mr.
Baker, Mr.	Griffith, Sir Samuel
Barton, Mr.	Hackett, Mr.
Bird, Mr.	Jennings, Sir Patrick
Brown, Mr.	Loton, Mr.
Burgess, Mr.	Macdonald-Paterson, Mr.
Clark, Mr.	Marmion, Mr.
Cuthbert, Mr.	Moore, Mr.
Deakin, Mr.	Munro, Mr.
Dibbs, Mr.	Parkes, Sir Henry
Donaldson, Mr.	Playford, Mr.
Douglas, Mr. Adye	Russell, Captain
Downer, Sir John	Rutledge, Mr.
Fitzgerald, Mr.	Smith, Colonel
Forrest, Mr. A.	Suttor, Mr.
Forrest, Mr. J.	Wright, Mr.
Fysh, Mr.	Wrixon, Mr.
Gillies, Mr.	
Noes.	
Cockburn, Dr.	Kingston, Mr.
Grey, Sir George	

Question so resolved in the affirmative.

Amendment (by Sir SAMUEL GRIFFITH) agreed to:

That the words "her Majesty's," line 4, be omitted with the view of inserting the words "the Queen's."

Mr. BAKER: I move as an amendment:

That after the word "functions," line 6, the following words be inserted:—"as are contained in schedule B hereto, and such other powers and functions not inconsistent therewith."

It will be seen that we are deliberately making the instructions given to her Majesty's representative part of our constitution.

Mr. CLARK: No; subject to the constitution!

Mr. BAKER: I admit that no instructions can be given which are inconsistent with the constitution, but instructions can be given which are additional to the constitution, and which cover grounds not mentioned in the constitution.

Sir SAMUEL GRIFFITH: How?

Mr. BAKER: Why, under the provisions of an act a despatch was sent from the Government of Queensland, I think it was, to England in which it was stated that the royal instructions to the governor are part of the constitutional law of the colony. I believe that is undoubted, and we are affirming that in this particular clause. Why should we go to Downing-street for any part of our constitution which we can put into this act?

Mr. DEAKIN: What do you propose to put in then?

Mr. BAKER: Well, I am not prepared to put in the whole of the powers and functions which are to be expressly set forth as having to be performed by the Governor; but I want to affirm the proposition that they shall be, as far as possible, contained in our constitution. Here is one matter to which I will allude. In 1878, after the Dominion of Canada had been formed, they objected to the instructions given to the Governor-General of Canada. They said that they did not consider that he was sufficiently amenable to his advisers, that a good many of the matters upon which he had instructions from the home Government were matters upon which he ought to have followed the advice of his constitutional advisers, and Mr. Blake, who was the Minister of Justice, wrote several able despatches on the matter, and proceeded to England, I believe, twice. He certainly proceeded to England once, and after a great deal of trouble, and a great deal of friction, the home Government gave way, and they erased from the former instructions an immense number of instructions which had formerly been contained in them. Among other things I will mention one matter which, I think, certainly ought to be inserted in the schedule of this bill, and that is as to the manner in which the governor-general is to exercise the prerogative of pardon. We know very well that, according to the instructions now extant, which have never been altered, our colonial governors have the right of exercising their own discretion; and we also know that whenever Downing-street has been appealed to to uphold a governor in carrying out the powers which they say he ought to possess, they have shuffled in the matter. In Canada it has been provided that the power of the prerogative of pardon is to be exercised by the Governor-General:

1st. As to capital cases, with the advice of the Privy Council.

2nd. As to other cases, with the advice of at least one of his ministers.

3rd. As to cases in which pardon or reprieve might directly affect the interests of the empire, or any country or place beyond the jurisdiction of the Government of the Dominion, the Governor-General is, before deciding, to "take those interests specially into his own personal consideration, in conjunction with such advice as aforesaid."

That is clearly laid down, I think. The last portion—the third subdivision—is quite proper, because he acts in matters relating to the interests of the empire as an officer of the Imperial Government; but in all other cases it is expressly laid down that he is to act on the advice of his responsible ministers. That is only one point. I should like to see in the schedule to this bill all the powers and functions of the governor-general which it is possible to define and to reduce to writing, so defined. I do not wish that we should have to go to Downing-street from time to time to find out what the powers of our constitution are.

Mr. DEAKIN: The first question that arises might be as to whether this is the best means of accomplishing the end which the hon. member has in his mind. If the hon. member proposes to define the powers of the governor-general so far as they can be defined, I am cordially with him. The matter, indeed, received some attention at the hands of the committee, though the question as to the method of definition to be adopted was felt to be surrounded with difficulty. The solution which I wish to suggest to the hon. member who has now moved his amendment is that it would be better to embody in the bill itself anything that we have to say on this subject; and for my own part, I cannot conceive that it will be necessary to do anything more—if I may repeat what I was urging a few minutes ago in connection with another subject—than to insert in this bill, and to state on the very face of the constitution, that the Governor shall invariably act on the advice of his responsible ministers, that every act of his shall be countersigned by a responsible minister who shall make himself responsible by his signature for that particular act. That will apply even to circumstances under which a governor-general changes his ministers.

Sir SAMUEL GRIFFITH: He has got to turn out the first lot on nobody's advice!

Mr. DEAKIN: Exactly; but, as the hon. member is perfectly well aware, having gone through the process so often himself, the incoming ministry invariably take that responsibility upon their shoulders.

Sir SAMUEL GRIFFITH: That is not acting on advice, though!

Mr. PLAYFORD: It is acting on his own responsibility!

Mr. DEAKIN: Not at all. However, the question is one of phrascology. If we are agreed on the principle, we can easily embody it in language; and I would suggest to the hon. member, Mr. Baker, that it would meet all the purposes of the schedule which he proposes, and do away with what seems to be an indirect method of dealing with the matter, to say directly that the Governor's powers shall be limited by the necessity on his part of obtaining the signature of a responsible minister to every one of his acts.

Mr. WRIXON: It seems to me, sir, that if we take care, when we come to the portion of the bill dealing with the executive government, to thoroughly establish responsible government, we may let this clause go as it is, because whatever functions are vested in the governor-general will then necessarily come under the operation of responsible government, and we need do nothing further. It is just like the case of the Sovereign herself. She has vast prerogatives, great powers; but however vast or great they are does not signify to the people of England so long as there is responsible government established. Therefore, instead of seeking to limit the powers which the Sovereign may depute to the governor-general, or to schedule the acts which he may or may not do, we have to take care to thoroughly establish responsible government, and if we do that the rest will take care of itself. For example, take the very point which the hon. member, Mr. Baker, puts about pardon. I maintain that the prerogative of pardon is now, in all these communities where we have responsible government, just as much under the operation of responsible government as is any other prerogative, and the thing works in this simple way: Supposing that the head of the executive—the governor—desires, we will say, to hang a man whom the government of the day think should not be hanged, they walk out of office, and will not accept the responsibility. It is all a question of whether they are not prepared to take the responsibility of any action of the governor.

Dr. COCKBURN: Is it not absurd to have a crisis on such a matter as that?

Mr. WRIXON: It is all a matter of consideration in each case. I do not say that in every case the ministry will go out of office—not at all; but I say that that is the way in which the thing works, and it works for itself. You want no definition or enumeration of the powers. All you have to take care is that you thoroughly establish responsible government, and I think that a few words ought to be added to the bill when we come to that portion.

Dr. COCKBURN: I agree with the remarks of the hon. member, Mr. Deakin. In fact he has put in the most succinct language what I was trying to bring under the notice of the Convention. I think it is agreed that the exercise of all power should be responsible, and I do think that after the debate which we have had on the former portion of the clause it will be all the more necessary to clearly point out that the governor-general shall not exercise any powers without the distinct advice of his executive, because if any one suffered in the debate which has lately taken place it is the future governor-general. It was pointed out that his highest function would be to be a dummy, and that although he was the only link between us and the

Crown, in being that link he was less than the least in the whole of the colonies—a useless image and a bauble—and as the vote subsequently taken rather proved that this high conception of the office of the governor-general was the opinion of the vast majority in this Convention, and that his election by the people would be to create him a real person instead of an imaginary one, I think it is all the more necessary, as we have decided to have this imaginary functionary, that his powers should not be real, and certainly no powers of life and death should be vested in such an officer as the majority of the Convention wish to see the governor-general reduced to. I think that in every way the voice of the people should prevail, and I certainly think that we should have had nothing to fear, even if the hon. member, Sir George Grey, had been successful in carrying the amendment which he moved a little while ago, and in regard to which I had the honor of voting with him. I am much obliged to the hon. member, Mr. Deakin, for having suggested a manner in which the wishes that I had expressed may be carried out.

Mr. PLAYFORD: There is one point on which I think you cannot say that the governor-general shall act with the advice of his ministers for the time-being, and that is where his ministers ask for a dissolution of the house.

Mr. DEAKIN: But then he gets somebody else to advise him not to dissolve the house!

Mr. PLAYFORD: The hon. member now says that he would act with the approval of some other persons.

Mr. DEAKIN: Yes, responsible ministers!

Mr. PLAYFORD: But he commits the act of refusing a dissolution to the ministry of the day before other ministers are there at all.

Mr. DEAKIN: He finds some one to take the responsibility!

Mr. PLAYFORD: He must act on his own responsibility.

Mr. DEAKIN: No, never. "The Crown can do no wrong!"

Mr. PLAYFORD: He must act on his own responsibility.

Dr. COCKBURN: To whom is he responsible?

Mr. PLAYFORD: He is, I imagine, responsible to her Majesty the Queen. I can entirely understand the position, and I say that under ordinary circumstances, and in the great majority of instances, he must undoubtedly act with the advice of his ministers; but there is that one case in which he cannot act with the advice of his ministers.

Mr. DEAKIN: That is only a matter of expression—either with the advice of his responsible ministers for the time-being or with that of some others who accept the responsibility!

Mr. PLAYFORD: If the hon. member likes to put it in that way it does away with my objection; but in the granting or refusing to grant a dissolution the governor-general must act on his own responsibility, and not on anybody's advice.

Mr. MUNRO: The Queen does not do that!

Mr. PLAYFORD: The Queen has the power to do it, whether she has or has not done it. I know the Governor of South Australia exercised the power only a short time ago against the hon. member who has asked that the power shall not be allowed to be exercised.

Mr. DEAKIN: He evidently found some one ready to support him!

Mr. PLAYFORD: Undoubtedly he did. All I have to say in the matter is that we had better leave it as it is. There is no necessity to define the governor's powers, which appear to me to be small enough at the present moment.

Mr. DEAKIN: We want to make them clear, not small!

Mr. PLAYFORD: We have not felt any inconvenience with regard to the powers given by the Queen in letters patent to the governors, and I think that we shall not find any difficulty in the commonwealth.

Dr. COCKBURN: I am arguing simply what I have always argued ever since I have been in politics—that is to say, that the exercise of power should be vested in those directly responsible to the people; and I say that the punishment of ministers who dare to bring about a dissolution of parliament, unless the voice of the people is with them, is sudden and fatal, and that any men who brought about a dissolution of parliament unless they had the voice of the country behind them would be politically ruined, if not for ever, at least for a considerable time; and I think it better to sheet home the responsibility as far as possible to the ministers themselves. It is all very well to say that they are responsible. The governor, of course, is responsible to the Queen for the exercise of his authority. I think that the exercise of such a large power as that of dissolving the house of representatives should be vested in those directly responsible to the people, and not in some one responsible to a distant authority. In advancing the views I have put forward, I have not been guided by any recent events in politics, but have simply expressed the views I have held ever since I first had the honor of entering parliament.

Sir SAMUEL GRIFFITH: I would point out, sir, that the discussion is rather departing from the amendment before the Committee, which is to define the powers of the governor-general. I should like to ask the hon. gentleman, Mr. Baker, if he has attempted to make out a list of the executive functions of the governor-general? I think he would find it a difficult task, and would have to introduce general words which would mean no more than the words now in the clause.

Mr. BAKER: I am willing to admit that it would be impossible, and most impolitic to try, to define all the powers of the governor-general; but I would point out to the hon. and learned member, Sir Samuel Griffith, that, as draftsman of the bill, he has partially done what I am advocating. In clause 57 he has defined the powers of the governor-general in reference to assenting to bills, and why should we not do the same in regard to any other matter which is capable of being defined? Take, for instance, the exercise of the prerogative of pardon. Is there any sound reason why the duty and the power of the governor-general should be defined in reference to giving the royal assent to bills, and not in reference to the exercise of the prerogative of pardon? I can see none. I would ask leave to withdraw my amendment, because I think there is a good deal of force in what the hon. member, Mr. Deakin, said, that perhaps this is not the best way to attain my object. I shall, if I am allowed to withdraw the amendment, consider whether I can draw one or two clauses, which will come in after clauses 57 and 58, and be a sequence, as it were, to the example therein set, of defining the powers of the governor-general.

Amendment, by leave, withdrawn.

Amendment (by Sir SAMUEL GRIFFITH) agreed to:

That the words "her Majesty may deem necessary or expedient" be omitted with a view to insert in lieu thereof the words "the Queen may think fit."

Clause, as amended, agreed to.

Clause 3. The annual salary of the governor-general shall be fixed by the parliament from time to time, but shall not be less than ten thousand pounds, and the same shall be payable to the Queen out of the consolidated revenue fund of the commonwealth. The salary of a governor-general shall not be diminished during his continuance in office.

Mr. BARTON: I propose to omit the words "the same" as being quite unnecessary. The alteration will, I think, improve the bill.

Sir HARRY ATKINSON: I should like to see all the words after "from time to time" omitted, for I do not see why we should fix the amount at £10,000. I therefore move:

That the words "but shall not be less than ten thousand pounds" be omitted.

Mr. GILLIES: I should like to know from the hon. member the object of omitting the words. Is it that there shall be no salary at all?

Sir HARRY ATKINSON: No; it is that the federal parliament shall be left perfectly free to deal with the question of salary itself.

An HON. MEMBER: I suppose the hon. member would do the same with the ministers?

Sir HARRY ATKINSON: I should do exactly the same with the ministers!

Mr. MUNRO: I feel that the hon. member, Sir Harry Atkinson, cannot have considered what he proposes to do. The governor-general must be appointed before the parliament is called into existence, and does the hon. member think that any one will take the office without some assurance that he will get a salary of some sort? Surely the governor-general ought to know something about the office he is to fill and the emolument attached to the position! If the amendment be made the result will be that the appointment will be made without any assurance as to the emolument which the holder is to receive. The hon. member says he will make a similar proposal with regard to the ministers of the Crown. I venture to say that the two proposals are really unwise, and that we ought now to attach some decent salary to the office giving power to the parliament to vary it, but not to reduce it during the term of office of the gentleman appointed afterwards. My conviction is that a salary of £10,000 is altogether inadequate for the office. My feeling is that the gentleman to be appointed ought to be equal to the gentleman appointed as Governor-General of India. He ought to be a gentleman capable of being a cabinet minister in England, and for that purpose the salary ought to be very much larger than what is proposed. I do not think it is to the advantage of the colonies to hawk this position about in such a way that no man of good standing or position will take it. When the Constitution of Victoria was agreed to many years ago, I think the population of the colony was about only 250,000, and yet they fixed the governor's salary at £10,000, with an allowance of £5,000, making it £15,000 in all. Since then it has been reduced to £10,000 a year, but a house is provided furnished, so that practically the emolument comes to £15,000 a year now. Now, this Convention, representing the whole of Australia, is going to give the governor-general a salary equal to what is given to the Governor of Victoria at the present time.

Mr. CLARK: You will reduce yours!

Mr. MUNRO: No, we do not intend to reduce ours. We think the Governor of Victoria is entitled to the salary, and perhaps more, if we could afford it. At any rate, I think that instead of striking out these words, and making the amount indefinite—in fact, making no provision at all—the words ought to be struck out with the view of increasing the amount very considerably.

Sir SAMUEL GRIFFITH: Another reason why the words should not be struck out is not only the importance of the first governor-general knowing how much he is to get—a very important consideration in choosing him—but that the federal parliament might simply by reducing the salary cut the connection with Great Britain altogether. Supposing that it were to reduce the salary to £100 or £1,000 a year! That is the reason why in all the constitution acts there has been the reservation of a fixed sum, which is made payable to her Majesty, so that she has always money to pay her governor-general, and therefore can always secure the appointment in the country of her representative with an adequate salary. I agree with the hon. member, Mr. Munro, that the salary is too small, having regard to the salary given to the Governor of Victoria.

Sir JOHN BRAY: I think it is desirable to fix the salary of the first governor-general. The clause says that the salary shall not be less than £10,000. It is very possible, I think, that that expression may lead to very serious misunderstanding. It is an intimation to the governor-general that he shall get £10,000 a year, and probably a good deal more than that. He ought to know when appointed what his salary is to be, and I think, therefore, that the salary of the first governor-general should be fixed in the bill. The words "but shall not be less than" should therefore be omitted.

Sir SAMUEL GRIFFITH: That would enable the federal parliament to reduce the salary to £1,000!

Sir JOHN BRAY: No, because the clause provides that the salary shall not be diminished during the governor's continuance in office. But I am astonished to hear it suggested that the federal parliament would be so supremely ridiculous as to fix a nominal salary for a governor-general. It is to my mind utterly out of the question to imagine that such would be the case. If we leave the clause as it stands we say to the federal parliament, "We cannot trust you to fix the salary; we will fix it at not less than £10,000, whatever the circumstances of the federal government may be." Surely if we give the federal government the powers which it is proposed to give them we can trust them to see that proper provision is made for the salary of the governor-general. I think we should fix the salary of the first governor-general at £10,000, leaving it to the federal government to fix the salary subsequently.

Sir SAMUEL GRIFFITH: The hon. member, Sir John Bray, surely could not have heard my argument. Does he suggest that the framers of the constitutions of the various colonies did not understand their business? This reservation in regard to the salary of governors is made in the whole of the acts.

Sir JOHN BRAY: But there is power to alter the act!

Mr. GILLIES: Only by a certain majority!

Sir SAMUEL GRIFFITH: The salary cannot be diminished unless by an amendment of the act, and that is the object of the reservation. The idea is to secure the means of providing a representative of the Queen in the colony with an adequate salary. I will put this illustration. If you give to the federal parliament absolute power to reduce the salary, some persons may be constantly endeavouring to earn a little cheap popularity by proposing reductions. You will have continual agitations for the reduction of the salary to £8,000, or £6,000 or less. It would, perhaps, be regarded as a very popular move on the part of some persons.

Dr. COCKBURN: Is that not rather a serious reflection upon public opinion?

Sir SAMUEL GRIFFITH: I have heard of persons who, in order to gain a little cheap popularity, have been capable of that sort of thing. I think the proposed amendment would be a great mistake. The salary of course could be altered as part of the constitution; but then it would be only by the deliberate action of a majority of both houses, and with the approval of the states.

Sir JOHN BRAY: Why not leave the salary to the federal parliament?

Sir SAMUEL GRIFFITH: It might then be determined by an accidental majority perhaps at the end of the session. I understood the hon. member to suggest that the salary should not be either increased or diminished during the governor's tenure of office, and to argue that if the words "but shall not be less than" were retained, the governor would perhaps expect more than £10,000. I hope, for the reasons I have given, that the Committee will not omit the words.

Mr. DEAKIN: There is another contingency possible, if the hon. member, Sir John Bray, feels that there is force—and there is force—in the remarks of Sir Samuel Griffith as to the necessity for protecting the salary of the governor-general against hasty reduction, allowing it to be reduced only by the machinery provided for an amendment of the constitution. The hon. member can yet press—and very properly—an amendment omitting the words "not less than," because while this renders it impossible to diminish the salary without altering the constitution, it leaves it perfectly possible to increase it by means of an ordinary bill.

Sir SAMUEL GRIFFITH: That is as the clause stands now!

Mr. DEAKIN: If it were desired to provide £12,000 or £15,000, the extra amount could be appropriated by an ordinary act of parliament, because it would not alter the constitution. I think, therefore, that the hon. member, Sir John Bray, is justified in pressing his amendment to the point of rendering it necessary to alter the constitution, if it be wished to raise or diminish the salary of the governor-general.

Sir SAMUEL GRIFFITH: Why—for the purpose of raising it?

Sir GEORGE GREY: I entirely differ from the hon. member, Sir Samuel Griffith, in thinking that the power of reduction would be exercised for the sake of popularity. It is to suppose that a majority of the federal parliament would make an alteration from an unworthy motive. It might be thought that the salary was much too large, and that it was injurious to the interests of the colony to pay such a large salary. The salary of the governor-general should be reduced whenever parliament so desires, and should be increased at any time parliament may see fit to increase it. I think parliament ought to have the fullest power in fixing the salary.

Sir JOHN BRAY: I understand that if the amendment of the hon. member, Sir Harry Atkinson, is put, and it is determined that the words shall stand, the amendment I desire to move cannot be put.

The CHAIRMAN: That is the case.

Sir HARRY ATKINSON: With the permission of the Committee, I should like to withdraw my amendment.

Amendment, by leave, withdrawn.

Sir JOHN BRAY: I move:

That the words "but shall not be less than," lines 2 and 3, be omitted with a view to insert in lieu thereof the words "and until so fixed shall be."

Sir SAMUEL GRIFFITH: That is exactly the same amendment; it strikes out the minimum!

Sir JOHN BRAY: It is not the same. My proposal is that the salary of the governor-general shall be £10,000 until it is fixed by the federal parliament. Surely we ought to intrust the federal parliament with the power of making proper provision for the salary of the governor-general, and ought not to make it necessary to alter the constitution act in order to alter the salary paid to that official. If we have any faith whatever in the federal parliament, we ought not to hesitate to empower them to either reduce or increase the salary as may appear to them to be necessary.

Mr. GILLIES: I should have been pleased if the hon. member, Sir John Bray, had replied to the statements made on the other side by the hon. member, Sir Samuel Griffith, in reference to what has been the universal practice. The hon. member must surely know that the salaries of judges and other high officials are fixed by act so that they may be generally known; but this does not prevent parliament from altering them. If the proposed words are inserted the federal parliament may consider it its duty, as soon as it met, to consider the whole question of salary. If we are to have a suitable person to occupy the position of governor-general both he and we ought to know what salary he is to receive.

Sir HARRY ATKINSON: It will be fixed permanently for his term of office!

Mr. GILLIES: I beg pardon; we have not yet gone far enough in the clause to decide that question. The proper thing for us to do is to adhere to the practice in all constitutional colonies by which the salary of the governor is fixed. It can be altered by parliament, as has been done in Victoria, in the proper way, provided by the constitution. As my hon. colleague, Mr. Munro, has said, it was fixed at £10,000 a year, and £5,000 a year for allowances. But the salary could not be altered except in the way provided by the constitution. That is the case not only with the salary of the governor, but with the salaries of other high officials, such as the judges. That is a rational proceeding. This course is not proposed because there is any fear or doubt as to the honor or uprightness of the federal parliament. It is only proposed because it is desirable in the public interest that every person who is called upon to occupy a very high position in the state should know what his salary and emoluments are. If it is found desirable afterwards in the public interest to reduce or increase that salary it can be done by the legislature; but it must be done in the way provided by the constitution. If we pass the clause including the words which prevent the salary from being altered so long as the gentleman who first fills it occupies the position, but leaving it open to the parliament to resolve that the salary shall be reduced immediately he ceases to hold that position, I venture to think that what the hon. member, Sir Samuel Griffith, has indicated might happen. There might be a gentleman extremely anxious to be popular, or who might honestly believe that the salary could be reduced without disadvantage, and he might take steps to reduce the salary forthwith. Why should we not leave this question to be dealt with by the federal parliament, but make it necessary to carry out the alteration in the same way as other important alterations in the constitution have to be made? Why should we leave it to a chance vote of the legislature to decide this question? I believe that it would be a mistake to do so—not because I have any fear of the federal parliament, but because I think we should adhere to the practice hitherto followed in constitutional colonies. If it is desired to alter this provision, let it be altered in the same way as other fundamental provisions of the constitution are altered.

Mr. KINGSTON: I understand that the contention of the hon. member, Mr. Gillies, is this: that if in future there is a desire to alter the salary of the governor-general it should be passed in the mode prescribed in the last part of the bill—that is, a convention should be called to consider the question, and there should be no power whatever to give effect to the desire of the federal parliament, unless by a reference to conventions of the various states its action was approved. I utterly fail to see the necessity for the course suggested. I am in sympathy with the amendment proposed by the hon. member, Sir John Bray, to give power to the federal parliament to deal with this matter as from time to time they may think fit. In the first instance, the amount has to be fixed some how or other, and I have no objection to the amount now proposed, and it is also rendered impossible to alter the salary which is payable to a governor-general during his tenure of office. Something has been said with regard to the practice that obtains in other colonies with reference to the alteration of salaries of this description. So far as Canada is concerned, it appears to me that section 105 of the British North America Act gives to the Canadian Parliament the power to do what is proposed by the hon. member, Sir John Bray. The provision is:

Unless altered by the Parliament of Canada, the salary of the Governor-General shall be £10,000 sterling.

Dr. COCKBURN: And they did alter it—they reduced it!

Mr. KINGSTON: With regard to Canada, hon. members who have referred to the practice of other colonies will find from the passage I have quoted that they are not consistent in their contention. Similarly, with reference to our own little colony, no doubt we have a provision that certain clauses in our Constitution Act cannot be altered unless the bills for the alteration are assented to by specified majorities. So far as South Australia is concerned, this restriction of the powers of the legislature only applies to alterations in the constitution of the two houses, and we have the fullest power by any act of Parliament—subject, of course, to the royal veto—to deal with this question of the salary payable to the Governor in such manner as we think fit. It appears to me that the precedents referred to support the contention of the hon. member, Sir John Bray. Why, then, should we proceed to tie the hands of the federal parliament and prevent them from dealing with this question as they may think fit? I am not going to take exception to the amount of salary proposed. I have listened with a great deal of interest to the arguments which have been advanced on the subject of the position of the governor-general, and a late division in this Committee proves that a very large majority of the Convention are impressed with the idea so eloquently urged by various delegates, that the position of governor-general is utterly unfit for, and unworthy of acceptance by, every citizen of the Australian commonwealth. Under these circumstances there is reasonable ground for doubting whether or not we are not erring on the side of excessive liberality in fixing the amount to be paid to the first occupant of the office at £10,000 per annum. There is no fair ground, either in precedent or point of principle, for insisting on the necessity of tying the hands of the federal parliament in fixing the salary to be paid to the governor-general. There are much more important questions with respect to which they have a free hand. It is inconsistent to give them the fullest power to deal with those important questions while we refuse to do so with regard to this question of the salary of the governor-general. Subject to the qualifications that the amount in the first instance shall be specified, and that it shall not be altered during the continuance in office of any governor-general, I shall do my utmost to give the fullest power to the federal parliament to deal from time to time with the salary.

Sir SAMUEL GRIFFITH: I would call the attention of the hon. member, Mr. Kingston, to this consideration—does he or does he not intend to make the Queen a permanent part of this parliament? Does he intend that the commonwealth of Australia is to be presided over by the Queen? If he does, I ask, does he intend to provide that distinctly by the constitution, and does he wish it to be a real connection, or that it may, by a passing whim of the parliament, be made merely a nominal one? This guarantee of £10,000 a year is the only thing reserved to the Queen under this constitution. We say that the Queen is part of the parliament, that she is the head of the commonwealth. We wish her to exercise this function in the commonwealth; but we leave it entirely to the parliament to say whether we shall give her any allowance for doing so. I maintain that that is wrong in principle. If the Queen is to be part of the parliament, and to exercise authority in the commonwealth, we must have a deputy, and we are bound to say that we intend to make provision for the payment of his salary. That must be part of the constitution, otherwise there need be no salary, and the governor-general may be a mere shadow.

Mr. KINGSTON: I decline to recognise the connection between Australia and the mother country as resting on such a slender thread as the payment or non-payment of a sum of £10,000 as the salary of a governor-general; and I say, with all respect to the hon. and learned member, that it is unfair to put the position in a contrary light. The maintenance of the connection with the mother country was not in the slightest degree endangered by the provision which we find in the Constitution of Canada.

Sir SAMUEL GRIFFITH: Yes!

Mr. KINGSTON: I have quoted the clause.

Sir SAMUEL GRIFFITH: I believe they tried to reduce the salary, and the act was disallowed!

Mr. KINGSTON: The connection was not in the slightest degree endangered by the insertion in the Canadian Constitution of the provision which we seek to have embodied in this bill. Sir John Bray's amendment seeks to give effect to the same principle, and the power reserved to her Majesty to assent or withhold her assent to Canadian acts, will apply equally to acts passed by the federal parliament of Australia.

Sir SAMUEL GRIFFITH: Has the hon. member considered what a serious thing that is—disallowance?

Mr. KINGSTON: No doubt it is a serious thing, and it would be a serious thing if the federal parliament were likely to disregard the obligation to provide a suitable sum for the gentleman selected for the office of governor-general. But I say we have no right to consider it probable that they would disregard that obligation. We have had no experience which will warrant such a supposition. We have no experience to warrant the suggestion that they will lightly disregard the obligations imposed on them. We have had power in our colony to make any regulations on the subject which we might think fit, and I am sure that the discretion observed in that colony, as in other places where similar laws prevail, will be sufficient to rebut the suggestion that the power is likely to be abused by a legislature which should be trusted with it.

Question—That the words proposed to be omitted stand part of the clause—put. The Committee divided:

Ayes, 24; noes, 12; majority, 12.

AYES.	
Baker, Mr.	Griffith, Sir Samuel
Barton, Mr.	Hackett, Mr.
Brown, Mr.	Jennings, Sir Patrick
Burgess, Mr.	Macdonald-Paterson, Mr.
Clark, Mr.	McMillan, Mr.
Cuthbert, Mr.	Munro, Mr.
Dibbs, Mr.	Parkes, Sir Henry
Donaldson, Mr.	Russell, Captain
Douglas, Mr. Adye	Rutledge, Mr.
Downer, Sir John	Smith, Colonel
Forrest, Mr. A.	Suttor, Mr.
Gillies, Mr.	Wrixon, Mr.
NOES.	
Atkinson, Sir Harry	Gordon, Mr.
Bird, Mr.	Grey, Sir George
Bray, Sir John	Kingston, Mr.
Cockburn, Dr.	Loton, Mr.
Deakin, Mr.	Moore, Mr.
Fysh, Mr.	Playford, Mr.

Question so resolved in the affirmative.

Amendment (by Sir GEORGE GREY) negatived:

That in line 3 the word "six" be substituted for the word "ten."

Amendment (by Mr. BARTON) agreed to:

That in line 3 the words "the same" be omitted.

Amendment (by Mr. DEAKIN) proposed:

That in line 6 the word "altered" be substituted for the word "diminished."

Sir SAMUEL GRIFFITH: I am under the impression that the first federal parliament will think £10,000 too small a salary for the governor-general, especially if Victoria continues to pay its governor £10,000. But I do not see that we should interfere in this matter, since it is strictly the business of the federal parliament. It is the business of the Queen, and of the whole of the colonies before they come into the federation to see that the Queen shall be paid a sufficient sum to enable her to be represented in the commonwealth; but I do not see that we should prevent the federal parliament from increasing the amount if they think proper.

Mr. DEAKIN: We say, "During his term of office." There will be nothing to prevent the federal parliament from raising the salary of the next governor, though, if it is improper to reduce the salary of the governor during his tenure of office it is equally improper to increase it.

Sir JOHN BRAY: We have left a very important question still unsettled, and that is, what is to be the salary of the first governor-general? The clause says that it is not to be less than £10,000, though it implies that it may be more. I do not know why we should not intrust the federal parliament with the power of increasing the salary, if it thinks proper. Why should we say that it must not be raised or diminished?

Mr. GILLIES: It will be contradictory!

Mr. DEAKIN: The clause is imperfect, not contradictory!

Sir JOHN BRAY: We say it may be more; but, at the same time, we say it shall not be altered. I suggested that we should fix the salary of the first governor-general at £10,000 until the federal parliament alter it.

Mr. DEAKIN: That is the proper thing to do!

Sir JOHN BRAY: But I am willing now to leave it to the federal parliament, and I object to the amendment proposed by the hon. member, Mr. Deakin.

Mr. DEAKIN: We have got the word "diminished" already!

Sir JOHN BRAY: That is to prevent any injustice to the governor-general; but surely we can intrust the federal parliament with the power of increasing the salary. Let us leave a little to their discretion, and give them a little power, instead of tying up their hands in the way proposed.

Mr. GILLIES: I should like to ask for a ruling upon the subject. We have decided to retain the words "not less than," and I should like to ask you, Mr. Chairman, if an amendment can be moved which would be contradictory to these words?

Mr. DEAKIN: It is not contradictory in any sense. The one is a negative limitation, and the other simply refers to the salary when fixed. I confess that the clause is quite imperfect; but it is certainly not contradictory to say that though the salary cannot be reduced it shall not be altered during the governor's term of office.

The CHAIRMAN: The amendment is quite in order.

Amendment negatived.

Mr. HACKETT: I observe that the last line and a half is a virtual adoption of part of a clause in the American Constitution; but the President there is practically never absent from the seat of government. This clause, however, would allow the governor-general to draw his full salary during the year's leave of absence; and I would point out that that leave of absence rests with the authorities in Downing-street. The clause, therefore, would allow the Colonial Office to arrange that the governor-general should draw his full salary during a year's absence, when an administrator would have to be appointed in his place, who would have to be paid a large salary for doing the work. Who would pay him?

An HON. MEMBER: The governor-general!

Clause, as amended, agreed to.

Clause 6 (Governor-general to fix times and places for holding sessions of parliament—Power of dissolution of house of representatives—First session of Parliament).

Sir SAMUEL GRIFFITH: I wish to call the attention of the Committee to a point raised by some hon. members as to whether six months is long enough to enable provision to be made by the different local parliaments for the representation of their respective colonies in the federal parliament.

Clause agreed to.

Clause 8. The privileges, immunities, and powers, to be held, enjoyed, and exercised by the senate and by the house of representatives respectively, and by the members thereof, shall be such as are from time to time declared by the parliament, and until such definition shall be those held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom and the members thereof at the date of the establishment of the commonwealth.

Mr. ADYE DOUGLAS: I suggest that in the first line of this clause the word "powers" should be omitted. Nobody intends, I presume, that the powers of the House of Commons shall be vested in the senate or house of representatives.

Mr. DEAKIN: Not in the senate!

Mr. ADYE DOUGLAS: Nor in the house of representatives. Nobody knows what the powers of the House of Commons are; but we know what its privileges are. I beg to move as an amendment:

That the word "and" be inserted between the words "privileges" and "immunities" with the view of afterwards striking out the words "and powers."

Sir SAMUEL GRIFFITH: I would point out that this is a phrase which has been used in so many constitutions that it has come to have a regular recognised meaning. At the same time, this is not dealing with the powers of parliament, but with the powers of the houses of parliament. One of the most important of those powers is, I presume, to keep order, and to summon persons before the house, and to give evidence before select committees, and that is not a power which falls within the word "immunities"; nor does it, I think, fall within the word "privileges." "Authorities" might do if the word "powers" is thought to be too large.

Mr. ADYE DOUGLAS: It is well understood that the powers of the House of Commons are just what they choose to declare them to be. There is nothing fixed nor definite; and a parliament such as ours ought not to have power to declare what its powers are, and to extend those powers as the House of Commons may do.

Mr. BAKER: As the hon. member, Sir Samuel Griffith, says, these are well known words. No doubt they are; but we are establishing a different form of government altogether. We are establishing a form of government in which the federal parliament shall have certain specified powers, and the states parliaments shall have certain specified powers, and I confess that this word "powers" puzzled me when I first read it. I understood the intention to be as stated by Sir Samuel Griffith, but I do not think it is at all clear. The word "powers" should either be left out altogether or the word "authorities" substituted. There should be something to show that it is not intended, as would appear from the clause as at present worded, to give to the senate and the house of representatives power to declare that they can do anything they like.

Mr. DEAKIN: Drop out the "senate," then it will be all right!

Mr. BAKER: Perhaps the house of representatives might be dropped out too; that would be the best way, and let the clause read "the members thereof." I do not think the wording of the clause is satisfactory, although I agree with its intention.

Mr. WRIXON: It seems to me that it would be better if we followed in this case the formula adopted in more than one of our constitution acts, and defined the privileges, immunities, and powers by saying they shall not exceed those enjoyed by the Commons House of Parliament. Then you have a limit; you know what you are doing, and you define the extent of the powers and privileges which you are conferring.

Mr. DEAKIN: Why should we tie our own hands?

Mr. WRIXON: I think it would be unwise to leave it perfectly open to the federal parliament to claim anything and call it a privilege. Ample privilege is now vested in the House of Commons for every legislative purpose, and I think that this would meet the view of the hon. member who raised the point.

Mr. ADYE DOUGLAS: No, it does not. You have now simply the rules of the House of Commons as defined up to the present time; but the House of Commons could to-morrow declare its present powers extended in any way it wished, and by the clause as now worded we would give to the federal parliament all the powers of the House of Commons, and surely that is not the intention.

Mr. DEAKIN: Yes!

Mr. ADYE DOUGLAS: I see no objection to giving the federal parliament all the powers of the House of Commons as defined up to the present time; but this clause would give to the parliament all the powers of the House of Commons at any time.

Mr. WRIXON: It would give to the parliament anything they liked to claim!

Mr. ADYE DOUGLAS: There is no legislative limit to the powers of the House of Commons. They may extend them as they please from time to time. I think it would be sufficient if we gave to the federal parliament only the privileges and immunities of the House of Commons.

Sir JOHN DOWNER: I confess that I had grave doubts as to whether or not we ought to give to either the senate or the house of representatives unlimited authority with respect to what they might be pleased to consider their privileges, immunities, and powers, and if I knew of any intelligent way of limiting the powers of the federal parliament, I should be glad to limit the powers of both houses. But after consideration, I have come to the same conclusion as that arrived at by some members of the committee, namely, that if we limit the authority of the federal parliament ultimately to the analogy of the House of Commons, we shall have the greatest difficulty in finding out what that limitation really is. I think it would be as well to let the clause stand as it is, and trust to the good sense of the commonwealth as sufficient to guide us, without adopting an analogy with reference to the House of Commons which we do not understand, and cannot define.

Amendment negatived.

Mr. ADYE DOUGLAS: There appears to be a clerical mistake in the fifth line of the clause. Instead of the words "until such definition," I think it should read "until so declared."

Sir SAMUEL GRIFFITH: The hon. member is correct; the word "definition" is a mistake. The word originally used in the same line was "defined," but it was altered to "declared."

Amendment (by Sir SAMUEL GRIFFITH) agreed to:

That the words "such definition" be omitted with the view of inserting in lieu thereof the word "declared."

Mr. BAKER: I may state that this clause is copied almost verbatim from the British North America Act. An act was passed—38 and 39 Victoria—repealing that section which we are now going to adopt, and which act says:

And whereas doubts have arisen with regard to the power of defining by an act of the Parliament of Canada, in pursuance of the said section, the said privileges, powers, or immunities; and it is expedient to remove such doubts, be it therefore enacted ——

It then goes on to say what the clause really meant. As there were doubts about this clause, and it was necessary to pass an imperial act to remove them, surely it is not wise for us to adopt it.

Mr. DEAKIN: Read the amendment!

Mr. BAKER: First of all they repeal that clause, and then they say:

The privileges, immunities, and powers to be held, enjoyed, and exercised by the senate, and by the House of Commons, and by the members thereof respectively, shall be such as are from time to time defined by act of the Parliament of Canada; but so that the same shall never exceed those at the passing of this act held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland, and by the members thereof.

Mr. DEAKIN: That is no better!

Mr. BAKER: I do not know the reasons which actuated the Imperial Parliament in repealing this clause which we are now seeking to adopt, and in inserting the other, but there must have been some reasons. I believe this act was passed at the suggestion of the Canadian Parliament.

Sir SAMUEL GRIFFITH: I think there is no difference in the point raised from the one raised a few moments ago. The Parliament of Canada never had power to take any more privileges than were enjoyed by the British House of Commons in March, 1867, and they did not know how to go to work in 1875 subject to that condition.

Clause, as amended, agreed to.

Part II.—The Senate.

Clause 9. The senate shall be composed of eight members for each state, directly chosen by the houses of the parliament of the several states during a session thereof, and each senator shall have one vote.

The term for which a senator is chosen shall be six years.

Mr. WRIXON: With regard to this clause, I wish to say that I will not propose that it be postponed, because that would lead to inconvenience with regard to other clauses; but I would observe that, when we come to determine the position and powers of the senate, if there should be a majority in the Chamber to give the senate large powers—certainly any larger than are now contained in the bill—we must go back upon the clause and reconsider it; because it will never do to give equal representation to the smallest, as well as to the largest states, if the senate is to be a large and determined power in the constitution. In passing the clause now without challenge, I wish to observe that we leave it open to go back to it after we have settled the constitution of the senate.

Sir SAMUEL GRIFFITH: I have an amendment to propose in the clause. There is no mode of returning the names of the senators as chosen by the governor-general. Certainly a provision of that kind must be inserted.

Mr. MUNRO: I should like to know if the Convention have fully considered the proposals made in this clause, first, with regard to the number of senators, and, second, with regard to the term for which they are to be elected. A number of our friends are continually telling us to look back to the grand Constitution of the United States; but we find that in the United States they have only two senators for each state. At the time the Constitution was framed there were only thirteen states, and two senators for each state, or twenty-six senators altogether. Now, we propose to have eight senators for each of the seven states to start with, amounting to fifty-six senators. I consider that that number is too large, and that we ought to reduce it. I think at the outside that six senators for each state would be quite sufficient. They ought also, in my judgment, to be elected at times different from those proposed in the latter portion of the clause. I think it is too long to leave a period of three years between each appointment or election, or six years altogether. In the event of any difficulty arising there ought to be power to make the appointments at least every second year. In order to test the question I move:

That the word "eight," line 1, be omitted with a view to inserting the word "six."

Mr. CLARK: The hon. member, Mr. Munro, appears to object to the number "eight," because he thinks the senate will be too large a body. He also says that we calculate on having seven states to commence with, which will give fifty-six senators. Although we all hope that we shall have seven states to commence with, we have to face the difficulty that we may have only six or only five to commence with. If we only have five states to commence with a senate of forty members will not be too large a body. Another matter which we must remember is that the number of states in the common-

wealth of Australia will never be anything like the number of states in America. The conditions are altogether so different that, I think, altogether it is generally considered very unsafe to prophesy, we may rest assured there will never be more than about a dozen states in the commonwealth of Australia. We may, however, have such a population in the whole commonwealth as will ultimately raise the number of representatives in the house of representatives to the number in the House of Representatives in America. It may so happen that we may have 300 members in the house of representatives, and if we should have anything like that number the senate should bear its proportion.

Mr. DEAKIN: Hear, hear. It is easy enough to increase!

Mr. CLARK: It is easy enough to increase, but we shall have to increase by an amendment of the constitution, and I think it is a very bad thing to tinker with a constitution to meet contingencies as they arise. I think the constitution ought never to be amended, excepting upon the discovery of some radical defect which experience has proved to exist, or to provide for some totally unforeseen contingency. If you can possibly provide for probable contingencies, provide for them at once, and do not devise a constitution with the deliberate intention, or with the certainty in the natural evolution of events, that it will require amendment. I should like to point out to the representatives of the smaller states—and I represent a small state myself—that we may only have four or five representatives in the house of representatives. Take the colony of Tasmania, or the colony of Western Australia. If we have only four representatives in the house of representatives and eight representatives in the senate, it will only be a total representation of twelve members, and surely that is not too large for either of those colonies. I say deliberately that twelve members are not at all too many to represent Tasmania in the commonwealth. If Western Australia is to be entitled to four members in the house of representatives, twelve members will not be at all too many to represent that colony. On that ground alone I would ask hon. members to consider seriously before they cut down the representation.

Mr. BARTON: If there is any force in the objection that there might be a large number of states, and therefore too large a senate in the course of time—though I do not think there is anything in the objection—that could be provided for, not by diminishing the number, eight, now proposed, but by making other provision in case the states should reach a certain number. If, for instance, we were to have twelve states—and I think it will be a long time before we do—it might possibly be worth considering whether we should not have only six members in the senate for each state; but probably we shall begin with five states, and not have more than six or seven states for a number of years, and surely we shall not consider that forty members in the senate will be too many, seeing that the house of representatives will begin with 115 or 116 members.

Mr. HACKETT: If all the states of the continent send members to the senate there will be 48 members, and if the present proportion, the present unit of election, is retained at 30,000 for the house of representatives, by the time this constitution comes into force its membership will rise to as many as 120. That will make altogether 168 members in the senate and house of representatives. Owing to superior inducements to natural ambition, and also of a more material character, it is quite certain that a large number of the best men in the states will gravitate towards the federal capital, and it is provided by section 10 of chapter v of this constitution that no member either of the senate or of the house of representatives shall occupy a seat in the local legislature.

Mr. CLARK: That is not decided yet!

Mr. HACKETT: If that is carried, it means that there will be 168 of our best men taken away from the states for service in the central legislature. That is a very serious consideration for the states.

Sir SAMUEL GRIFFITH: If the number is eight, it cannot be divided by three. I am disposed to think that it would be a good thing, sir, for you now to leave the chair and report progress. This is a matter that we ought not to go into when we are tired, and a great many hon. members are tired. After four hours' continuous application, they have a right to be tired.

Mr. DEAKIN: We are going on to-night!

Sir SAMUEL GRIFFITH: Whether we are or not, I do not know.

Mr. DEAKIN: Certainly!

Mr. MUNRO: I intended to move that we should meet in the evening after dinner, but on consulting hon. members I found that the majority were in favour of sitting each day until about half-past 6, but not later, and for that reason I did not press the matter. If hon. members are inclined to adjourn to-day at 6 o'clock I do not object.

Sir JOHN DOWNER: Go on till half-past!

Sir SAMUEL GRIFFITH: This one of the most important clauses in the whole bill, and I do not think it is fair to begin a discussion on such a clause at this hour.

Progress reported.

Convention adjourned at 6·3 p.m.

THURSDAY, 2 APRIL, 1891.

Commonwealth of Australia Bill—Hour of Meeting—Adjournment.

The PRESIDENT took the chair at 11 a.m.

COMMONWEALTH OF AUSTRALIA BILL.

In Committee (consideration resumed from 1st April):

CHAPTER I.—THE LEGISLATURE.

Part II.—The Senate.

Clause 9. The senate shall be composed of eight members for each state, directly chosen by the houses of the parliament of the several states during a session thereof, and each senator shall have one vote.

The term for which a senator is chosen shall be six years.

Upon which Mr. Munro had moved by way of amendment:

That the word "eight," line 1, be omitted with a view to the insertion in its place of the word "six."

Amendment negatived.

Mr. KINGSTON: I move:

That the words "directly chosen by the houses of the parliament of the several states during a session thereof," be omitted.

My object in moving the amendment is to introduce an amendment into clause 10 which would give the legislatures of the states an opportunity of deciding this matter for themselves and adopting such system as may commend itself to their judgment. It seems to me that a matter which affects solely the representation of a state in the senate might well be left to the state legislature. This point cropped up in a discussion which took place in the Federal Council, when the expediency of uniformity was urged by some members; but the conclusion which was then arrived at, and which appears to me at the present moment to be unexceptionable, was that the federation were not concerned as to the mode in which the states selected their representatives as long as the people of the state were satisfied as to the system adopted, and the chief object of the system of representation was gained. And it was felt that it would be an unnecessary

interference with state autonomy to prescribe a hard and fast rule, which could not be altered except by means of an alteration of the constitution of the federation. Of course there is something to be said in favour of the adoption of a uniform system; at the same time it appears to me that there is a great deal more to be said in favour of allowing the question to be settled by the deliberate vote of the state legislatures representing the people. I do not think we would be justified in adopting the clause as it is, seeing that the effect of it is to deprive the people of a direct vote in the choice of their representatives. No doubt there is a great deal to be said in favour of the system which is suggested here, particularly on the score of uniformity to which I have already referred. But I would point out that it does not establish a uniform system exactly, because when it is provided that the two houses of the parliament of each state shall select the senators, we must not lose sight of the fact that the houses of parliament in different colonies are differently constituted, and that whilst in some colonies both houses are elected, in other cases the upper house is purely nominative, and thereby a vote is given in some colonies to members who owe their position to the voice of the people, whilst in the other cases no such attributes can be claimed in respect of at least one branch of the legislature. I think that if we were to decide upon the necessity of prescribing a fixed regulation of the subject, the better course would be to give the power of election to the people themselves, of course voting, probably for the whole of the colony, in a larger constituency than those which are prescribed in connection with the election of members of the house of representatives. But under all the circumstances, seeing that uniformity, which is the object of clause 9, cannot be attained by the means sought, seeing moreover that uniformity is of less importance than the giving of satisfaction to the people of the different states, I propose, therefore, to omit the words, "directly chosen by the houses of parliament of the several states during a session thereof," with a view to the subsequent amendment of clause 10 in the direction of giving each state legislature an opportunity to decide the question for itself in such manner as it thinks best. I do not see why we should interfere between the people of the different states and the exercise of their free choice in the matter of these appointments.

Sir SAMUEL GRIFFITH: This matter was very fully considered by the Constitutional Committee, and, if I remember rightly, was discussed pretty fully in the Convention beforehand. Briefly stated, the reasons which prevailed with the majority of the committee were these: that it is very important that the senate of the commonwealth should be in direct touch with the parliaments of the several states. It has been found in the United States that the election of members to the state parliaments may often be determined by the views held by the candidates as to the proper persons to be elected to the Senate. Again, unless the course proposed were taken the senators would not necessarily be representing the same kind of constituency at all. For instance, in one state they might represent the property-holders of the state, and in another state universal suffrage, and one man one vote. The senators ought to be a homogeneous body, and it was thought that the best way to indicate that would be to say that they should be directly chosen by the members of the houses of parliament—as houses of parliament and not as the legislature.

Mr. DEAKIN: Separately or conjointly?

Sir SAMUEL GRIFFITH: That we leave to them to settle. But it was thought best to allow the parliament of the commonwealth to adopt a uniform mode if it thought fit.

Mr. DEAKIN: There is one point which, I fancy, was not insisted upon with sufficient force in the argument of the hon. member, Mr. Kingston. The colonies are not represented by upper houses of the same stamp—that is to say, three of them have nominee upper houses, and even in those colonies which have elective upper houses, there are restrictive or property qualifications. Under this proposition you are prepared to endow members of nominee houses with power equivalent to that of members of elective houses, and you are endowing members elected by a limited franchise with equal power so far as their numbers go to that exercised by the popular branch of the legislature. A proposition infinitely more acceptable than that would be that the government should nominate the senators and be responsible for their nomination.

Mr. KINGSTON: That might be prescribed by the state parliament!

Sir SAMUEL GRIFFITH: And the government might be turned out of office the next day!

Mr. DEAKIN: Parliament would have it in its power to take precautions to prevent an accident of that kind, and even if it did occur, it would be, to my mind, an infinitely better method, notwithstanding all its objections, to that proposed in this clause. The proposition as it stands is not without many advantages. Much might be urged in favour of it if this were the time to urge it. But it has this disadvantage, that it interferes with the liberty of the several colonies to select the method they believe the best, and that it endows members of nominee houses, and members of houses elected by a restrictive franchise, with equal authority, so far as numbers go, with that of members of houses elected on a popular basis. If objection be taken to nominations by the government on account of the possibility of their leaving office, that is at once met by intrusting the election of members of the senate to the popular branch, or to the two chambers, if both be elected by the whole people. That would bring the senate into line with the American Senate, because in the United States the same body of electors returning the houses of representatives return the senates in the several states. There can be no objection in principle to that proposal. The Convention would do well to lay down that principle—to provide either that the senate shall be elected by the popular branch of the legislature alone, or by the two chambers, where they are elected upon the same franchise.

Dr. COCKBURN: Perhaps the best way would be to have the senators elected directly by the people, because the judgment of the people as a whole is better than the judgment of any section. But that is going too far. I therefore support the amendment of the hon. member, Mr. Kingston. In addition to the difficulty of nominee houses, there is also another difficulty arising out of the election of senators by the houses of legislature in America. The election of senators is a matter of great importance, and in the absence of distinct party lines—of course it is not a certainty that that would be the case here, still such a state of things may develop—the election of particular persons as senators may become a matter of great importance to the state, and the result would be that if shortly after the election of the local legislature an election of senators were imminent the question of election to the local legislature might turn, as it does in America, upon the persons for whom the candidates would vote as senators if returned to the local house of parliament. Therefore you get local matters mixed up with the personal question of who is to be a senator, and that is a distinct disadvantage. If our local legislatures are to perform in the future the important functions they have performed in the past, their members should be elected upon the question of measures rather than upon the question of men; and I can conceive that if in future the senators were elected by the local legislatures the whole question as to what persons should be returned to the local legislatures may turn upon the pledges given by them as to their votes for senators. This is a disturbing element,

and I think the best thing we can do will be to give power to each state to elect senators as their experience may prove best.

Mr. WRIXON: I fail to follow the force of the objections urged by the hon. member. If a state chooses to have a nominee house for the purposes of all legislation, it should also be allowed to have a nominee house for this purpose. It is for the state to say whether it likes a nominee house or not. We do not interfere with that, and if it has a nominee house for all purposes of general legislation, why should it not have a nominee house for this particular purpose?

Mr. KINGSTON: If it is for the state itself to say whether it shall have a nominee house or not, surely we may give to it the privilege of determining the mode in which it will elect representatives to the senate. I think, therefore, that the hon. member's argument supports my contention. Various systems have been suggested for the election of senators by the different states. It has been thought by one hon. member that the best plan would be to allow them to be nominated by the government of the day; and another suggestion, with which I have considerable sympathy, is that there might be an election by the whole colony voting as one constituency. The solution of the difficulty, however, seems to be rather in the direction of the amendment I now move, namely, that each state shall, from time to time, settle the question. Something was said on a previous occasion as to the impropriety of restricting a somewhat similar matter by a resolution of this Convention to be embodied in the imperial bill. Does it not strike hon. members that there is room for considerable difference of opinion as to what is the best course; and why, under these circumstances, should we deny to the various states power to decide the question for themselves in such a shape as may seem to them best? The sole argument used against it has reference to uniformity. We do not obtain uniformity in the clause before us. Why, then, should we reject the amendment which gives to each colony an opportunity of solving the problem as regards the mode of election of senators? What have the other colonies to do with the question so long as the state is satisfied? If we carry this clause the result will be that although future experience may prove to us that a different plan might be adopted, and one state might be particularly desirous of adopting that plan, still no effect could be given to its wish except by an amendment of the constitution, involving the passing of certain laws by specified majorities and appeals to conventions of all the states on a question in which only one state might have a particular interest. We have had it urged at various times that we should not interfere unnecessarily with the self-governing capacities of the different states. Surely in this matter, simply referring to the mode in which they should elect their senators, they ought to have the opportunity of exercising their powers to the very fullest extent in such manner as they think best. It is with that object only that I propose the amendment.

Mr. MUNRO: When I first read the amendment I did not agree with it; but after looking carefully at the 1st and 2nd clauses I think the amendment is a proper one, because it leaves to each state the power of making its own arrangements for electing its senators. Why should we dictate to the states on that subject? There is no provision made in the clause of the bill as to the mode in which the houses of parliament are to carry out the election. The 1st clause says:

> The senate shall be composed of eight members for each state, directly chosen by the houses of the parliament of the several states during a session thereof, and each senator shall have one vote.

That does not provide how it is to be done. The next clause says:

> The parliament of the commonwealth may make laws prescribing a uniform manner of choosing the senators. Subject to any such law the parliament of each state may determine the time, place, and manner of choosing the senators for that state by the houses of parliament thereof.

Surely that is sufficient if we strike out the words the hon. member, Mr. Kingston, desires to strike out. The 2nd clause makes provision for the first election, and then afterwards the parliament of each state can make its own arrangements.

Sir JOHN DOWNER: How could we get the first senate?

Mr. MUNRO: By an addition to the 1st clause, after striking out the lines proposed, that the local parliaments of the various states shall make provision for the first election.

Mr. PLAYFORD: This is a point on which we can consult the experience of America, where exactly the same clause has worked for 100 years. I have never learned that they desire to alter their mode of electing senators. It is a great deal better that we should say distinctly that the parliaments of the colonies should elect the senate in the way they have said it in America, than that we should leave it to the different states to decide the manner and mode of elections. If the states decided the question we might have a considerable amount of difference in the mode. We know that the American system has given eminent satisfaction; but we have no means of knowing whether the system proposed by the hon. member, Mr. Kingston, would give equal satisfaction. If the hon. member wishes to carry out his idea, certainly he should not strike out the words he proposes to omit, for this reason: you must provide some mode of election of the senators so as to give the different states an opportunity of deciding how they will elect them, because through some obstinate lower or upper house in some of the states a deadlock might occur, and they might not be able to decide in time for an election on any particular lines. Consequently there would be no persons chosen to represent the state. The hon. member would, therefore, do better to leave the words as they are, fixing this mode "until the states otherwise direct." I would very much like to give the states the power to decide as to the manner and mode of electing senators if I thought it would be productive of good results; but with the experience of the United States before us I do not think we can do better than to adopt their form of election.

Mr. FITZGERALD: I quite agree with the remarks which have been made by the hon. member, Mr. Playford. Our chief consideration should be which method is likely to give to the senate the very best men that each colony can send. I apprehend that this clause does not limit the choice of the states to the members of their parliaments. They can go outside for the best men; and, undoubtedly, if they feel the importance of the senate to this new commonwealth, they will seek the very best men, wherever they are to be found. We can credit the various parliaments with that patriotic feeling. Undoubtedly, if you take the power of choice from the parliaments and give it to the people you have no security of the same value as to choice of the best men. If the senators were appointed by a popular vote, that vote would have to be given either by the colony as a whole or by subdivisions. Does the hon. member, Mr. Kingston, consider that the very best men in any of the colonies would subject themselves to the worry of a canvass over such an enormous area? With the election of senators by the colony as a whole you could not have the same confidence in their choice as you would in the choice of a parliament. I do not say that the choice of the people would not be valuable. But for the particular function which the senate has to discharge in the constitution, there would be much more security in having the senators chosen by the representatives of the people than there would be by the adoption of any other course. It is not because I think that the people would make a bad choice, but

because I think the parliaments would make a better one, that I shall vote for the clause as it stands.

Mr. GILLIES: It strikes me that some of the hon. members who are supporting the motion of the hon. member, Mr. Kingston, have for a moment forgotten the object of establishing two houses in this constitution. The house of representatives will be elected directly by the people in the various states; the senate is intended to be a house not directly elected by the people of the various states, but elected indirectly by those people. Some hon. members, perhaps, may entertain the idea that it would be a wise thing to have the two houses elected on exactly the same basis. I very much doubt that, so far as our experience goes. I more than doubt it. The frequency of the chances of collision would be much more likely to be numerous than very few. The house of representatives, directly elected by the people in the various states, having granted to it great powers, especially in the direction in which a popular house of parliament is most powerful, and being looked upon by the general community as truly representing the whole community, not merely a part of it, we must not forget that it will be very powerful indeed. I do wonder that gentlemen who have been speaking of state rights should be among those who advocate leaving it to the various states to determine whether we should not have two houses exactly similarly representing the people. I venture to say that that would be extremely unwise. Here we have endeavoured as nearly as possible not only to have a house of representatives representing the whole of the people, but also a second branch representing the legislature of each colony. I do not know whether my learned friend here would like to say, in the election of members to the senate by any state, that that should be done by plebiscite, or that the whole of that state should be converted into one electorate for the purpose of returning the whole of the members to represent it. What might result? You might have a state with a constituency of 250,000 electors representing the whole of the people, and the whole of the members of the senate might have to be returned by one electorate, and they might be able to return the whole of the representatives by a majority of a few dozen or a few thousands. Will any one tell me that that would be a true representation of the people in the senate, a true representation of the whole people? Why, it might be a representation by a simple majority of only one interest and one section. I say that no community could live under such a representation as that. There would arise from one end of the colony to the other a howl of indignation at the idea of one section only being represented, whilst an enormous minority would not have a single representative. All the great colonies, as far as the popular assemblies are concerned, are naturally divided into districts. Why? Because it is the desire of the people as a whole to see that every class of the population in their respective districts are fairly represented. By that means you secure the most true representation of the people as a whole that you can get, instead of having the whole of the colony as one single electorate returning the whole of the members to the federal parliament. This would be perfectly possible under the system which my hon. friend proposes. He says it should be left to each state to say how it proposes to return its representatives. The original idea was that we were to have two branches of the legislature, not to be elected exactly from the same source—the people to elect the house of representatives, and the parliament to elect the other, representing, as they do now, substantially the people as a whole. I concur with my hon. and learned colleague, Mr. Wrixon, that, after all, we have nothing to say as to how any one branch of the legislature of the colony is elected. That is their business. They have deliberately chosen in some cases to be content with houses of assembly elected from the people, and a second house, the legislative council, in some cases elected by the people, in other cases nominated. If the people of the colony are content with having a nominated upper house, that is their business and not ours, so that to use that as an argument against allowing the two houses of any state to jointly, or in any such way as they may determine, elect members of the senate appears altogether unsound. I do trust hon. members who have, I may say, suddenly started this view, because it was not seriously advocated in the Constitutional Committee, will take to heart what the hon. member, Mr. Playford, said. It is not an unlikely thing that if it was determined by population instead of by the legislature that it should be a plebiscite that a whole colony should be formed into one constituency, the second branch of the legislature would never consent. I say we should be proposing in this case to create difficulties which are wholly unnecessary. If any one said that we should not get a true representation of the opinion of the people in any colony by allowing parliament to elect members of the senate as they think proper, I think they are in error. I believe that if the legislature in each of the states were permitted to select their representatives in the senate, their selection would fall upon gentlemen who, as a whole, would satisfy the people. I think that the proper thing to do is to allow the second branch of the federal parliament to be elected on a different basis and under different circumstances from those under which the members of the popular branch are elected. I venture to say we shall make a mistake if we attempt by any means to elect an upper house of parliament or senate on almost exactly the same basis as the popular branch. The two are intended to exercise different functions—functions in some respects, not in all, equal. And I desire to see maintained, not only in the federal parliament, but also in all the states on the continent, the principle that the two houses of parliament shall not be chosen from exactly the same individuals, but each on some different basis.

Mr. KINGSTON: In regard to the mode in which the amendment is introduced, it is my desire to meet the wishes of those delegates who are chiefly responsible for the framing of the bill. I have moved to amend clause 9, and propose, if the House affirms its desire to strike out the words in question, to amend clause 10 so as to provide for a certain system to be adopted until the legislature of any state provides otherwise. As to the remarks of the hon. member, Mr. Gillies, as to the merits of indirect election, I confess that I do not recognise the system of indirect election as having any particular virtue. What I understand we are endeavouring to do is to provide for the creation of two houses of the federal parliament, in one of which the people at large will be represented, and in the other the state interests shall be particularly conserved. And it seems to me that under these circumstances, as long as the state itself is satisfied as to the mode in which the custodians of its interests are appointed, we have no reason to interfere, and further, as to the reference made by my hon. colleague to the system which obtains, and has obtained for a considerable period, in the United States, I think he somewhat overlooked the fact that the system of uniformity that was adopted has been subjected to very considerable criticism; that there is by no means that unanimity of sentiment on the expediency of maintaining it which his remarks would suggest. In this connection, I would like to refer to a note which occurs in "Bryce." It is as follows:—

> A proposal recently made to amend the federal constitution by taking the election of senators away from the legislatures in order to vest it in the people of each state is approved by some judicious publicists who think that bad candidates will have less chance with the party at large and the people than they now have in bodies apt to be controlled by a knot of party managers. A nomination made for a popular election will at least be made publicly, whereas now a nomination for an election by a legislature may be made secretly.

Giving the fullest force to the arguments which have been advanced in favour of the system which is prescribed in the bill, it seems to me that they simply amount to this: that at the present there is a strong feeling in favour of the system which is suggested, and it is unlikely that it will be altered; it is probable rather that it will give satisfaction to all the states. That seems to me to amount to this: that even if we give power to the states to provide a different mode of election, they will not exercise it. But is that any reason why we should prevent them if they should hit upon a better plan of giving effect to their wishes in such a manner as would be most expedient? It seems to me that the argument does not warrant the further conclusion which is suggested, and I trust that the decision of the Committee will be to give the states the fullest power to deal with the question as they think fit. No doubt, in the first instance, it will be necessary to lay down and provide for a system of election which shall be uniform. It is highly probable that a system of the character which we now find contained within the four corners of the bill will commend itself to the majority of the states; but if that be so, it simply points to the improbability of the power of alteration being exercised by each state. It certainly does not warrant the contention that no power should be given to the state to alter the system by which it elects its senators, however strongly it may feel on the subject.

Sir GEORGE GREY: I desire to state that I feel quite convinced that the proposal made by the hon. delegate, Mr. Kingston, is one that recommends itself for our adoption. His proposal is simply this: that the states themselves shall have the power of deciding the manner in which the election of senators shall be made. All the suppositions that have been made that we should not give this power because it might be wrongly used, and all the suppositions made that it is desirable to give it because it would be wisely exercised, ought not to influence us. What we do is not to prescribe any one mode of choice, but to leave to the states themselves the power of deciding how the elections shall be conducted. I shall certainly support that, and for an additional reason, that I am convinced that the great danger in these elections is that the power may fall almost entirely into the hands of capital. I think in the bill, as it stands, we are in some instances absolutely legislating to obtain that end. I think that must be the case where there are nominated upper houses, which there will be great difficulty indeed of getting rid of, because a nominated upper house is not likely to destroy itself. The existence of a nominated upper house is no proof, as it has been argued, that the people are contented with it. Personally I am absolutely discontented with a nominated upper house, and I have for years struggled in vain to see it put an end to; and I believe that that is the case with a very large number of persons in the whole of Australasia. I shall, therefore, certainly support the proposal of the hon. member, Mr. Kingston, which I think is perfectly justified, giving as it does full liberty to the people of each state to determine from time to time, as they think fit, the manner in which the senators shall be chosen.

Sir HENRY PARKES: The hon. and distinguished delegate who has just sat down spoke under a misapprehension, into which I fear other hon. members have fallen. He distinctly stated that he desired to leave to each state the manner of electing its delegates. So do we all, and that is distinctly provided in the bill; but what the motion of the hon. delegate, Mr. Kingston, says is quite a different thing. He is not dissatisfied with the provision made in the bill for the manner in which each state is to elect its members; but he does a thing which I think was never proposed before—he leaves to each state the power to create the constituency. Now, in every constitution act that I ever heard of the constituency is created by the act itself. This bill does that; but it leaves the manner of the exercising of the rights of that constituency entirely to the states. It follows as a logical sequence, I think, that if you leave the creation of the constituency in regard to the senate to the states, you must also leave the creation of the constituency in regard to the assembly to the states. I cannot see why you should leave the states to create one of these constituencies unless you go and leave it to them to create the other constituency also. The hon. member would divest the bill of all intimation as to what the constituency of the senate should be, and the states would severally have to create their own constituencies. I am entirely in favour of leaving to the states the fullest possible liberty in saying how they will elect their delegates; but that is quite a different thing from leaving them to create the constituency from which those delegates are to be elected. I do not know whether it is worth while to say a word in reference to this argument against nominee houses. Nominee houses exist, and as they exist for all the high purposes of legislation—they have never existed with my consent or vote—surely they may exist for the purpose of electing members for the senate of federated Australia. The incapacity of nominee chambers to elect members of the senate when they are given full power to make all laws whatever hardly admits of argument. For my part I am satisfied with the clause, though it does not exactly represent my own wishes.

Mr. KINGSTON: I do not wish to trespass upon the time of the Committee, except for the argument advanced by the hon. delegate who has just sat down. He argued that if it is in the power of the legislature of a state to create the constituency for one house, it ought also to have the power to create the constituency for the other. Now, clause 25 gives this power to the legislature of the state as far as the house of representatives is concerned. It gives it a power to define the qualifications of the electors, which certainly amounts to the creation of the constituencies.

Sir HENRY PARKES: Certainly not!

Mr. KINGSTON: It certainly appears to me that, under the circumstances, the argument of the hon. gentleman tells in favour of the proposition I have advocated.

Question—That the words proposed to be omitted stand part of the clause—put. The Committee divided:

Ayes, 34; noes, 6; majority, 28.

AYES.	
Atkinson, Sir Harry	Gillies, Mr.
Baker, Mr.	Griffith, Sir Samuel
Barton, Mr.	Hackett, Mr.
Bird, Mr.	Jennings, Sir Patrick
Bray, Sir John	Loton, Mr.
Brown, Mr.	Macdonald-Paterson, Mr.
Burgess, Mr.	Marmion, Mr.
Clark, Mr.	McMillan, Mr.
Cuthbert, Mr.	Moore, Mr.
Dibbs, Mr.	Parkes, Sir Henry
Donaldson, Mr.	Playford, Mr.
Douglas, Mr. Adye	Russell, Captain
Downer, Sir John	Rutledge, Mr.
Fitzgerald, Mr.	Smith, Colonel
Forrest, Mr. A.	Suttor, Mr.
Forrest, Mr. J.	Wright, Mr.
Fysh, Mr.	Wrixon, Mr.
NOES.	
Cockburn, Dr.	Grey, Sir George
Deakin, Mr.	Kingston, Mr.
Gordon, Mr.	Munro, Mr.

Amendment so resolved in the affirmative.

Amendment (by Sir SAMUEL GRIFFITH) proposed:

That line 5 be omitted with a view to the insertion of the words "The senators shall be chosen for a term of six years. The names of the senators chosen in each state shall be certified by the governor to the governor-general."

Sir JOHN BRAY: I should like to ask the hon. gentleman whether he thinks the latter portion of the amendment is necessary?

Sir SAMUEL GRIFFITH: I do really!

Sir JOHN BRAY: It seems to me to be unnecessary. Is provision made for the absence of a governor for any length of time?

Sir SAMUEL GRIFFITH: Yes; provision for his deputy to act is contained in the bill!

Sir JOHN BRAY: If the hon. gentleman undertakes to provide for it I am satisfied.

Amendment agreed to; clause, as amended, agreed to.

Clause 10. The parliament of the commonwealth may make laws prescribing a uniform manner of choosing the senators. Subject to any such law the parliament of each state may determine the time, place, and manner of choosing the senators for that state by the houses of parliament thereof.

Sir SAMUEL GRIFFITH: My hon. and learned friend, Mr. Barton, has made a suggestion, which, I think, is of great value—that is, to omit the words, "the parliament of the commonwealth," whereever they occur in the bill, and to put in "the commonwealth," because, as he points out, the parliament is only the instrument by which the commonwealth makes the laws. If the suggestion does not commend itself to hon. gentlemen generally I will say nothing further about it. An hon. member, I think Sir John Downer, yesterday suggested that the expression "subject to any such law" might be misunderstood, and might be taken to indicate that there must be a law of that kind. I think that the words are sufficient; but they are not quite clear, and it would be better, therefore, to say "subject to such laws, if any." There could be no possible doubt then as to what is meant. I think that any doubt that arises and is pointed out ought to be met at once. This instrument ought to be perfectly free from ambiguity. I therefore move:

That the words "any such law," line 3, be omitted with a view to insert in lieu thereof the words "such laws, if any."

Amendment agreed to; clause, as amended, agreed to.

Mr. DEAKIN: I trust that the members of the Convention will take a little time to consider the proposal which has emanated from the hon. and learned member, Mr. Barton, which appears to me a most excellent one, both as regards abbreviation, for which it offers another opportunity ——

The CHAIRMAN: The clause is passed.

Mr. DEAKIN: I hope the question will be raised again and considered.

The CHAIRMAN: We can recommit the bill.

Clause 12. As soon as practicable after the senate is assembled in consequence of the first election the senators chosen for each state shall be divided by lot into two classes. The places of the senators of the first class shall be vacated at the expiration of the third year, and the places of those of the second class at the expiration of the sixth year, from the commencement of their term of service as herein declared, so that one-half may be chosen every third year. The term of service of a senator shall begin on and be reckoned from the first day of January next succeeding the day of his election, except in the case of the first election, when it shall be reckoned from the first day of January preceding the day of his election. The election of senators to fill the places of retiring senators shall be made in the year preceding the day on which the retiring senators are to retire.

Colonel SMITH: I should like to call the attention of the hon. and learned member, Sir Samuel Griffith, to the word "class." I think that the word "section" would be better.

Sir SAMUEL GRIFFITH: I remember that yesterday an hon. gentleman suggested to me that the words "in consequence of the first election" are awkward. They were used so as to avoid a repetition of the word "after." There is, of course, a difference between the American Constitution and this in that respect. In America they were assembled "in consequence of the first election"; here they would be assembled in consequence of the governor-general's proclamation calling them together; and that is a difference. We inserted those words after very careful consideration; but, nevertheless, objections have been urged since which I think are worthy of consideration.

Mr. BAKER: I suggested that it would be better to insert the word "first" after the word "is," so as to make the clause read, "As soon as practicable after the senate is first assembled." I move:

That the clause be amended by inserting the word "first" after the word "is," line 1.

Sir SAMUEL GRIFFITH: That is right; that is the best amendment!

Amendment agreed to.

Amendment (by Mr. BAKER) agreed to:

That the clause be further amended by omitting the words, "in consequence of the first election, line 2.

Colonel SMITH: I think that the clause should be further amended by omitting the word "classes," line 3, and inserting the word "sections."

Mr. FITZGERALD: I suggest to the hon. member the substitution of the word "groups."

Mr. PLAYFORD: "Classes" is the word used in the American Constitution.

The CHAIRMAN: Does the hon. member, Colonel Smith, move the amendment?

Colonel SMITH: No, I will not press that; but the clause says:

The term of service of a senator shall begin on and be reckoned from the first day of January next succeeding.

A man might be elected in June, and for six months really not be a member. I would suggest that the words "the first day of January next succeeding" be struck out. The clause goes on to say:

Except in the case of the first election, when it shall be reckoned from the first day of January preceding the day of his election.

He might be elected in December, and might have the £500 in the beginning of January. I think we should make both date from the day of his election. I think that the clause should read, "The term of service of a senator shall begin on and be reckoned from the day of his election," and that we should strike out the words "the first day of January next succeeding," otherwise he might be put back six months.

Sir SAMUEL GRIFFITH: On consideration the hon. gentleman will, I think, see that the clause is properly framed. The intention is that each senator shall hold office for a term of three years, and that term must be the same three years. It is intended that half the senate shall be periodically renewed at intervals of three years. The parliaments of the different states meet at different times; some meet in June, some early in the year, and New South Wales at various times—sometimes in February, often in November. The election of the senators must be during a session of parliament. Well, then, if there is to be a uniform time for renewal, it must clearly be some time after the sessions commence. Then you guarantee that every parliament will have sat, and had an opportunity to elect senators to take the seats of persons who retire on a fixed day. That is the only way to secure uniformity of time of retirement and certainty that the men will be there. They will be elected in advance in fact. But if you applied that rule to the first senators they would sit for four sessions; because, when the constitution is brought into operation there must be a session of parliament in each state immediately afterwards in order to provide constituencies and fix the mode of electing senators, and during that session the houses of parliament will elect their senators. That would be immediately followed by the first session of the parliament of the commonwealth. The senators will sit during that session of parliament, which will almost certainly be in the same year, and they will sit during the two following sessions; so that though they will not be in office for three calendar years they will be in

office for three sessions of the parliament. That is how we worked it out, and I think it will come out all right.

Sir JOHN BRAY: What the hon. gentleman has said is quite right so far as the purposes of this section are concerned as regards reckoning the time of retirement. But in another part of the bill it is provided that the senators are to be paid for their services, and the question arises, does the term of service of a senator for the purposes of payment begin from the date of his election, from the date when he is sworn in, or from the first day of January?

HON. MEMBERS: On the day when he is sworn in!

Sir SAMUEL GRIFFITH: Surely when his service begins!

Sir JOHN BRAY: I think we ought to have that fixed. It seems to me very undesirable to provide, as suggested by Colonel Smith, that although a senator is elected in June, his term of service and payment for service shall not begin until the following January.

Mr. CLARK: He will not do anything until the following January!

Sir JOHN BRAY: For the purposes of retirement, a date should be fixed from which the time should be reckoned; but for all other purposes a senator ought to be a senator from the day he is chosen.

Mr. BAKER: How can he be when there is another man in his place?

Sir JOHN BRAY: I can quite see that for the purposes of this section the provision as contained in the clause is right; but, as regards other portions of the bill, it seems to me that it is not right, and the question ought to be clearly understood.

Sir SAMUEL GRIFFITH: So far as the objection with regard to payment is concerned, there is a good deal in it, and the matter should be dealt with now. The clause only deals with the first senators. Afterwards the term of service begins on the 1st of January. I suppose a senator can hardly be called a senator until the 1st of January arrives. He will be a senator-elect, but he will not be a senator really until that day. If parliament is in session on the 1st of January, he will walk in and take his seat, and the other man will walk out, and his pay, I apprehend, will begin on the same day. But the hon. member has pointed out a blot with respect to the first senators. A man might be elected in December and claim twelve months' pay, dating from the previous January. This, I think, would be remedied by inserting in the second paragraph the words "for the purposes of his retirement."

Mr. WRIXON: The matter will want a little thinking over, because I apprehend a man is not a senator unless until he presents himself and takes the oath.

Sir SAMUEL GRIFFITH: Why not?

Mr. WRIXON: He might refuse to take the oath, and so would be disqualified from the beginning. It is not until he presents himself and takes the oath that he is really a senator. He is in potentiality a senator; but he is not completely clad in that position until he appears at the table and takes the oath, and I apprehend he is not entitled to payment until that takes place. I would suggest that it is somewhat hazardous to make an amendment at the table in a bill of this kind, which has been carefully considered; and if these matters are borne in mind, they can be afterwards dealt with by the draftsman. I would deprecate any hurried amendment on the spot, where it may not be required.

Sir HARRY ATKINSON: The clause states that the term of service of a senator shall not begin until the 1st January following the day of his election. If a vacancy occurs, and a senator is elected in June, he then becomes a senator; but, according to this part of the clause, he cannot become an actual senator until the following January. Though parliament might be in session, he would be unable to take his seat. I would suggest to the hon. member, Sir Samuel Griffith, that he should take a note of this point, and consider it. I do not think we could make any amendment here that would meet the case. For the purposes of this particular clause the provision is right enough; but I think there will be a difficulty in regard to payment, and also as to vacancies occurring.

Sir JOHN BRAY: I quite agree with Sir Samuel Griffith, that if we are not to overlook this question entirely it ought to be settled somewhere in this clause, and if the hon. gentleman sees no strong objection to such a course I shall move the insertion at the beginning of the second paragraph of the words "for the purposes of this section." It would be manifestly absurd in regard to the first election of senators to say that if a man is elected in September or October the term of his service shall begin from the preceding January, and that he shall be entitled to all the privileges of a senator from that date. It is quite possible that this may not be the best amendment that can ultimately be made, but it seems to me clear that the second paragraph was drawn with the idea that it applied to this section only and not to other portions of the bill. I beg, therefore, to move as an amendment:

That before the words "The term of service" lines 8 and 9, the words "For the purposes of this section" be inserted.

Sir SAMUEL GRIFFITH: That is quite correct: those are the right words!

Amendment agreed to.

Sir SAMUEL GRIFFITH: In reference to the point raised by the hon. member, Sir Harry Atkinson, in regard to vacancies occurring by death, the difficulty would be met by substituting for the words "retiring senators" the words "senators retiring by rotation."

Amendment (by Sir SAMUEL GRIFFITH) proposed:

That the words "retiring senators," line 14, be omitted with a view to insert in lieu thereof the words "senators retiring by rotation."

Mr. MARMION: Is this intended to refer to senators retiring by rotation throughout, or only in the first instance?

Sir SAMUEL GRIFFITH: Always!

Mr. MARMION: It seems to me that there are two portions of the bill which may be affected by the proposed amendment. In the first place, unless it is distinctly laid down in the bill that a senator, though elected, does not become a senator until the 1st of January, there will be during that interval twelve senators instead of eight; because there will be four who will not retire for some considerable period after the election. There is another view of the case. A senator may be prevented for a period from holding his seat in the local house of representatives. When he is elected to the senate, he cannot sit any longer in the state house of representatives, and if his election to the senate takes place some time prior to the end of the year, unless it is distinctly laid down that the mere fact of his election does not make him a senator, he will be obliged to retire from the local house of representatives.

Sir SAMUEL GRIFFITH: There is no doubt a little difficulty. In the cases of which we have experience, members of parliament are elected by a constituency that may be said to be in permanent session. Here we have to deal with the case of a constituency which is in session only sometimes. We must, therefore, deal specially with it. There cannot be more than eight senators at a time. There will be eight senators and four senators elect; for a senator elect is not a senator until his term begins. There is no reason why a member of the house of representatives should not be elected to be a senator in June; next January he becomes a senator and ceases to be a member of the house of representatives.

Amendment agreed to; clause, as amended, agreed to.

Clause 13. If the place of a senator becomes vacant during the recess of the parliament of the state which he represented, the governor of the state, by and with the advice of the executive council thereof, may appoint a senator to fill such vacancy until the next session of the parliament of the state, when the houses of parliament shall choose a senator to fill the vacancy.

Mr. FITZGERALD: I think the Convention should give a little consideration to this clause. It appears to me that it would be far better to leave the vacancy open until the parliament of the state resumed than to give the governor of the state power to make an appointment which might not afterwards be ratified by the parliament. That would be a very humiliating position to put a gentleman in who had been a senator for perhaps two or three months.

Mr. PLAYFORD: It is only "may" appoint!

Mr. FITZGERALD: It is a "may" on which in most cases the governor-in-council will act, and undoubtedly without adding to the dignity of the senate, and possibly to the great humiliation of the occupant of the office. Seeing that each colony will have eight senators, I cannot see how the efficiency of the senate will be at all interfered with because there happens to be one vacancy, or even two, any more than it would if there were one or two absentees. I certainly think it would redound more to the dignity of the senate that a vacancy should continue until the parliament of the state resumed. I do not intend to move any amendment, but merely offer the suggestion for the consideration of hon. members.

Sir SAMUEL GRIFFITH: The observations of the hon. member deserve a great deal of consideration; but probably, the senate being a small house, one member of a state may be of great importance.

Mr. FITZGERALD: It cuts both ways, though!

Sir SAMUEL GRIFFITH: One vote may be of very great importance.

Mr. FITZGERALD: To that state!

Sir SAMUEL GRIFFITH: I am quite sure that a populous state like Victoria, which has a proportionately small representation in the senate, would not like important business to be carried in that house by a majority of perhaps one or two when one or two of their senators were dead or had retired.

Mr. FITZGERALD: Still less to have important things done by a nominee in whose choice the parliament had no voice!

Sir SAMUEL GRIFFITH: I do not know; but I think the Parliament of Victoria, if nominees were appointed by the executive council, would practically be represented fairly for that purpose, because an appointment would only be made if there were some urgent necessity for the colony having its full representation.

Mr. BARTON: I think there is a great deal in what has been suggested by the hon. member, Mr. Fitzgerald. The nominee principle is not entering into the composition of the senate in general, and it would seem to be rather an unwise thing to mix up the operation of two principles in this way. It would be far better to put up with the occasional loss which might be suffered by the absence of one senator out of eight than to have a nominee exercising the important functions intrusted to an elected senator. In order that the matter may be fairly considered, I move:

That the clause be amended by the omission of the following words:—"the governor of the state, by and with the advice of the executive council thereof, may appoint a senator to fill such vacancy until the next session of the parliament of the state, when."

Sir JOHN BRAY: It seems to me that the amendment will hardly accomplish the object of my hon. friend, Mr. Barton. But I do think it is necessary to have some provision for filling these vacancies. It seems to me that we ought not to allow a senator possibly to be appointed by the government and to have some person chosen in his place immediately afterwards to represent the colony. Under these circumstances, it is far better, I think, that the parliament, if necessary, should be immediately called together to choose a senator, or the matter could be delayed if the senate is not likely to meet. I object altogether to the governor appointing a senator to fill a vacancy. If the amendment be carried it will only apply to filling a vacancy that occurred during a recess of parliament, which of course is not what my hon. and learned friend means. His idea is that if a vacancy occurs whether parliament is in session or in recess it should fill the vacancy. Therefore it is necessary to strike out the words "during the recess of the parliament."

Mr. BARTON: They should go out. I omitted to include them!

Sir JOHN BRAY: If the hon. member will move the omission of those words I shall support him.

Mr. BARTON: I accept the suggestion of my hon. friend.

Mr. FITZGERALD: I would suggest that it would be better to alter the clause to read as follows:—

That when the place of a senator becomes vacant during a session of the parliament of the state which he represented such vacancy shall continue until the next session of the parliament of the state.

Mr. DEAKIN: The vacancy would continue if you do not make any provision for it. Why this extraordinary alarm and dread of the action of the executive? What is a senator under the constitution as proposed? He is to be elected by the two houses of parliament. And what is the executive? The executive is the acting committee of those houses of parliament which represents, at all events, a majority in one of them, and usually a majority in both of them. What more fitting can it be than that the temporary committee which acts for parliament in every other matter when it is not sitting, which takes upon its shoulders enormous responsibilities in the discharge of its duties out of session, trusting to parliament to approve of its action—what possible objection can there be to the committee taking the responsibility before parliament meets of appointing a man to fill a temporary vacancy? The house has the power, and the necessary power if it likes, to afterwards reject the nominee of the government. Any advantage that the government may gain is given to its nominee by the fact of his appointment for a short time, and the claim he might be considered to have on the consideration of his fellow-members on that account. That is the only possible circumstance which can be alleged against the proposition. Surely that is a small circumstance. What other proposition can be made which can equal the representative character of an appointment by the permanent executive of parliament, which parliament can itself speedily reverse if it so please? The opposition is rather curious, coming as it does from members of governments who enjoy and exercise many similar prerogatives by the permission and with the authority of parliament; and surely, if a ministry cannot be trusted to make temporary nominations to a house which is to represent its state temporarily and in emergency, what is a government competent to do?

Sir JOHN DOWNER: The clause is no new-fangled idea of the committee; but they took it from the most illustrious commonwealth which the world has known, and adopted it practically verbatim as nearly as it could be adopted. In the United States of America a temporary vacancy is filled by the executive in identically the same way which is proposed to be followed here, and certainly no country that we have ever heard of insisted more on the popular voice in the selection of representatives; but still they thought on the other hand it would be far better to have some mode of election for a little while, which was not quite the

best that they would like, than be for a time absolutely unrepresented. I can see no objection to the clause.

Mr. GILLIES: Might I make a suggestion to those who appear to object to the clause? I confess I do not see any objection, under the circumstances, to leaving the nomination to the governor-in-council. I would suggest, however, that the matter is of no importance if the federal parliament is not in session, and the chances are that both the local parliaments and the federal parliament will be in session as nearly as possible at one and the same time. If the governor-in-council were only called upon to make an appointment to enable a representative of a state to be present when the federal parliament was doing work, we might at once meet the case by providing that in the event of the federal parliament being in session and a vacancy occurring, a nomination might be made by the governor-in-council.

Mr. BARTON: I would mention that if an amendment of this kind is to be made, it had better come in at the end of clause 20, which provides for the notification of vacancies. In that case, it would be better to omit this clause altogether. The 20th clause reads:

Upon the happening of a vacancy in the senate, the president, or if there is no president, or the president is absent from the commonwealth, the governor-general shall forthwith notify the same to the governor of the state which the senator whose place is vacated represented.

And we might add the words:

and the houses of parliament of the state shall in their next session choose a senator to fill the vacancy.

Amendment negatived; clause, as read, agreed to.

Clause 15. The qualifications of a senator shall be as follows:—

(1.) He must be of the full age of thirty years, and must, when chosen, be an elector entitled to vote in some state at the election of members of the house of representatives of the commonwealth, and must have been for five years at the least a resident within the limits of the commonwealth as existing at the time when he is chosen;

(2.) He must be either a natural born subject of the Queen, or a subject of the Queen naturalised by or under a law of the Parliament of the United Kingdom of Great Britain and Ireland, or of the parliament of one of the said colonies, or of the parliament of the commonwealth, or of a state.

Mr. MACDONALD-PATERSON: I observe in this clause an important qualification—namely, that an aspirant to the position of senator shall have been for at least five years a resident within the limits of the commonwealth. As an Australian of something like thirty years, standing, I feel that this period is too short. I think most delegates will admit that you cannot convert a new chum into an Australian, that you cannot thoroughly tincture him with Australian sentiment and knowledge within a period of five years. Our anticipation is that we shall have purely Australian action, sentiment, and knowledge in the federal parliament, and if hon. members think they will find all these qualities in an individual who has lived in Australia only five years, then I much misapprehend what I have heard during the last thirty years. I respectfully urge hon. members to think the matter over, and with a view to bring it to an issue, and to hear a little discussion on the part of those who are older than myself, I move:

That the word "five," line 7, be omitted with a view to insert in lieu thereof the word "ten."

Mr. J. FORREST: I altogether disagree with the amendment. I think the clause should contain no qualification of this sort, and that we should trust the various legislatures to do what is beneficial and right in the interests of their respective colonies. The matter would be perfectly secure in the hands of the legislatures. Is it likely that a legislature would elect an unfit person—a person having no knowledge whatever of the state he represented? So far as I am able to judge, no such contingency is likely to arise. In the case of members of the house of representatives no period of residence within the commonwealth is prescribed as a qualification; and if you can trust the people to elect fitting persons to the house of representatives without such a qualification, I can see no reason why you should not place equal trust in the parliaments of the respective colonies. There is another point. We propose to form a commonwealth of Australia, and are we to prohibit people of our own race, born in other portions of the British dominions, from becoming senators until they have been resident in the commonwealth for a certain period? No such prohibition is placed upon Australians residing in the old country. Any Australian, resident in England, can at once, if the electors desire, become a member of the House of Commons, and I see no reason why a distinguished Englishman coming to these colonies should not at once be eligible for the position of senator if the legislature of one of the colonies desired his appointment. I am entirely opposed to the amendment, and if I had my way I would place no more restriction upon the eligibility of senators than we place upon the eligibility of members of the house of representatives.

Mr. ADYE DOUGLAS: When the amendment now before the Committee has been disposed of, I propose to move the omission of all the words of the 1st sub-clause after the first word "commonwealth."

The CHAIRMAN: The hon. member cannot move such an amendment unless the amendment now before the Committee be withdrawn.

Mr. MACDONALD-PATERSON: I am willing, for the purposes of discussion, to withdraw my amendment.

Amendment, by leave, withdrawn.

Mr. ADYE DOUGLAS: I beg to move:

That the words "and must have been," line 6, be omitted.

My object is to leave the option of choosing a senator on the same ground as it is left in the case of members of the house of representatives, whose only qualification is that they shall be of full age. It has been admitted by nearly all hon. members that the house of representatives is to have charge of all financial business, and therefore it will be the most important branch of the legislature. Why should a member of that house be admitted without any restriction, while you impose this absurd qualification of five years' residence? I presume it must be continuous residence, so that if a man leaves the colony for two or three years, still having property in it, when he returns he will have to serve a sentence of five years' residence before he is eligible. Cannot we trust the states legislatures or the people to choose the senators? This is a most absurd restriction, without sense or meaning.

Sir SAMUEL GRIFFITH: The question deserves consideration. Personally, I confess I do not like the idea of this qualification. I am inclined to agree with the hon. member, Mr. J. Forrest, that the legislatures should be trusted to elect the best men they can find. What is the object of this restriction? To keep out new chums, I hear an hon. member suggest. Why not elect new chums if the states wish to have them as members? I believe in trusting the states as much as possible; surely they are fit to be trusted to select a man, even if he has only been four and a half years in the country, if no better man can be found.

Mr. RUTLEDGE: I think there ought to be some such qualification. The argument used by the hon. member, Mr. J. Forrest, was that it is wrong for us to institute a qualification which does not exist in the case of a person going from Australia to Great Britain. The circumstances are entirely different. We depend in Australia, as the American commonwealth has depended, on immigration. We must have immigration on a very extensive scale before we can fully develop our resources, and accomplish all we hope for

as the result of establishing this constitution. We have all kinds of nationalties coming here. There are fairly good men among all nationalities, but if the clause is passed without this qualification a man might come here and, without any knowledge of, or any particular sympathy with, our institutions, would be eligible as a member of the senate. I do not think that that is quite right. I agree with the hon. member, Mr. Macdonald-Paterson, that a man without a short term of residence does not become sufficiently familiar with the habits of Australians, with our ways of thought and modes of action; and we have a particular kind of feeling in which certain characters who come here with new ideas find very suitable opportunities for carrying out their particular projects. We ought not to allow Australia to be a field for exploitation by foreign adventurers. To a great extent we welcome all foreigners, but we ought not to allow persons who perhaps have made themselves rather objectionable in the countries where they have lived to come here, and under the cover of this very liberal provision seek to give effect to the views which they were not able to carry into effect elsewhere. We cannot do better than follow the example of the United States in this respect, which have provided that a man must be 30 years of age before he is eligible as a senator. That is very properly copied in this bill. But it is further provided that a man must be nine years a citizen of the states before he is eligible as a senator.

Mr. J. FORREST: That is with respect to foreigners. This deals with our own race!

Mr. RUTLEDGE: We shall have to depend to a great extent upon foreign immigration.

Sir SAMUEL GRIFFITH: Are Englishmen to be foreigners to us?

Mr. RUTLEDGE: I certainly think that we ought to require some guarantee from foreigners who come here that they should be qualified for a seat in the senate.

Mr. MARMION: The hon. member, Mr. Rutledge, has alluded to the necessity for immigration from the outside world to this young country. In adopting the line of action which that hon. member seemed inclined to suggest, we should be placing a protective barrier on immigration of the best character, and we would say to men from the outside world of talent and political ability, that they must reside here for a long period of years before they could hold that position to which their ability entitled them. Under the constitutions of most of the Australian colonies, a man cannot become an elector until he has resided in the colony for six or twelve months. Until he becomes an elector, he is not eligible as a senator, therefore some period of residence must elapse before any newcomer is eligible. As to the danger or fear of foreign adventurers being selected by the various parliaments to fill the high position of senators, surely we have more confidence than that in those parliaments. Surely we would not give them such large powers, unless we thought they would be exercised discreetly. Do we imagine for a moment that they would place the great powers given to the senators under the act in the hands of adventurers and strangers? May we not be accused of endeavouring to impose a sort of protection on the introduction of men of genius, talent, and political ability? May we not give in exceptional cases to men of ability those chances that each and all of us who happen to be natives, or to have resided many years in Australasia, will have of attaining to high positions in the federal legislature? It would be by far the best to strike out the words as suggested by an hon. member, and wipe out what seems to me a little blot upon this bill, which we are endeavouring to make as perfect as possible.

Mr. CLARK: The only valid argument which has been urged in favour of the amendment is that used by the hon. member, Mr. Marmion, that we ought to trust the legislatures. If the Convention is prepared to accept the application of that principle in its entirety, I am silenced; but it is not prepared to do that. We have already said that there shall be one qualification, namely, that a man must be 30 years of age before he is eligible for a seat in the senate. If we are going to trust the state legislatures absolutely let us take away that restriction. There are many men of genius and talent who are under 30 years of age. We know that one of the most brilliant statesmen England has ever had was prime minister at the age of 27, and that we may have very brilliant men 25, 26, or 27 years of age, but you will not allow them to be elected members of the senate. We have already put a limit to the discretion of the state legislatures, therefore the hon. member's argument is gone.

Mr. MARMION: Hardly, because it is generally considered that age gives stability and steadiness of character, though it may not always give a greater amount of wisdom. There may be reasons for imposing a restriction as to age. Therefore, that argument does not apply.

Sir GEORGE GREY: I desire to say that I agree with the hon. member, Mr. J. Forrest.

Mr. MUNRO: For the first time in your life!

Sir GEORGE GREY: The hon. member who said that knows very little of our previous meetings. I think there is very little in the argument that was used by the last speaker, that, because you provide for one qualification, you should therefore impose another. That is, having made one mistake, you should go further. However, whether it is a mistake or not, it would be no argument. You might say that the qualification which was put in was a good one, and therefore you must put in another; but you have to prove it to be good, first of all. I think it is quite a mistake to put these conditions into the bill. I cannot imagine what necessity there is for them in this young country.

Amendment negatived.

Mr. MACDONALD-PATERSON: I hope hon. members will excuse my not replying to the arguments which have been adduced, as I am suffering from an affection of the throat. I will content myself by moving:

That the word "five," line 7, be omitted with the view to insert in lieu thereof the word "seven."

After consulting with several hon. delegates I have come to the conclusion that the substitution of the word "seven" will meet the case.

Captain RUSSELL: I hold that five years is decidedly a long time. We should have some evidence that a man is a *bonâ fide* Australian before allowing him to become a senator; but we ought not to fix such a long period of residence in Australia as seven years to make him eligible. I suggest that the word "three" be substituted for the word "five."

Sir GEORGE GREY: I propose what I think will be a fair test. I understand hon. members to require that a person shall have a fair knowledge of Australian affairs before he is eligible for election to the senate. Well, then, constitute a board before which all immigrants can be examined. Then you will not act unjustly to those who have that knowledge. I shall propose what I have suggested as an amendment.

Sir JOHN BRAY: I would point out that we have already a board appointed to ascertain whether a man has been three or five years in the country before he is eligible by his having been a member of one of the state legislatures. A man ought to have some experience in the country before he is appointed a senator.

Mr. BARTON: I intend to vote for the omission of the word "five," because I think five years too long a period. I think that it ought to be reduced to three years. If a legislature cannot find out in three years whether a man is fit to be trusted they will never find it out.

Mr. LOTON: As far as I am concerned, I shall have very much pleasure in voting for the clause as it stands. We have had a lot of argument about foreigners and strangers, or people who may have lived in Australia only a few years, not being eligible for election to the senate. If this privilege is denied them, because they have been in the colony only a year or two, what other courses are open to them? The parliaments of the states are open to them, and the house of representatives is open to them when they have been in the colony a very short time. In my opinion we want as senators men who have some practical knowledge of Australia. Let them gain that practical knowledge if they desire to enter either the state parliaments or the senate of the federal parliament. I do not think that five years is too long a term during which a man should be in Australia before he is eligible for election as a member of the senate.

Amendment, by leave, withdrawn.

Amendment (by Mr. J. FORREST) negatived:

That the word "five" be omitted with the view to insert in lieu thereof the word "three."

Mr. CUTHBERT: I wish to suggest that at the end of the clause the words "for the space of five years" be added. Under the different constitutions which have been recognised a foreigner does not stand in the same position as a British subject, even though he take out letters of naturalisation, and I think it would be very desirable if the same principle were recognised in the federal constitution, namely, that a man is not, because he takes out letters of naturalisation to-day, entitled to sit in the senate to-morrow. I venture to submit for the consideration of hon. members the desirability of making some limitation such as I suggest, namely, that for a period of five years after taking out letters of naturalisation a foreigner should not be entitled to a seat in the senate. This restriction is carried to a much greater extent in the Victorian Constitution, because a foreigner is not allowed to sit in the Legislative Council there until ten years have elapsed since he took out letters of naturalisation, and inasmuch as it is provided that a person must be "either a natural born subject of the Queen," or a subject of the Queen naturalised by law, who has resided in the commonwealth for five years, and who is 30 years of age, before he is eligible for election as a senator, I think we should make this limitation with regard to naturalised subjects. I believe that the hon. member in charge of the bill will see that the proposal is not an unreasonable one, and I hope he will see his way clear to accept it.

Sir SAMUEL GRIFFITH: I think there is a great deal in the suggestion of the hon. gentleman, and that it ought to be adopted. I therefore move:

That at the end of the clause the following words be added:—"at least five years before he is chosen."

Mr. CUTHBERT: I accept that!

Amendment agreed to.

Mr. WRIGHT: May I ask the reason of the words, "or of a state," at the end of the clause? It appears to me that they are not necessary.

Sir SAMUEL GRIFFITH: They have been inserted because, although it is proposed to give the federal parliament power to legislate on this subject, yet, as an interval may elapse before that power is exercised, the states may continue to amend their laws with regard to naturalisation, and the clause provides that naturalisation under their laws shall be equivalent to a law passed before the establishment of the commonwealth.

Clause, as amended, agreed to.

Clause 16. The senate shall, at its first meeting and before proceeding to the despatch of any other business, choose a senator to be the president of the senate; and as often as the office of president becomes vacant the senate shall choose another senator to be the president; and the president shall preside at all meetings of the senate; and the choice of the president shall be made known to the governor-general by a deputation of the senate.

The president may be removed from office by a vote of the senate. He may resign his office; and upon his ceasing to be a senator his office shall become vacant.

Sir SAMUEL GRIFFITH: The hon. member, Sir Harry Atkinson, has pointed out to me an inaccuracy in this clause. It occurs in the fourth line, in the words, "shall choose another senator to be president." The retiring president may cease to be a member of the senate during a recess, and be re-elected before the next session; but these words might indicate that he could not be re-elected. I propose to make the clause read, "shall again choose a senator to be the president," and I therefore move:

That in line 4, after the word "shall," the word "again" be inserted.

Amendment agreed to.

Amendment (by Sir SAMUEL GRIFFITH) agreed to:

That in line 5, the word "another" be omitted with a view to the insertion in lieu thereof of the word "a."

Mr. LOTON: How is the president to resign his office?

Sir SAMUEL GRIFFITH: I do not know of any instance in which that is expressly provided. The manner in which I have known the resignation of a speaker to be communicated to the house is by letter informing the clerk. In this case the president would be appointed by the house.

Mr. LOTON: In most of the colonial legislatures the president of the upper house sends his resignation to the governor!

Sir SAMUEL GRIFFITH: That is because he is appointed by the governor.

Sir JOHN BRAY: I should like to ask what is the necessity for saying that

the choice of the president shall be made known to the governor-general by a deputation of the senate?

I know that it is the practice upon his election to office for the speaker of the assembly, accompanied by such members as care to go with him, to go to Government House to acquaint the governor that he has been chosen speaker; but this looks a more formal affair. Is this deputation to be specially appointed, or is the president to say that he is going to the governor-general, and request hon. members to accompany him? The words, "by a deputation of the senate," make it appear that a formal deputation will have to be appointed for the express purpose of informing the governor-general of the election of the president. I, therefore, move:

That in lines 7 and 8 the words "by a deputation of the senate" be struck out

Sir SAMUEL GRIFFITH: The intention of the committee in using those words was to crystallise the existing practice. The practice in the colonies varies. In the houses of some of the colonies a deputation is appointed; in others the whole body go, or as many as please. I apprehend that the manner in which practical effect will be given to this clause will be by the house directing that the choice of the president be made known to the governor-general by the president, with so many members as may think fit to accompany him.

Sir JOHN BRAY: Take out the word "deputation"!

Sir SAMUEL GRIFFITH: No. If you leave it "by the senate," it must be done by written communication, because the senate can only act by means of some written document. Another point which I have omitted to mention is, that it occurred to the committee that it would be more respectful to the governor-general to make the choice known by members of the senate attending personally upon him.

Amendment negatived; clause agreed to.

Clause 19 (Disqualification of senator by absence).

Colonel SMITH: I desire to ask why it is necessary that leave of absence shall be entered on the journals of the parliament? I think that is superfluous.

Sir SAMUEL GRIFFITH: It was thought by the committee that there should be a formal record of leave of absence. It is a serious matter. It might be said, "The senate unanimously agreed that a member should be allowed to be away; they all took it for granted." These matters, however, ought not to be taken for granted.

Clause agreed to.

Clause 22 (Quorum of senate).

Sir SAMUEL GRIFFITH: I think it right to call attention to the condition that the presence of one-third of the whole number of senators shall be necessary to form a quorum. I believe, in most constitutions, excepting those of Great Britain—in which term I include those of the British possessions—the rule is that a majority of the members of the house shall be necessary to be present in order to constitute a quorum. There is a great deal to be said in favour of that view; but the committee, after carefully considering the matter, thought it would be safe, in the meantime, to say that one-third of the number of senators should form a quorum.

Clause agreed to.

Clause 23 (Voting in senate).

Sir SAMUEL GRIFFITH: I desire to say a word upon this clause. It will be observed that we have not used the expression, "The president shall in all cases have a vote." It was thought that, in many cases, he might not wish to vote; and if it had been stated that he should have a vote, it might have been taken to mean that he was bound to vote in every division, and this might not be desirable. If we only gave him a casting vote, a question might be carried to which he was opposed, and in which his state took a great interest, because there might be a majority of one without his vote. In that case his state would be deprived of its due influence. Therefore, we have drafted the clause in its present form. He may vote against a question, and when there is a tie the question passes in the negative.

Clause agreed to.

Part III.—The House of Representatives.

Clause 24. The house of representatives shall be composed of members chosen every three years by the people of the several states, according to their respective numbers; and until the parliament of the commonwealth otherwise provides, each state shall have one representative for every thirty thousand of its people.

Provided that in the case of any of the existing colonies of New South Wales, New Zealand, Queensland, Tasmania, Victoria, and Western Australia, and the province of South Australia, until the number of the people is such as to entitle the state to four representatives, it shall have four representatives.

Mr. BAKER: Before this clause is decided I should like to ask the hon. member, Sir Samuel Griffith, whether the attention of the committee was carefully directed to the provisions of the Constitution of Canada in reference to this matter? The committee has copied the provisions of the American Constitution, and they have still further copied the provisions of the American Constitution in clause 30, where they say:

The number of members of the house of representatives may be from time to time increased or diminished by the parliament of the commonwealth, but so that the proportionate representation of the several states, according to the number of their people ——

I think it will be found that that cannot be worked out. Where you have a certain number of people entitled to a representation, you can never have proportionate representation, because in the states there will always be a fraction over, sometimes more and sometimes less. That has been found to be the case in America, and great difficulties have arisen in that country in working out this problem. As a matter of fact, it is stated by all the writers on the subject that there never has been proportionate representation according to the number of the people in the respective states. The matter may not be a very important one now, when there is one representative for 30,000 people; but supposing that, by-and-by, as we all hope and believe will be the case, the inhabitants of the states increase largely in number, and we only give to each 150,000 people one representative. In that case the fraction which is unrepresented may be very great indeed. It seems to me that they have adopted a very much better provision in Canada, a provision which is self-acting, and which has another great advantage, namely, that it has a tendency to curtail a too great number of representatives. They have, for instance, fixed that one of the provinces—Quebec—shall be entitled to a specified number of representatives, and that all the other provinces shall be entitled to the same proportion of representatives as their population bears to that of Quebec.

Mr. CLARK: That will not get rid of fractions!

Mr. BAKER: It does to a far greater extent than does the American Constitution, and it is self-acting, and it does not call for the interference of the federal parliament from time to time to alter the number of people who are entitled to a representative. I do not desire to move an amendment, but I wish to ask the hon. member, Sir Samuel Griffith, whether the committee carefully considered the two systems, and what are the reasons why they have adopted the American system?

Mr. PLAYFORD: Because we could not get a good basis!

Sir SAMUEL GRIFFITH: The answer is that no state in Australia at the present time corresponds to the position which was occupied by the province of Quebec at the time of the establishment of the Canadian Constitution. Quebec was a thoroughly well settled state, in which the population scarcely increased at all, excepting by the natural increase of births over deaths. There is no state in Australia which you may say is in that entirely settled condition. Supposing we had taken, for instance, the state of Victoria, which, being the smallest and the most densely populated so far as its area is concerned, may be said to be the most settled state. It is quite likely that Victoria may increase very largely. If you gave a fixed number of members to Victoria the result would be to reduce the number of members of any other state which did not increase so fast. If you can find a state which you are quite sure will increase most slowly you might adopt that principle; but whilst the matter is quite uncertain you would run the great risk of reducing the number of representatives for different states, which, I think, would be very unfortunate.

Clause agreed to.

Clause 25. The qualification of electors of members of the house of representatives shall be in each state that which is prescribed by the law of the state as the qualification for electors of the more numerous house of the parliament of the state.

Mr. DEAKIN: Do I understand that it is proposed to add to the powers of the federal parliament a provision enabling them to fix the qualification dealing with this question? The hon. and learned member, Mr. Clark, alluded to this question. At present the qualification of electors is left absolutely at the disposal of the different states, without any power of obtaining uniformity through the federal parliament, even if the federal parliament so desired. It is not necessary to interfere with the states in any way; but it would be as well to endow the federal parliament with authority, if so inclined, to adopt a uniform qualification for voters for the house of representatives.

Sir SAMUEL GRIFFITH: The hon. gentleman says that it is not proposed to interfere with the powers of the state, but he suggests that we should give power to the federal parliament to do it.

Mr. DEAKIN: No; to fix this qualification!

Sir SAMUEL GRIFFITH: That is interfering with the power of the states.

Mr. DEAKIN: Certainly not!

Sir SAMUEL GRIFFITH: It is a questien as to which system should be adopted. The committee have adopted the American system, knowing that they were a democratic people, who did not fear to let the states fix their own electoral qualifications; in fact, we have adopted their words, "the qualification for electors of the more numerous house of the parliament of the state." I know there is a good deal to be said on either side. I am not now contending for either view. I am only answering the hon. gentleman's question. We did consider the matter. The provision is clearly necessary at starting; and we thought that on the whole it would be safer to let the parliaments of the states continue to deal with the question for themselves. It would be very inconvenient, for instance, if the electors for the house of representatives were a different constituency from the electors for the houses of the states. It would mean two sets of revision courts and two sets of electoral rolls.

Mr. DEAKIN: I quite agree; but we ought to give them the power!

Sir SAMUEL GRIFFITH: It is a question whether it should be done now or by an amendment of the constitution. The matter was considered, and I indicate now, as briefly as I can, the reason.

Dr. COCKBURN: I think there are some matters which ought to be left to the states. On the other hand, there are certain definite lines regarding vital principles which should be laid down as part of the constitution. Therefore I move:

That the clause be amended by adding the words, "but no property qualification shall be necessary for electors of the said house, and each elector shall have a vote only for one electoral district."

I think this follows what we have already passed in clause 24, where it is laid down that the house of representatives is to be chosen by the people of the several states. I imagine that "the people of the several states" means without any restriction as to class interests.

Mr. MUNRO: Or as to sex!

Dr. COCKBURN: I do not think it is well to raise the question of sex at present; but I do think that, although the question of woman suffrage has not got far enough to be seriously debated in this Convention, the question of manhood suffrage has got far enough, and should, as a vital principle, be embodied in this constitution: otherwise we might have a diversity, one roll obtaining in one state and another in another state. In one state the will of the people might be supreme, and in another you might have a property qualification. I think that it is already recognised as one of the canons of the constitution, and need not be argued; and therefore I have moved that the principle of manhood suffrage, and also the principle of one man one vote, be embodied in the constitution.

Mr. MARMION: It seems to me that there is a certain amount of absurdity about this proposition, if the hon. member will pardon my making that observation, for it will be far easier and better to say at once, and in one clause, that the qualification of electors of the house shall be so-and-so—that is to say, that they shall only exercise their right under manhood suffrage. That would settle the whole question, and would be virtually interfering with the right of the several states by saying that in cases where the states have not manhood suffrage, they must have it whether they like it or not.

An HON. MEMBER: No!

Mr. MARMION: The hon. gentleman says "No," but I should like him to explain. I understand him to mean that. If he does not, I should like to know what he does mean. Would it not be an absurdity again, if, in choosing members of the lesser house, they were to adopt a conservative principle, and in choosing members of the greater house, they were to adopt a more liberal one? The two things could not run together in one country. The hon. gentleman must see that at once, and if the hon. gentleman wishes to put the matter to a practical test, it would be better to say that the house shall be elected in a certain manner, and that would settle the question once and for all. Throughout the whole of the discussion the idea has prevailed that the rights of individual states should be preserved with regard to their constitution.

Dr. COCKBURN: Except on any vital principle!

Mr. MARMION: Surely this a vital principle in the election of the bodies politic.

Dr. COCKBURN: That is their look out; this is the look out for all the colonies!

Mr. MARMION: Perhaps it is; but if you interfere in the one case you might interfere in all. At the present time in the majority of the states of Australia manhood suffrage is the rule. However, one man one vote is not the rule throughout Australia, but only in one state at the present time; and why should the other states of Australia, because one state now adopts that principle, be compelled within the four corners of this bill to adopt it? I think the suggestion is far too radical a one for this assembly to carry out.

Dr. COCKBURN: Not too radical for Australia!

Mr. MUNRO: I confess, first of all, that I cannot agree with the hon. and learned member, Sir Samuel Griffith, that it will not be necessary to have a separate roll and registration for these elections. There must be, for this reason: that you have not in any colony right through the same principle as is proposed here. We only propose to give the electors one representative for every 30,000 people, and there is not one colony where the representatives number more than one to every 10,000 or 15,000 persons.

Mr. PLAYFORD: We could group the districts!

Mr. MUNRO: If you do that you must have a special roll for each.

Mr. PLAYFORD: No; use the rolls of two or three districts!

Mr. MUNRO: The hon. member knows that when you prepare a roll you say it is the electoral roll or the ratepayers' roll for a certain electoral district, giving its title. If you group three districts together you must have a different title, and say that it must be the electoral district of so-and-so. You must use the roll as you mix them together.

Mr. PLAYFORD: No!

Mr. MUNRO: The question that the hon. gentleman has raised now is that we are interfering with the right of the states if we say that an elector for the federal parliament shall have no property qualification. I say that we do not. We leave the elections for the local parliaments exactly as they are now, and in this bill it is provided that the people of the states are to be the electors. If the people of the states are to be the electors, surely we ought to give them power ——

Mr. J. FORREST: Where is that said?

Mr. MUNRO: In this bill.

Dr. COCKBURN: It is implied!

Mr. MUNRO: If it is implied we ought to carry it out honestly.

Dr. COCKBURN: It follows on the other proposition!

Mr. MUNRO: If the people of the state are to elect the members of the house of representatives, and if you say that unless they have property they cannot vote, then it follows, of course, that the election is not by the people. Only those who have property can vote.

Mr. CLARK: How about women?

Mr. MUNRO: The sooner women are enfranchised the better for all concerned. If the hon. member is prepared to move that women shall be allowed to vote, I shall be quite willing to support him; but at the present time we are only dealing with the question of whether or not the electors of the house of representatives should have a property qualification. I say they ought not to have a property qualification, and that they ought not to have more than one vote. That is the true position to take up in a fair and proper system of representation.

Mr. MARMION: I do not think the hon. gentleman has rightly considered the question. I do not see how an elector could have more than one vote; because if the various electorates are treated as one, how can a man have a vote for more than one constituency?

Dr. COCKBURN: He can vote four or five times!

Mr. MARMION: That is, for various districts.

Mr. MUNRO: There will be various districts!

Mr. MARMION: The whole colony, I take it, will be one district.

Mr. MUNRO: No; the hon. gentleman is wrong!

Sir GEORGE GREY: This is the most important question probably that we have to consider in this bill. I think there can be no doubt whatever that a clear case can be made out for the absolute necessity of giving only one vote to each man, and giving every man a right to vote on the question of returning representatives to the central parliament. If hon. gentlemen will reflect over the circumstances of the case, they will find that the original idea I believe in every one of these colonies was that there should only be one vote possessed by each man. That was the original conception. That undoubtedly was the conception in New Zealand. But it was soon found that the words used might possibly be so extended that a man could get a vote for each district. The first steps made in that direction were not contested, and people began by obtaining a qualification for a second district, and then a third district, and so it spread until what was really a great abuse came into existence. The colonies are all differently circumstanced. We had a hardy set of people to deal with in South Australia, who knew precisely what their rights were, and who were determined to get them; and I succeeded in obtaining, I believe, a more liberal constitution than is possessed by any other part of Australasia. That was the result. The other colonies are in various conditions. Some, like New Zealand, have one vote per man, but a nominee upper house. Then we have other colonies, like New South Wales, where plural voting prevails to a considerable extent, or the power of plural voting, and where also there is a nominated council. Then you have a colony like Victoria, where the right of plural voting exists also to a considerable extent. There they have an elective upper house; but burdened with a property qualification, which has altogether been abolished in Great Britain, and in almost every British country. That is the position of our representation here. I contend that it is absolutely necessary to comply with what I believe to be the desire of Great Britain. Every one of our constitutions was made by the Parliament of Great Britain, and frequently made either without the people being consulted, or even if they were consulted, some provisions were put in contrary to their wishes. In the British Parliament we had no representation whatever, and the result is that Great Britain has drifted into a difficulty with its colonies—that is, it does not know how to give the people liberty—full liberty, and the only way in which it could do it at first apparently is this: to pass an act to say that every one of the colonial constitutions should terminate from and after a certain date, that the act of parliament should prevail no longer than that time, and that the populations of the different countries must provide their own constitutions so as to be prepared to meet the difficulty when their existing constitutions die out. But in the case now of Australasia, with extraordinary generosity Great Britain virtually says to this country, "Make at once the constitution which best pleases yourselves. Send that home for our consideration." And in point of fact there is that which amounts almost to a promise, or, at all events, to an understanding, that if we send home nothing extraordinary or wrong, the desires of the people will be acceded to; and I have no doubt whatever that, looking to the present state of public feeling on the subject of representation, the general opinion in the minds of British statesmen is, that we shall establish a constitution in which one man will have one vote. Now, what do we propose to do in this bill? We propose to evade carrying out what really are the instructions from Great Britain—that is, the framing of a complete constitution for ourselves, by saying at once that we adopt the colonial constitutions as they exist, and that we give those constitutions to the states, and that they shall carry them out. And we are told then that they are to have the liberty of altering those as they like. But I say that we give them no fair opportunity of altering them as they like—none whatever.

Mr. CUTHBERT: Why?

Sir GEORGE GREY: On account of plural voting. The minority rule the majority.

Colonel SMITH: How?

Sir GEORGE GREY: By plural voting; by the power of voting for several districts, so that while most of the voters of the country have but one vote, the favoured few have many votes, one in each district, and they exercise a corresponding influence in parliament, and that parliament so elected virtually chooses the upper house. The upper house is not fairly chosen in this colony, nor is it, to my mind, fairly chosen in Victoria. Therefore, it is proposed absolutely to cut off all freedom from us, and we are told it is to preserve the privileges of the states. What is the privilege? The privilege is that the minority should oppress the majority if they please. That is what it comes to, and that is the onus from which we ought to relieve them. Now an opportunity is given to us so to relieve them. We have only to put the provision proposed into this bill—one which I was so glad to hear one of the delegates from Victoria support. I never felt greater pleasure. I feared opposition, and to my great surprise and delight, I found that there was a voice given in favour of what I believe to be truly just and righteous. But I do hope that this Convention, rising to the occasion, will say to the people of Australasia, "We, having placed in our hands a noble gift for you, if we please to give it, or to diminish it, will say that we will not diminish it; we will take nothing from the great boon we have the power to bestow upon you, and we give you the right in your federated parliament of having your representatives elected under the system of one man one vote." Now, if that is done we may remedy almost everything, because everything depends really upon the central house, and I feel certain that if that is done then we shall feel it our duty to introduce a clause which will give to the states the power of starting with one man one vote. You will be told, hon. gentlemen, that this will be making an alteration in the constitution of the states, and taking from them a privilege. I say the only privilege taken away will be the right of the minority to oppress the majority. That certainly will be taken away; but if the people choose to have a constitution of that kind they can instantly restore it. It requires but one vote simply to say we shall have our old constitution back again; a single clause will do it, and they may go on then as they are going on now. But if the privilege for which we now contend be not granted, I feel sure that many years will in some cases elapse before that boon will be won and gained which now can be instantaneously given. I hope, therefore, that the Convention, rising

to the present emergency, will relieve the parliament of Great Britain from the difficulty that it has, knowing the manner in which it has legislated for the colonies, sometimes without their knowledge, sometimes without their consent, sometimes in direct violation of what they asked for, as was the case in New Zealand, because one ministry—I forget the name of the premier at the time, but I believe it was Sir Robert Peel—promised that we should have an upper house elected by the councils of the provinces; but the new ministry which came in disapproved of that, and at the dictation of a single man—a member of the British ministry—altered it into a nominated house. Some of us have struggled for years to change that, and we have struggled in vain; we have not accomplished it. But give us this boon now; put us in the same position as South Australia is; give all the colonies the right of getting into that blessed haven of rest, as I may call it, that they have got, and then I see before the future of Australia a rapid advance in all that they can justly desire, and a future far brighter than what will be given to them if the bill, as it is proposed, is allowed to pass. I, therefore, earnestly press on hon. gentlemen that in justice to Australasia, and in justice to Great Britain, the boon we now pray for on behalf of the people of Australasia should be accorded to those who are seeking to gain it.

Sir JOHN DOWNER: I entirely believe in the principle of one man one vote. The only colony in which it prevails is by no means one of the largest colonies in the dominion ——

Sir GEORGE GREY: We have it in New Zealand!

Sir JOHN DOWNER: Whatever colonies may not have adopted it, the principle is a good one, and must in the end prevail. But the question we have to consider now is whether or not we shall have a federated Australia, whether or not we shall go into union, and whether it is expedient for the purpose of insisting on views which some of us may hold far in advance of our time to insist, as a condition of the federation of Australia, that the views of the smallest portions of the dominion should be adopted by the largest before any federation shall take place. That is what appears to me to be substantially the question. Admitting that one man one vote is a proper principle, we cannot shut our eyes to the fact that the infinitely larger part of Australia does not look at the principle in that way, and does not adopt that view at all. Under these circumstances is there any probability of any immediate federation taking place—and we all agree as to its immediate necessity—if the minority make as a condition precedent that the majority shall adopt certain views which happen to be at the time diametrically opposed to their own? That is not a sentimental difficulty, but it is a practical difficulty. If we insert in the bill this condition we shall postpone the federation of Australia, I hope not for very long, but at all events until such time as the majority are educated up to the elevation of the intelligent minority. Can anybody of us foretell when that time will be? Can anybody by any possibility name the day when that millennium will be reached? If so we shall have something to go upon. But what we are dealing with now is the immediate question, is it possible to unite the various colonies of Australia in one dominion, handing over to that dominion certain powers and privileges which each colony possesses; retaining as far as possible in each colony absolutely intact all the powers and authorities that they possess at the present time, and taking them away from them only to the extent necessary to create a beneficial and lasting dominion? Now, the United States of America were assuredly as democratic as we are. The one great democracy, the only lasting democracy that the world has known, so far from considering that there was a danger in preserving the autonomy of each state so far as the election of representatives to the national council was concerned, recognised that principle at once, and, as far as we know, without much difference of opinion. The object was to secure a body as a national congress that represented the views of each state. Which was the proper tribunal to decide how that body should be selected but each state? It might be that the mode of election of one state was, in the opinion of the other states, absolutely illogical, absolutely unphilosophical, absolutely wrong perhaps. But the very essence of the agreement was that it should be the state which should define how its representation should take place, and if that representation were unsatisfactory in its creation or in its working it would be the state that would have the responsibility of any mischief that happened, and would have the power to alter it. I have no doubt my hon. friend, Dr. Cockburn, is satisfied that one man one vote will be adopted in Australia before many years have passed. My hon. friend, Mr. Gillies, from Victoria, may entertain an entirely opposite view.

Mr. MUNRO: Oh, no! He is a one-man-one-vote man!

Sir JOHN DOWNER: I have no doubt that many hon. gentlemen from Victoria entertain entirely opposite views, but whichever views are correct, we really have to deal with the practical question whether the minority of the colonies of Australia having adopted a certain view which they believe, and which I believe, to be entirely a correct one, are to insist that there shall be no federation of Australia until the larger colonies and the greater portion of the population adopt that particular view. I think it would defeat all federation if we endeavoured to impose any such limitations. I am sure it is against every principle of federation which has ever been successful, and we have before us the illustrious precedent of the one great democracy of the world, which thought itself safe in its creation in adopting the method suggested here, and which has proved by its working that no injurious results can come from it.

Mr. BARTON: I would ask hon. members who support the amendment whether there may not be a better way of obtaining what they desire? If the principle of one man one vote is one that we should adopt, it will assert itself, as time goes on, throughout the continent, and if it does that, it will impress itself upon the parliament of the commonwealth. Is it not worth our while, therefore, to consider whether the proposition we are discussing should not be only a temporary one—that is to say, whether the views of the states in prescribing the qualification of electors of members of the house of representatives should operate any further than the first election, and until the parliament of the commonwealth have otherwise provided? If the proposal be a good one the commonwealth may be relied upon to adopt it. I am in favour of it myself; I think the principle is a good one; and I have the utmost confidence that the parliament of the commonwealth will adopt it. But whether that be so or not, the decision should be left to that parliament. It is not for us to try to dominate matters in any way in a question of this sort. It is for us to give the parliament of the commonwealth, so far as we can do so, the widest power to execute all that is necessary, and if we do that we shall prescribe merely what is convenient in regard to the first election—that is to say, we shall leave this clause as it is, subject to a slight amendment at the commencement, requiring that the clause shall operate for the first election, and until the parliament of the commonwealth otherwise provides.

Mr. GILLIES: Will the hon. member explain more precisely what he means?

Mr. BARTON: I mean that the provisions of the bill shall operate for the first election, until something else can be done; but that when the first election is secured, and when the parliament of the commonwealth meets, it shall be competent for it to take its own course as to this matter.

Mr. GILLIES: To declare who shall be its electors!

Mr. BARTON: Precisely—who shall be its electors.

Mr. GILLIES: And whether there shall be a high qualification or no qualification!

Mr. BARTON: To fix its own franchise. It does seem to me that if you are going to trust the parliament of the commonwealth at all, you must trust it to fix its own franchise.

Mr. GILLIES: But it will consist of the states!

Mr. BARTON: It cannot help consisting of the states and of the people of the states. But one house will consist of the states in certain proportions. I refer to the house which we are told is the nationally representative house. And surely the franchise upon which the whole body politic will send its representatives into that national house is a matter that should be fixed by the house itself, just as the electoral laws for the legislative assemblies or houses of representatives in the different colonies are fixed. We have these powers in our respective colonies; and I suppose we think we have used them well. Surely it is not contended that in the course of time it will not be a wise and necessary thing that the franchise of every citizen of Australia to the national house shall be an equal franchise?

Mr. GILLIES: That would be very desirable!

Mr. BARTON: It is very desirable indeed that there should be one national franchise, and that would be the inevitable result of leaving it to the parliament of the commonwealth to fix it. If there be any doubt upon the point, if the parliament of the commonwealth is not likely to fix a uniform franchise, the only reason for that course would be a desire to leave things as they exist in the various states. If that were so, there would be no departure from the provision of the bill. But if there is to be a departure, it is desirable that it should be taken by the parliament of the commonwealth, because it is a matter that belongs more properly to them. I suggest, therefore, that instead of our agreeing to import the principle of one man one vote here—although I myself quite agree with the principle—it is a matter which should be left to the parliament of the commonwealth itself. If room be made for me to do so—if I might venture to ask for an opportunity to do so, for I was not present a little while ago—I would test the sense of the Committee upon an amendment, inserting before the first word of the clause some such words as these: "For the first election, and until the parliament of the commonwealth otherwise provides."

Mr. DEAKIN: This involves the question raised by me in the first instance when the clause was brought forward, and I would point out now, in one sentence, to the hon. member, Dr. Cockburn, that in any case he must adopt some addition to his own amendment. It will be absolutely impossible to make provision for the first election of the house of representatives being held in certain of the colonies, under the restriction he proposes to add to the clause. To move the amendment without some addition would be to prevent the first election taking place in certain colonies, and to defeat federation.

Dr. COCKBURN: My hon. colleague, Sir John Downer, instanced what had been done in America. As far as I can read history, the several states sought out that which was best in the constitution of each state, and put it into their model constitution, and it was only because they did that, because they chose all that was best in the constitutions of the various states, that they were able to frame a document which has been the veneration of all people since its first enactment. The result is that the constitution is looked upon as a model for other constitutions, and to make a mistake in this respect would be in my opinion to make a fatal mistake at the very commencement of our federation. I cannot agree with those who say that the proposal that manhood suffrage should find a place in this constitution is in advance of the times, nor can I agree to argue that the principle of one man one vote should find its place in this constitution is to argue in advance of the times. I think that those who hold other views have yet to come up to the line upon which the colony of South Australia stands. I think we should be making a great mistake if we allowed either the first election to the federal parliament, or indeed any election, to take place upon any other principle.

Mr. DEAKIN: The hon. member cannot help it!

Dr. COCKBURN: I do not agree with the hon. member. The different colonies will have to frame electoral machinery, they will have to divide their colonies up into electoral districts for the election of members of the house of representatives; and to abandon this amendment would be a distinct violation of the principle already affirmed—that the house of representatives shall be chosen by the people. It has been very well pointed out by an hon. member that we should not begin our constitution by putting into it an inconsistency. If we are going to frame a constitution which is to be a benefit to ourselves, and to posterity, we must be consistent to vital principles, and I feel that I cannot give way or accept a compromise.

Sir SAMUEL GRIFFITH: The amendment of the hon. member, Mr. Barton, comes before the hon. member's amendment!

Dr. COCKBURN: That may be; but so far as the principle of my amendment is concerned, I feel that I cannot give way. I take it that the house of representatives, even the first house, is to be of the people; that our government is to be of the people, and that being so, our house of representatives must not be chosen by any other than the people. To provide otherwise would be a contradiction in terms which would not be a credit to this Convention. The possessors of other constitutions have had to fight for their freedom. The freedom of the commonwealth of Australia should be simultaneous with its birth; it should be free-born. I am of course willing to withdraw my amendment to enable the hon. member, Mr. Barton, to move his amendment.

Sir GEORGE GREY: Before the amendment is withdrawn, I think there are several arguments used by various hon. members which should be replied to. I understood the hon. member, Mr. Barton, to argue that we were not to dictate or rule, while he at the same time proposed to dictate and rule. What we have to do is to constitute a totally new legislature, and we have to call it into existence with all proper limbs, head, and body, to enable it to act, and act well and wisely. We have a perfect right to frame the best and most perfect machine that we can. When hon. members tell us that we are not authorised to dictate to Australasia, I reply that we are not the people who are dictating, but it is those who say this shall not be done who are dictating to us. Undoubtedly the people of Australasia have a right to start at once on the principle of one man one vote; and it is our business to allow them to enter into that right. The whole of the arguments used to the contrary are of no avail whatever. With those hon. gentlemen who argue against this, the argument always is, "We perfectly agree in the principle; but do not introduce it now. Let the states do it for themselves." To which I say: I do not want, as far as I am concerned, that the states should do it for me, or help me, or the state I am in, to do it.

Mr. BAKER: Does New Zealand intend to join the federation?

Sir GEORGE GREY: New Zealand wishes the power to be retained to enter cheerfully into a combination of which it approves. This constitution is intended to take in all Australasia, and it should be so framed. We have no wish to have this done for us by other people, but our desire is to do it for ourselves. Why should the men who have so long kept us out of these rights still say, "Wait, wait a little

longer; we will ultimately do it for you; you shall ultimately carry what you wish," when we can get what we wish now? That is our right; let us struggle for it, and ask this Convention to agree that that should be done. An hon. member said that Australia was not prepared for it and did not desire it.

Sir JOHN DOWNER: I said that many of the larger states were not prepared for it!

Sir GEORGE GREY: I maintain that all the larger states are prepared and wish for it. I am sure I speak the universal wish of Australia when I say they do want it.

Sir JOHN DOWNER: Why have they not got it?

Sir GEORGE GREY: How could they? That is the very point. How long did it take us to get the single vote in New Zealand? For how many years was the bill on the order-paper in vain? For how many years have we desired to have an elected legislative council instead of a nominated one? Because we had no power to get it. Now we are asked to continue to deprive the people of the power of obtaining these things for some time longer. They say, "We will grant it to you." Who will grant it to us? Those who have kept it from us so long.

Mr. J. FORREST: Who are they?

Sir GEORGE GREY: Why evade the point by a question of that kind? Every one knows that they are the existing legislatures, in which the people have never been fairly represented. Who can deny that plural voting has existed and has exercised a very great influence? Who can deny that nominated councils prevented many things from being done? It is impossible to pass any bill without having to consider whether or not another house will approve of it. No statesman is certain of carrying in its integrity that which he desires. We wish now to be allowed to do for ourselves that which we think necessary for the good of the country. I feel satisfied that almost every man in Australia would say that that is his wish. On every ground I conceive that we are entitled to have this thing done. Not a single argument used on the other side has the least weight or potency, and I am certain that the arguments used against the proposal can be answered by many hon. members.

Mr. FITZGERALD: I apprehend that this Convention is not the arena in which a question of this importance should be thrashed out. We are not here to decide whether or not the principle of one man one vote should be adopted by the various legislatures. I am not favourable to that principle; but I do not intend to go into the arguments. My reason for supporting the clause as it stands is that in the first place I regard it as an intrusion upon the domain of the rights of the various states for this Convention to dictate to them the principle on which the election of their representatives should be governed. In the next place, if we were unwise enough to do so, it would jeopardise very seriously the adoption of the measure which we hope to send to the states, because of the resentment which we should naturally give rise to if we were impudent enough to attempt to dictate to the states and tell them that we as representatives went entirely outside the mission we were charged with, by laying down a hard and fast rule that they were to elect their representatives on a principle which they had not yet seen fit to adopt. I cannot conceive how hon. gentlemen of the experience of Sir George Grey, and others who support him, can go in such a direction. We are all anxious to see some scheme of federation adopted. Surely we are not going to hamper that with difficulties by proposing what would have no chance of acceptance, and what would involve, as far as this Convention is concerned, a dispute which would very likely prevent our agreeing upon other and more important principles. If the states of Australia prefer to defer the adoption of this system, which may or may not be inevitable, surely it is not for us to hurry them forward. Their regard for their own interests will lead them to it in the fullness of time if it is for their interests. Why give them a fillip? Why urge them in a direction in which, surely, their democratic spirit is sufficiently advanced to enable them to travel without any spur of ours? I hope we shall not spend much more time on this discussion. Hon. members who have strong opinions on this subject have aired their opinions and, no doubt, have also done so on many occasions in their various colonies. They have satisfied the end for which, no doubt, this discussion has been raised. As a matter of principle, as a matter of prudence, as a matter of duty, I hold that we cannot adopt it. As a principle, we are not agreed upon it; and, if we were, it has nothing to do with federation. As a matter of prudence, I hold that it would endanger the whole scheme by giving rise to resentment in the various states at our having interfered in a matter which concerns them, but which does not concern us, which is outside our commission, which we have no right to touch, and which, as a matter of legislation, is one of very doubtful expediency. I hold very strong opinions upon the subject; but I hold that it would be a wrong policy to give expression to those opinions now. I am not one of those to whom the hon. member, Sir George Grey, has alluded, who say, "I agree with it; but do not think this the time for it." I do not agree with it; and I think that this is not the time to deal with it.

Mr. BARTON: If the hon. member, Dr. Cockburn's amendment is withdrawn I intend to move mine, so as to give the parliament of the commonwealth power to legislate on the subject—a power similar to that which is given in clause 10. My amendment could be carried subject to any restriction which that of Dr. Cockburn might place upon it. If Dr. Cockburn's amendment should be negatived, my amendment would still pave the way to the adoption by the federal parliament of the principle of one man one vote.

Mr. PLAYFORD: It appears to me to be a matter of principle that we ought to adopt a uniform constituency for the election of our members. Whether we can adopt that uniform mode of election at first is another thing; but certainly it should be adopted in the long run. We said not long ago when it was proposed to give the various states the right to vary the mode of choice and the election of members of the senate, "We want uniformity throughout the various states with regard to these elections." I think we ought to carry that further, and say with regard to the house of representatives, "We want ultimate uniformity in the matter throughout the various colonies." Therefore, it appears to me that one of two courses are now open to us. Either the course suggested by the hon. and learned member, Mr. Barton, or that proposed by Dr. Cockburn. One is that for the first election it shall be as provided by the clause now under consideration, but that afterwards the commonwealth parliament shall decide and make laws dealing with the subject, or we may take Dr. Cockburn's proposal to fix it at once, which, however, I think, we cannot very well give effect to. It would be very troublesome, at all events, to have the constituencies and the electoral rolls ready to give effect at once to the principle of manhood suffrage and one man one vote. Of the two proposals I think that of the hon. and learned member, Mr. Barton, is the best. We can very well say that until the federal parliament makes a uniform law dealing with the constituencies which shall elect the house of representatives we will act under this clause. That the federal parliament should have the power to make that uniform law ought to be admitted on all sides. It should certainly have the power to do it. It might be advisable for us to do it even now, but that is doubtful. That the commonwealth parliament should have the power is, I think, advisable. Under the circumstances, I shall support the proposal of the hon. and learned member, Mr. Barton.

Mr. DIBBS: I am in favour of the principle of one man one vote, and the sooner we establish that principle the better. I look upon the proposal of the hon. and learned member, Mr. Barton, as being one purely of an experimental character.

Mr. BARTON: The hon. member does not understand it!

Mr. DIBBS: I understood the hon. member to say that for the first election the hon. member, Dr. Cockburn's principle should stand, and that it should be altered afterwards.

An HON. MEMBER: No; the other way!

Mr. DIBBS: Then I misunderstood the hon. and learned member. With regard to what was said by the hon. members, Mr. Fitzgerald and Sir John Downer, I may state that the principle of one man one vote has been affirmed in the legislature of New South Wales. In our last session it was affirmed in a bill to give effect to it. That bill was read a second time. But owing to the natural jealousy of the Government in regard to it the matter was shelved, the Government promising to bring in a new electoral bill in which the principle should be given effect to. If we are to establish federation at all, uniformity in regard to these elections ought to be one of the principles of that federation. From one of the clauses of this bill we find that there are some thirty-one matters which we are supposed to federate on for the purpose of obtaining uniformity, and why in regard to the house of representatives of the federal parliament we should not have uniformity of election I fail to understand. As I have not understood the remarks of the hon. and learned member, Mr. Barton, I will say no more in regard to his amendment at present. I wish to point out that the principle of one man one vote is already recognised in some of the colonies, and that in the largest of the states—New South Wales—the principle has been affirmed, and the present Government are pledged to introduce a measure during the ensuing session to carry it out, and no doubt the bill will be carried. Under the circumstances, why should we not now in starting this larger scheme affirm a principle which is a principle of democracy in its purest form?

Mr. GILLIES: I confess that now and again I have some difficulty in following the views of some hon. members. I imagined that we all understood in the formation of this federation that it was not such a federation as would be a complete legislative federation—federation as in the case of older states. It is only a partial federation. It is originated with the object of enabling the whole of the colonies on this continent to join together in a union for the purpose of accomplishing work which could not otherwise be properly accomplished by the states separately. We started with that idea, and we really did believe that on this continent the colonies of Australia would be able to do a large amount of good if they were able to join together in a federation of that kind. We are gradually getting beyond that idea, and we are forging ahead to such an extent that we propose to join together on a basis wholly different from that on which the people in the various states joined together amongst themselves for the purposes of carrying on legislation and government. I confess that the view submitted by the hon. gentleman sitting below me is not new to the public, or to the Convention, nor was it altogether new to the committee who considered the constitution; but as a proposal in practical politics in relation to this federation, I believe it is new. We are here, I presume, as practical men, to do practical business. The practical business which we are called upon to perform, each delegate representing his individual state, is to lay a foundation and to prepare a bill for the purpose of carrying federation into effect—to draft a constitution. Lines were laid down for our consideration by our President when he submitted his resolutions to us, and the idea which they indicated was that so far as the constitution was concerned, it was to be framed on such lines as would bring the various states to join in this federation on grounds which we all pretty well understood. Now what were some of the most important of these grounds? We believe that in drafting the constitution, and obtaining persons to represent the states in the house of representatives and in the senate, in order to facilitate matters, it would be the wisest thing to take the legislative powers possessed by the several colonies in their constitutions, and we believe that the basis upon which we propose to frame these bodies is the most natural and simple possible. Take all the colonies—Victoria, New South Wales, Queensland—each of them have a representation based on a franchise to which in nearly all cases up to the present time has there been scarcely any serious objection. The one question conflicting with it is the "one man one vote" principle. I am not going to discuss the grounds upon which I believe that "one man one vote" would be more satisfactory to the people as a whole than the present franchise; but I say that the existing franchise here is marvellously liberal. It is scarcely exceeded in liberality in any country in the world. We possess under the respective constitutions of the several colonies the greatest possible liberty that one can conceive that a man might have under any constitution. What is the result? We can make our own laws, and no difficulty has occurred, except in a few instances where an honest difference of opinion has existed between men holding opposite views, but who have been sufficiently liberal to prevent any serious trouble from arising in any of the states. But what is the proposal now? We are to depart from the constitutions in existence in the various states, enabling electors to vote for representatives in the popular house, and to place in the hands of the federal parliament the power to say, "We shall completely subvert these constitutions." With what object? Is it with the object of having these states represented, or is it with the object of practically altering their constitutions altogether so far as their representation in the federal parliament is concerned? In my judgment that is altogether apart from the original object with which we started, namely, to have the states represented in the federal parliament practically as they are represented in their own.

Mr. FITZGERALD: And in the manner that they themselves think best!

Mr. GILLIES: With only this difference: that with respect to the senate the representation is to be of a different character, because the parliaments of the various states are asked to send representatives to the senate in order that that body may be representative of the states. But with respect to the popular branch of the federal parliament, namely, the house of representatives, that is to be based upon the representation given to each elector of the various states in the legislative assemblies of those states. And why? Because it is true that in each colony the popular branch of the legislature is representative of the great bulk of the people. If they conceive that for their own interest and welfare their suffrage is based exactly in the way that can best promote their prosperity, they will consider it an improper interference with their rights to be called upon to elect members to the house of representatives upon a franchise different from that upon which they elect their representatives to their own house of assembly. And are they not to be the judges? Who else are to be the judges, if they are not? As I said at the beginning, if we were to have a complete legislative federation, and all the states were abolished except for merely municipal purposes, I could understand this body agreeing to a totally different franchise from that at present existing in any of the states. But may I, for a second, remind hon.

gentlemen that only the other day we were told by some hon. members that they had it in contemplation to submit to their own houses of parliament a bill for the enfranchisement of women, and if the amendment be carried we may have the federal parliament passing a bill, not only based upon the most liberal franchise that exists in any of the states, but even introducing a new element altogether, the political effect of which, I venture to say, no man within these walls can foresee —namely, the enfranchisement of women.

Mr. PLAYFORD: Cannot the hon. member trust the federal parliament?

Mr. GILLIES: We are not speaking of trusting the federal parliament. We might as well say, "We need no provisions in the constitution that will limit their power or tie their hands in any way." What the hon. member practically contends for is that the federal parliament shall be given a constitution in blank, so that it can do what it likes, without any limitation whatever to its powers. That is the meaning of his interjection.

Mr. PLAYFORD: They will represent the people!

Mr. GILLIES: We will trust the federal parliament on the grounds and on the provisions contained n the constitution. What is the meaning of the words "state rights" if they do not mean that certain provisions are to be inserted in the constitution which will control the federal parliament, which the hon. gentleman would have us trust implicitly? His idea is that we should absolutely pass over to the federal parliament the rights of all the states individually, even of the smallest of them. If that were done, we could swamp them to-morrow simply because we had a majority. But this is not the object which we have in view in framing the constitution of the federal parliament. We desire to see that every individual state, whether it be large or small, shall be protected under the provisions of the constitution. It is in common justice to the states coming into the federation that these provisions are inserted in the constitution. Are we to give them no rights; are we to give them no claims? If they come into the federation they will come in under certain conditions, and we have carefully provided that these conditions shall not be changed at the *ipse dixit* of a simple majority. We take care that the rights of each of the states, even the smallest of them, shall be preserved, and that when they have voluntarily come within the federation upon certain well-known lines, those lines shall not be departed from unless they have an opportunity of protesting. We provide that a change shall only be made by an absolute majority of the federal parliament, and at the same time that their decision, whatever it may be, shall be referred to a convention of the electors in each state which must support the majority of the federal parliament. So that talking of submitting everything and leaving everything to the federal parliament is not reasonable. That is the reason why I say that we are making a proposal which, I contend, is in contravention of the distinct understanding upon which gentlemen came here, representing the various colonies—what to do? To see that justice was done to all. Now there is a new departure. We are to submit new proposals to be embodied in the constitution which completely alter the representation of the most popular branches of the legislatures in the whole of the states. The suggestion has been made that the federal parliament, under this proposal, would be in a position to so completely change the franchise for the election of members to the federal parliament as to extend the franchise to women. I assert that, although I have paid great attention to the consideration of this question, I have not, up to the present hour, been able to learn from any one who has supported these proposals what the consequence of such a violent change would be in our political institutions. I am not going to say at this moment that I would condemn a proposal of that kind if I were convinced that it was one that would promote the interests of the whole community of men and women; but I say that up to the present hour not one solitary state on this continent has ever attempted to submit for legislative decision a proposition of that kind. I object to arbitrary power being given to the federal parliament to deal with the franchise of the whole of the people in the way to which I have referred. If we are to be practical men, if we honestly believe that it is our duty to carry a rational constitution for a federal parliament, we must, I say, abandon these fads. Fads they are, at any rate up to the present hour, and I say we must abandon them.

Dr. COCKBURN: Which fads?

Mr. GILLIES: The hon. gentleman's proposal is a fad.

Dr. COCKBURN: What! Manhood suffrage a fad!

Mr. GILLIES: No, it is not manhood suffrage; we have manhood suffrage, and we are prepared to stick to manhood suffrage. I claim for our Parliament, the Parliament of Victoria, the power to frame its laws as it thinks proper with reference to the right of electors, or any man in the community to vote.

Mr. PLAYFORD: Have you women's suffrage in Victoria?

Mr. GILLIES: The hon. gentleman cannot keep quiet; he is bound to speak. Interruption can do no good, because it is not argument. In the colony of Victoria we claim the right to frame our electoral laws as we think proper—to admit every person to the suffrage. We claim the right to frame our laws so that there shall be one man one vote. No doubt that principle may be delayed for a time; but I believe that in all the colonies it will come by-and-by. But, why should we rush this question at the present hour? Why should we draw a herring across the track, and try to prevent—as I believe will be the case if a proposal of this kind is carried—the federal parliament making such laws as it thinks proper? I deny that right; I do not think it is desirable. I believe that if we are going to do real practical work, and to form a federation, we must be prepared for the present to abide by the laws on electoral subjects which are made in each of the colonies; that the colonies, in returning men to parliament, shall return those men elected on the popular basis to the popular branch of the legislature; and we must be prepared to abide by those laws so long as they exist. To say that we are to insist on the colony of Victoria, or the colony of New South Wales, or the colony of Queensland, or indeed any other colony, electing persons to the popular branch of the federal parliament under totally different laws and conditions to those appertaining to the individual colonies, has never before been contended; and I am sorry that the question has been raised at present, because I am confident we are raising difficulties in the path of federation which are wholly unnecessary. I venture to say that there are some matters contained in the bill now before us which, if persisted in, will raise new difficulties and new troubles. For what purpose—with what object? Surely not for the purpose of preventing federation! I say, however, that they will help to prevent federation. This proposal for federation will naturally encounter, in consequence of natural diversities of opinions in the various colonies, sufficient opposition, without our raising new difficulties which it is not necessary to raise. The man who raises new and unnecessary difficulties in our path at the present moment is not a man, in my opinion, who is truly favourable to federation.

Dr. COCKBURN: The arguments of the hon. member, Mr. Gillies, were so entirely directed against the proposal of the hon. member, Mr. Barton, and not against mine, that I think it is for the hon. member, Mr. Barton, to answer them, and not for me. I concur in almost the whole of the remarks made by the hon. gentleman who last spoke. I think that the

greatest diversity should be left to the legislatures in everything but things essential. With the exception of the question of one man one vote I would leave all the remainder of the realm of diversities to the legislatures. I agree that it would be a mistake to cramp the individuality of the different states by passing a general law arranging the franchise in every detail. Just a word with regard to the statement that any one who advocates that manhood suffrage and the one man one vote principle should find a place in this constitution is standing in the way, to some extent, of early federation. I maintain that it is quite the opposite. Unless you do this, those colonies which already possess manhood suffrage and the one man one vote principle will have to think very seriously before they surrender their liberties and make a retrogade step. It is a well known saying that in democracy there is no step backward.

Mr. FITZGERALD: What addition will one man one vote give to the people? Why, it is a bagatelle!

Dr. COCKBURN: It gives a great deal in principle, and something in practice, and to ask those who for many years have enjoyed the principle of one man one vote to delegate any portion of the functions they now exercise to a body which is not founded on so fair a basis, would be to ask them to do something which I question very much whether they would willingly undertake. Instead of my proposal standing in the way of federation, I am inclined to think that it will stand in the way of federation if it is not carried. These communities are progressive, and they can easily advance; but it is very difficult for them to go back, and I do not think they ought to go back. I should be sorry to see any colony which possessed these privileges surrender them in any respect whatever. On the other hand, I should be very glad to see the other colonies standing in the back rank come up and take their places in the rank of freedom; and that is what they would do. I consider that those who are advocating the insertion of this fundamental principle of democracy in our constitution are smoothing the way to federation, and are not placing obstacles in the path.

Mr. BARTON: Is the hon. member prepared to withdraw his amendment, to make room for the other one to be discussed?

Dr. COCKBURN: I have already stated that I would allow my amendment to be withdrawn in order that the hon. gentleman may introduce his amendment. I would point out that the hon. member's amendment introduces an entirely different principle, and that it will in no way qualify the addition of the words afterwards. As it does not really touch the question, I feel bound in courtesy to withdraw my amendment, in order that the hon. member may move his amendment first.

Amendment, by leave, withdrawn.

Mr. BARTON: I move:

That the clause be amended by inserting at its commencement the following words:—"The parliament of the commonwealth may make laws prescribing a uniform qualification of electors of members of the house of representatives. Until the parliament of the commonwealth otherwise provides."

As I said a little while ago, I have adopted some words parallel with those in clause 21, referring to the senate, so that the parliament may with reference to the house of representatives, as well as to the senate, have the power of prescribing a uniform manner of choosing members. In dealing with this matter before, I did not make myself sufficiently clear to my hon. friend, Mr. Dibbs. What I mean by this amendment is this: The clause as printed in the bill prescribes the qualification of each state to be adopted as the qualification for electors of members of the house of representatives. To that I object, because, whatever opinion may be held from time to time by the majority in the commonwealth, I see no reason why the majority, as exercising their functions through the parliament of the commonwealth, should be deprived of the opportunity from time to time of expressing that opinion by prescribing the franchise. I believe that, although we are giving to the various states, in the first instance, the power of sending members to the house of representatives, elected upon the franchise for the time being of the more numerous house, still that is a power which ought never to be intended to be perpetuated in the constitution, because there can be nothing more desirable than that there should be a uniform basis of election for members of the house of representatives, and there certainly can be nothing more undesirable than that members of the house of representatives, being elected upon different suffrages in different states, should be met with the argument that they are either more conservative or more democratic in the manner of their election than those who represent other parts of the commonwealth. We have to recollect that, with respect to the house of the commonwealth—that which may be more accurately described as the main house of the commonwealth, the national assembly—we should endeavour to represent uniformly the nation. I use this word "nation" without in any sense implying that it is a nation independent of the British empire. Well, if it is a sensible thing that there should not be an opportunity left for argument between hon. members coming from one state and those from another as to the basis upon which they are elected by the people—if it is a desirable thing that the people of the whole commonwealth, being fellow-citizens, and being equally fellow-citizens for that purpose, should vote equally—then there can be no question, I take it, that the suffrage throughout the commonwealth should be uniform. It has been very stoutly and warmly argued by the hon. member, Mr. Gillies, that we should leave things as proposed in the bill; but I cannot see my way to assent to that, as anything but a temporary proposition, because I do not see how we can well say that we have constituted a free parliament for the commonwealth unless we give that parliament power to choose the franchise upon which the parliament shall be elected.

Mr. DONALDSON: And interfere with state rights!

Mr. BARTON: I do not see why the hon. gentleman should say "and interfere with state rights" unless this franchise is an uneven, and in that sense a rugged one. I do not see why the hon. member should assume that a parliament elected on a uniform basis as prescribed by the commonwealth would be more likely to interfere with the interests of the states than would one elected on a totally uneven basis. What is the reason for the fear?

Mr. DONALDSON: The states of America never insisted on this!

Mr. BARTON: What have I to do with that? Are we building an American constitution?

Mr. DONALDSON: We are taking a copy from it where advisable!

Mr. BARTON: We are taking a copy from it where advisable; but we are exercising our own judgment as to what is advisable. It is no argument to say that a certain provision is in the Constitution of the United States; but if I find that it is applicable to the condition of this country I have no hesitation in taking the form of words, if they are fit words, in which it is embodied in the Constitution of the United States. However, it is no argument to say that a certain principle or provision is in the constitution of one country or another. What we are concerned about is whether a provision is adapted to the needs of this country. Then there can be no harm in adopting the words if they are fit words. There is no plagiarism, as suggested, for if certain words have stood the test of time, and are adapted for carrying out our wishes, we should take them, unless we can find better ones. Our adopting those words does not imply any superiority in the constitution from which we adopt them, unless the idea contained in those words has first commended itself to our judgment.

Mr. J. FORREST: Why did not the hon. and learned gentleman do this in committee?

Mr. BARTON: I did express my views on this question in committee. From the beginning I have held the opinion that if we constitute a free parliament in a free country, we must give the house most directly responsible to the people the right of fixing the franchise. You must allow not only that house, for that is a mere form of words, but the people, to fix their franchise. We must therefore look to the people of the commonwealth to constitute a franchise upon which they shall be represented in the house of representatives. If we do not, we are not adding to the liberty of the states or people; but are taking something away. There is no inconsistency between this position and the strongest advocacy of state interests where they are concerned. There is another house—an elected one—that is to directly represent the states, and it is a reasonable and consistent thing to give to the legislatures of the states, if they are adopted as the electoral body, the right of choosing their representatives in the senate in the manner they deem best. But that does not affect the argument as regards the house of representatives one bit. It is the house directly representing the people, directly representing the commonwealth itself, and is expected to work, as we hope it will, with the house which represents the federal principle.

Mr. GILLIES: And form one homogeneous state?

Mr. BARTON: Yes; and form one homogeneous state. He who says that they will not form one homogeneous state together might as well argue that, where there are two houses, one with manhood suffrage, and another with a property qualification, you cannot form a homogeneous state. There you have class representation; but here you have not; that is the difference.

Mr. GILLIES: But there are six or seven colonies to come in!

Mr. BARTON: What have I to do with the number of colonies? The principle, if good, is good for six or sixty. What certainly did not appear to me to be clear in an argument on my proposal, addressed to the Committee by one hon. member, is this: upon what form of reason it was contended that, although we might constitute a house of parliament directly representing the people elected on popular suffrage, and allow the people, as represented in that parliament, to make their laws, so far as the form of the constitution allows them, and to present them to the other house for concurrence, we should refuse them permission to make their own laws as to a franchise which shall be satisfactory to the whole people. It seems to be suggested that any one who thinks that state interests should be preserved in the senate is also compelled to abandon any idea of equal democratic representation. That is not so, and I feel as strongly my principle in this matter as I feel strongly my principle with reference to election to the senate, and I trust that this amendment will be adopted, and that we shall not seek to fetter the hands of the commonwealth in any way, that we shall not seek to take away from the parliament of the commonwealth the power of prescribing, as the representatives of the people, how the people shall elect members to that house. I have already said that this amendment, if adopted, will not interfere with the amendment of the hon. member, Dr. Cockburn. If the amendment is adopted, and the clause as it stands follows it, and then the amendment of Dr. Cockburn is proposed, the result will be this: the amendment of Dr. Cockburn, if adopted, will qualify the whole of the clause, and introduce the principle he wishes to introduce, whatever system of election ensues; if, on the contrary, the amendment of Dr. Cockburn is rejected, it will not prevent, and it ought not to prevent, the parliament of the commonwealth from legislating if it chooses in the direction of one man one vote, or in the direction of any other popular reform; and, therefore, instead of fettering the proposal of Dr. Cockburn, if he should chance to lose his amendment, the amendment which I suggest will leave a way by which that popular principle can be proposed and fought out in the commonwealth.

Amendment proposed.

Mr. BAKER: What is the good of raising unnecessary difficulties? We shall have quite enough difficulties to overcome without placing any unnecessary impediments in the road of federation. I wish to remind hon. members of what has taken place in Canada with reference to this matter. The clause in the Canadian Constitution which deals with this question is in somewhat similar words to those now proposed by the hon. member, Mr. Barton. And what has been the result? For a considerable time the Canadian Parliament did not exercise the power of instituting a uniform system of election, and as long as they so refrained everything went well, and the people were satisfied. But in an evil hour they exercised their power, and nothing else they have done has given rise to so much ill-feeling and so much friction. The people in the different provinces of Canada turned round and said, "Why should you deprive us of that system of election to which we are wedded, and to which we are accustomed? Why should you force upon us something we do not want? What has it got to do with you how we elect our representatives to the national assembly, if we elect them and that election satisfies us?" I wish to point that out to hon. members, because, inevitably, when we go back to our different colonies and ask them to assent to this constitution, we shall meet enemies at all hands; and, undoubtedly, what has happened in Canada will be raked up against us, and it will be said, "See how the people in Canada have had their privileges and rights interfered with unnecessarily by a provision such as this; and now you ask us to give power to the federal parliament to enact such a law, which has worked so detrimentally in Canada." I think we ought to take warning by what has happened in that country.

Mr. WRIXON: I shall be unable to vote for the amendment of the hon. member, Mr. Barton. It seems to me that we are losing sight somewhat of the object we had in view. We are not now forming a unified nation. We are only forming an arrangement by which a number of states can come together for the accomplishment of certain objects that are common to all. I think the less we intrude into the arrangements which each state makes for being represented in the common parliament, the better. If it is right that we should so intrude, and should inquire how they arrange to be represented, then I think we have just as good a right to go to the upper house as to the lower house, and I do not see why we should not object in some cases to nominee upper houses. New South Wales, for instance, has a nominated upper house, of which my hon. friend, Mr. Barton, I believe, is a member. Well, if we want to scrutinise the machinery which each state provides for returning members to the federal parliament, we might raise an objection to colonies returning them through a nominee upper house, on the ground that many of us do not agree with such an institution. But we do not propose to interfere with any colony having a nominee upper house. We leave it full and equal power with the colony that has an elective upper house; and just in the same way, I think, we should leave it to each state to determine for itself by what electoral machinery it will return the men whom it chooses to represent it in the house of representatives of the federal legislature. I think there is truth in what the hon. member who preceded me said, namely, that Canada has got into difficulties by this very step, and by taking upon itself to interfere with the electoral machinery and arrangements of the different provinces subject to the Dominion Government, and I have no doubt that we should give dissatisfaction if we took a similar step.

Mr. KINGSTON: I think it is rather a pity that some arguments which we have heard addressed to the Convention in connection with this clause were not advanced at the time when we were discussing the propriety of establishing a uniform system in connection with the election of senators, because I am satisfied that had they been put with the force with which they have now been put, the small minority who were found recording their votes in favour of allowing each state to settle the matter for itself as it thought best would have been converted into a large majority. I thought, and still think, that it is just as well to refrain from interfering with the states in the decision of these questions for themselves, and I cannot see my way to support the amendment moved by the hon. member, Mr. Barton, which would have the effect of giving the federal parliament power to remove the subject from the jurisdiction of the states. Of course there must be some limitation as to the powers of the states in connection with the decision of the question. We are surely justified in laying down some rules for their guidance, and when the proper time comes I shall be found recording my vote in favour of the amendment indicated by my colleague, Dr. Cockburn. The two questions are, of course, involved in this amendment—the one as to the propriety of insisting upon a property qualification as portion of the electoral franchise for the national assembly, and the other the expediency of prohibiting any elector having more than one vote in connection with the return of a member to the lower branch of the federal parliament. These two propositions have been referred to in a variety of ways. One hon. delegate, who, I believe, will find one of the principles at least embodied in the legislation of the country of which he is a distinguised statesman, has referred to them as "fads." I do not propose to enter into a discussion of their merits, for I imagine that we all have preconceived ideas on the subject which we are not likely to alter during the short argument which can take place on the floor of this Convention. I have a strong belief in the propriety, when we are establishing a constituency for the return of members to a national assembly, of insisting on the right of each individual to one vote in virtue of his individuality, of recognising that right and conceding it to him on that ground, and denying it to him on all other grounds; and it is for that reason that I shall record my vote in favour of the amendment. But, subject to those qualifications which appear to me as sufficient to mark out the nature of the constituency which is to be intrusted with the privilege of returning members to the national assembly, I would leave the matter in the hands of the states themselves to settle as from time to time they think fit. At the same time, does it not strike those who have recorded their votes at a previous stage of this debate in favour of establishing a uniform system for the choice of senators, that it is rather inconsistent to lay down within the four corners of this bill a rule for establishing uniformity to the extent of depriving the people of all right of direct choice of senators to represent them in the upper house, and at the same time to refer to proposals to lay down a few broad lines on the subject of the nature of the qualifications to be possessed by the electors for the national assembly as an unwarrantable interference with state rights, and an impudent intrusion on the rights of each separate colony to settle the matter for itself? Surely if we had a right to interfere as regards senators, we have an equal right to interfere with reference to the other branch of the national parliament. I sympathise with the arguments which have been advanced against unnecessary interference, and I shall resist the amendment which proposes to put under the control of the federal parliament the power of the states to deal with these matters for themselves as from time to time they think fit. At the same time I think we shall be abundantly justified in laying down broad principles absolutely essential, it appears to me, to the establishment and maintenance of democratic government in connection with this federation. For these reasons I shall be found voting in favour of the embodiment within the four corners of the constitution of the principles which are contained in the amendment of which my hon. colleague has given notice.

Sir SAMUEL GRIFFITH: I think, so far from there being any inconsistency in the bill as it is framed, it is perfectly consistent with respect to both houses. With respect to the senate, we have provided that the electors for the senate shall be the persons who are appointed by the constitution of the state to make laws for the state; and with respect to the house of representatives, we say that the constituency shall be the persons who are appointed by the constitution of the state to elect the lawmakers for the state. The two principles are identically the same: there is no inconsistency. I rose, however, to say that I had entertained a little doubt in listening to the arguments as to which is the sounder view. But there is one aspect of the question which I think has not been considered by the advocates of the amendment of the hon. member, Mr. Barton. If we give the parliament of the commonwealth power to fix a uniform qualification, who is to say that they may not limit the qualification instead of extending it? That is by no means an improbable contingency.

Mr. PLAYFORD: That is very improbable!

Sir SAMUEL GRIFFITH: Just suppose a sudden wave of fright passing over Australia in consequence of labour troubles or something of that kind, and the federal parliament saying that it would not allow itself to be elected by such people, and passing a law limiting the franchise. Such a law could not be got through the parliament of the states, but the smaller number of members coming from each state might be willing to take the responsibility of passing it in the federal parliament. It might happen; such things have happened. At any rate, I think that danger is quite sufficient for us to say that the parliament of the commonwealth should not do it; but if it is to be done it should be done by a change in the constitution. These are the reasons which induce me to come to the conclusion to vote for the bill as it stands.

HON. MEMBERS: Question!

Mr. PLAYFORD: We have had enough of this!

Sir GEORGE GREY: Surely we may be heard! It seems to me that we have had to listen to many speeches to which some reply ought to be made. I wish first to say this: that the hon. member for Victoria used an argument which I have often heard used in similar debates when there was a struggle going on between two parties, and he warned us that those on his side were practical men and meant practical business. Now, we are practical men, and we mean practical business, and we are more likely to fight with some energy because the effort is to deprive us of rights which are dear to all men. The effort is to say this: that we who are in possession of power, and an unusual power; that we who enjoy plural voting; that we who enjoy legislative councils which are either based upon a property qualification or have absolute power; that we, possessing all these advantages, are determined that you shall not enter into all your rights as free men, the undoubted rights that you have. I say, therefore, we mean practical business also. Now, what is the actual purport of the amendment which is now before the Committee? It is nothing more nor less than this: That it being probable, and exceedingly probable in point of fact, that you will gain a majority on this question, you propose then to establish a machinery made up of the existing machineries which will enable you to hold every one of the advantageous powers that you have now in your possession. I say it is our business to resist that attempt, and not to consent to the proposal which is now before us. We are told that it is meant for a temporary purpose. It

is quite true that it has a temporary purpose; but what is created for a temporary purpose is the power of saddling a permanent thing upon Australia, and therefore I say that such an amendment ought not to be allowed to pass. I feel satisfied that our duty is not only to oppose the amendment, but to adhere to the proposal which will then come before us: that is, a proposal which shall ensure a free vote to every citizen of Australia. For I contend that if we set up in perpetuity the same form of government which has gone on for so long a period of time we shall be doing harm to Australia to an extent which we can scarcely conceive. I say that the present form of government possessed by these great states has not given contentment to Australia, has not given peace to Australia, has not carried Australia forward to that pitch of advancement which it might under another system of government attain. I believe that if the government had been in the hands of the people of Australia instead of in the hands of wealth, which is the real position it now occupies, the troubles now existing in Australia would not have been heard of, and that the whole position of the population of the country and of its commerce, would have been far more advantageous than it is at the present moment. I can see no reason whatever for continuing such a government when the Parliament of Great Britain has given us the power, in point of fact, to put the government of the country in the hands of the people, to be administered by the people and for the people. It is for that we contend as practical men. Hon. members may, if they please, call this a fad; but I say that the real fad is that by which a small portion of the population are determined to maintain a power over their fellow-men greater than they ought to claim, or greater than they can justly carry on. I shall, therefore, oppose this particular amendment.

Sir PATRICK JENNINGS: I have only a word or two on this subject. I think it would be an unwise departure from the principles which we have sought to embody in this bill to insert the words proposed by the hon. member, Mr. Barton, or to agree to the proposal of the hon. member, Dr. Cockburn. I think nothing could be more disastrous than any gratuitous interference with the constitutions of these colonies with regard to their electoral laws. We have accepted the constitutions of the various parliaments so far as the election of the senate is concerned, and we may safely take the same course with regard to the house of representatives. It would be safer and easier in every way to inititate the working of this great scheme without dictating to the several colonies an alteration of their electoral laws. These laws have been made by the people of the several colonies, and the people can alter them from time to time so as to admit of the introduction of any new proposal such as that of one man one vote. It will make very little difference in the representation of New South Wales whether we here adopt the principle or not. I am not personally opposed to it; but I do not want to go back to the electors of the colony and tell them that they cannot join the federation until they have adopted it. I think it would be extremely unwise to hamper the bill in that way. And with regard to nominee houses, surely, if a state wishes to have a nominated upper house, it can have it. The ministers who nominate the members of that house are responsible to the people. They live by the breath of the people; they live by the will of the majority of the popular house. It has been admitted that one-half of the colonies of Australia, that is to say, four of them, still have nominee houses Take the case as it stands. New South Wales, Queensland, Western Australia, and New Zealand, that is, four out of the seven states, have nominated upper houses. It is their own affair in each state as to whether they will maintain or alter the system. I myself am in favour of an elective basis; but I cannot refrain from saying that when a great struggle took place in Victoria, one of its most democratic political leaders at that time thought he could do better with a nominated than with an elective upper house, because in point of fact, as those who object to nominated upper houses properly tell us, they are weaker than elective houses. But I will not argue that point. I go upon the broad facts of the case. You have in Australia four provinces out of seven with nominated upper houses, and there would be an inconsistency, since you do not alter the elective basis of the lower houses, in dictating to those colonies that they should not have nominated upper houses. I therefore regard this proposal as in some degree going beyond the work we have to do. It has been said that we can safely leave various things to the parliament of the commonwealth. Why not leave this particular matter to that parliament? Why should we tie their hands? Why should we prescribe what they shall do? I have no doubt that from time to time, as occasion arises, alterations will have to be made in the constitution, and I think we may safely pass this clause as it at present stands, leaving the parliament of the commonwealth quite unfettered and unhampered in regard to their future actions.

Mr. DIBBS: I was prepared in the first instance to vote for the amendment of the hon. member, Mr. Barton; but after hearing the various speeches which have been delivered, I think there would be some danger in giving to the senate of the federal parliament power to reduce the franchise, although no doubt if such an attempt as has been suggested were made, it would lead to revolution. It is our place to make the bill as clear as possible with regard to the powers of the federal parliament. While I propose to vote against the amendment of the hon. member, Mr. Barton, I hope the hon. member, Dr. Cockburn, will push his amendment to a vote.

Amendment negatived.

Dr. COCKBURN: I now move:

That there be added to the clause the following words:—"But no property qualification shall be necessary for electors of the house of representatives, and each elector shall have a vote for one electoral district only."

I do not think it necessary for me to say anything further, except to express the hope that hon. members will see that this necessary provision is inserted in the constitution.

Sir HENRY PARKES: I shall give my vote against this amendment. One objection I have to such an amendment being submitted is that it places persons who entertain views such as I do in a false position. At a proper time I should be prepared to deal with the question embodied in the hon. member's amendment; but I say that this is not the proper time. All that we have to do in this constitution bill is to bring the federal parliament into existence, and that parliament will find the means of giving due shape to its own electoral system. I think it is almost presumptuous for us to declare what shall be a principle in that electoral system. When the federal parliament is in existence, it will, like other similar bodies, soon find out the proper system under which its members are to be elected. All that we have to do is to bring the parliament into existence. I have understood all through these discussions that one opinion concurred in by all sides was that there should be as little interference with individual states as possible. I have adopted that view, and have sought to carry it out in good faith throughout our proceedings, interfering in no way whatever, except in so far as it is necessary to do so, to bring into existence a federal constitution. When that is once in existence, it can cut any knot that it is necessary to cut, and can shape its own course, as every other political body in the world has done. I shall vote against the amendment; but I do not desire to be understood as in any way expressing my view as to its policy. That I will do at the proper time; but this, in my judgment, is not that time.

Dr. COCKBURN: It seems to me that the proper time to lay the foundation is before you erect the

fabric, and no effort should be spared to make that foundation firm and secure. As for bringing the federation into existence being our only aim, I think our aim should also be to bring it into existence in such a way as shall secure for it a healthy life.

Sir HENRY PARKES: There is a principle in the hon. member's amendment which he does not appear to see: that is, the principle of prescribing what shall be the basis of the federal electoral system. If he is right in introducing this subject now, according to his view, any other hon. gentleman would be right in introducing the principle that the qualification should be a property qualification for the electoral body. It would be just as consistent, just as logical, as the course he has taken.

Mr. FITZGERALD: Or that the system of voting should be proportionate!

Sir HENRY PARKES: Precisely. The course I take cannot be disputed; it is simply to bring the federal parliament into existence with the least possible disturbance of the several states, and then leave that parliament to shape its own course and to say what its electoral system shall be.

Mr. DIBBS: I believe that the people of New South Wales will be more alarmed by the speech just delivered by the hon. member, Sir Henry Parkes, than by anything which has yet occurred. The hon. member says that all that it is our duty to do is to bring the federal parliament into existence, and that it will cut the knot of all these difficulties. But before powers are given to the federal parliament by the people of New South Wales, they will want to know on what foundations the fabric is to be built. When this parliament is brought into existence every colony will have to make a concession of some of its liberties.

Mr. GILLIES: No concession of liberties!

Mr. DIBBS: We are asked to create a federal parliament that will do all the work afterwards. We have a right to lay the foundation first, otherwise we shall create a federal Frankenstein. Before the people of New South Wales consent to create such a parliament they will want to know on what terms it is to be constituted, and what powers are to be given it. If we carry out the views of the hon. member, Sir Henry Parkes, and other hon. members who have spoken, we shall call the parliament into existence, and then it can do what it likes with regard to the various states.

Mr. GILLIES: We do not say that; quite the contrary!

Mr. DIBBS: That is the drift of what was said.

Sir HENRY PARKES: I said exactly the contrary!

Mr. DIBBS: All our business, the hon. member said, is to call into existence a federal parliament which will do all that is required. I do not believe that New South Wales will be prepared to call a federal parliament into existence on such terms.

Question—That the words proposed to be added be so added—put. The Committee divided:

Ayes, 9; noes, 28; majority, 19.

AYES.	
Atkinson, Sir Harry	Grey, Sir George
Cockburn, Dr.	Kingston, Mr.
Deakin, Mr.	Munro, Mr.
Dibbs, Mr.	Smith, Colonel
Gordon, Mr.	

NOES.	
Baker, Mr.	Griffith, Sir Samuel
Bird, Mr.	Hackett, Mr.
Bray, Sir John	Jennings, Sir Patrick
Brown, Mr.	Loton, Mr.
Clark, Mr.	Macdonald-Paterson, Mr.
Cuthbert, Mr.	Marmion, Mr.
Donaldson, Mr.	Moore, Mr.
Douglas, Mr. Adye	Parkes, Sir Henry
Downer, Sir John	Playford, Mr.
Fitzgerald, Mr.	Russell, Captain
Forrest, Mr. A.	Rutledge, Mr.
Forrest, Mr. J.	Suttor, Mr.
Fysh, Mr.	Wright, Mr.
Gillies, Mr.	Wrixon, Mr.

Question so resolved in the negative.

Clause, as read, agreed to.

Clause 26 (Provision for case of persons not allowed to vote).

Dr. COCKBURN: I think that some alteration is needed in this clause. As far as I can see, this clause, like clause 24, was framed with the idea that the house of representatives would be elected by the people, and that all the people, that is, those who are usually electors, should have a vote. The clause seems to have been framed with the idea of excluding only alien races, and it provides that a deduction shall be made in the number of representatives each state is to have on account of those races. It will be as well, therefore, to make a reduction on account of those of our own people who, by the negativing of my amendment in a former clause, will be precluded from exercising their votes. By negativing my amendment that each individual should have a vote in virtue of his manhood, we disfranchise a certain number of those who otherwise would have been electors. I ask the hon. member, Sir Samuel Griffith, whether it would not be fair to make a deduction here, and to strike off the number of the disfranchised persons from the population entitling each state to a certain number of representatives?

Sir SAMUEL GRIFFITH: In reply to the hon. member, I was about to say that if a clause like that were put in, it would have the effect of compelling Western Australia at once to do away with its property qualification—a very good result. But we have already agreed to give them four members in any case, so that it would not have that effect. The hon. member is quite logical. In the American Constitution it is provided in words somewhat similar to these that when the right of any free man 21 years of age is denied he shall not be counted in the number of the population. I recommend the Committee to pass the clause as it stands.

Clause agreed to.

Clause 29 (Periodical reapportionment).

Captain RUSSELL: There is no time prescribed in this clause as to when the apportionment shall be made. I think it is necessary to prescribe the time in order to avoid confusion. The clause says after each census, but that would not suit the case, because there might be an election before the apportionment could be made. In New Zealand a date has been fixed when the apportionment shall take place.

Sir SAMUEL GRIFFITH: When it ought to be made is as soon as possible. It will probably be about a year. It might be six months. We might be able to make it in three months.

Captain RUSSELL: I think it is three months in New Zealand!

Sir SAMUEL GRIFFITH: I am certain that the returns of the census could not be got in in Australia in three months.

Sir JOHN BRAY: Who is to make the apportionment?

Captain RUSSELL: We appoint commissioners in New Zealand!

Sir JOHN BRAY: I do not think it ought to be necessary to make a law to carry out these apportionments. It ought to be carried out in a simpler way than that.

Mr. CLARK: It would complicate the clause to do it!

Sir JOHN BRAY: We ought to do it. It may be that a whole session will pass before the apportionment takes place. I would ask the attention of the Constitutional Committee to this matter. We ought to provide that it shall be done as soon as possible after the census, and there ought to be some mode of doing it provided.

Mr. J. FORREST: There is no doubt that the smaller colonies will labour under a great disadvantage if they have to wait ten years before they get their proper representation. In the colony which I represent we shall have a larger representation in the

beginning than we are entitled to. But if the colony progresses, as we believe it will, great dissatisfaction will be expressed if we have to wait ten years before we get our proper proportion of representation. It is not likely that there will be another census throughout the empire for another ten years, so that it is rather a hard and fast line to draw. If, however, members representing the other colonies are satisfied, I am not prepared to propose an amendment.

Sir SAMUEL GRIFFITH: With reference to the suggestion of the hon. member, Sir John Bray, as to the mode of declaring the result of the census, that will be merely a ministerial function. The census will be officially taken, and will be made public. I agree that there ought to be some official mode of declaring it, and I would suggest that these words be inserted, "and shall be declared by the governor-general after each census."

Mr. BAKER: There are a few words in the American Constitution which would get over the difficulty pointed out by Sir Samuel Griffith, namely, that "the Convention may by proper legislation provide" for the matter. I believe the insertion of some such words would be the best way to meet the case. Undoubtedly the federal parliament will have to pass a law dealing with the subject. It is one of the first things that they will have to deal with. I think we had better leave the clause as it is.

Sir SAMUEL GRIFFITH: I will not move any amendment.

Clause agreed to.

Clause 32. The qualifications of a member of the house of representatives shall be as follows:—

(1.) He must be of the full age of twenty-one years, and must when elected be an elector entitled to vote in some state at the election of members of the house of representatives;

(2.) He must be either a natural born subject of the Queen, or a subject of the Queen naturalised by or under a law of the Parliament of Great Britain and Ireland, or of the parliament of one of the said colonies, or of the parliament of the commonwealth or of a state.

Mr. DEAKIN: Although the majority this morning took a contrary view, it appears to me that we should be only consistent if we inserted in the qualifications of a member of the house of representatives a parallel qualification to that which was affirmed by a large majority of the Committee in the case of a member of the senate. I think we should insert in this clause the words "and must have been for three years at the least a resident within the limits of the commonwealth." In the case of a member of the senate, it was five years, but I fancy that three years would suffice in the case of a member of the house of representatives. I therefore move:

That in line 5, after the word "representatives," the following words be inserted:—"and must have been for three years at least a resident within the limits of the commonwealth, as existing, at the time when he is elected."

Sir SAMUEL GRIFFITH: I hope this is not going to pass as a matter of course. Why should we limit the electors of the states in choosing their members in the federal parliament any more than in choosing their representatives in their own parliaments? What reason can be given for doing this except that we choose to do it. I confess I cannot see any argument at all in favour of the amendment, and I should like to hear one. If no argument is given I hope the amendment will be negatived. We shall not live always, and why should we put our dead hand upon the rights of the electors of the states which will exist after we are dead and gone? Surely they can be allowed to choose the men whom they like best. They will choose the men whom they know, though I believe a case occurred in New Zealand lately where the electors were glad to avail themselves of the services of a gentleman of large experience in the English Parliament who had just arrived there. Why should they not be allowed to elect such a representative here if they choose?

Mr. J. FORREST: It seems to be thought by some hon. members that no one is eligible as a member of the federal parliament unless he has had large experience in Australia; but the matters that will come before the house of representatives, or that come before any parliament, are not all local questions requiring local knowledge. There are many other questions that have to be considered, and we often find that men who have had no experience in Australia are very valuable members of parliament; at least, that is my opinion as the result of my small parliamentary experience. Although they are deficient in matters requiring local knowledge, in other matters their knowledge and experience is very valuable indeed. It seems to me that there is a marked difference between admitting as a member of parliament one of our own race and admitting a foreigner. Therefore, I would not at all object to put a restriction upon those who become naturalised, and who wish to enter parliament. I should not object if they were forced to live a number of years in Australia before they became eligible to be members of parliament. But it seems to me unfair, and altogether improper, to place a restriction upon one of our own race who chooses this part of the world as his home, and to say that he must remain so many years in the colony before he can take part in the federal government. If we did so, we might find the strange anomaly that a man who was occupying a distinguished position in the legislature of one of the states—it might be that of prime minister of one of them—was ineligible to be a member of the house of representatives. I hope this narrow and selfish view, if I may call it so without giving offence to any one, will not find any place in the bill. It seems to me that since we are only a small number of people—not more than 4,000,000, and occupying 3,000,000 or 4,000,000 square miles of territory—we should not say to our fellow-subjects in other parts of the world, "You can come to Australia; but, if you come here, you will be under disabilities, and you will not be able to take part in the government until you have resided here for five years if you wish to become a senator, or for three years if you wish to become a member of the house of representatives."

Question—That the words proposed to be inserted be so inserted—put. The Committee divided:

Ayes, 20; noes, 18; majority, 2.

AYES.

Baker, Mr.	Fysh, Mr.
Burgess, Mr.	Hackett, Mr.
Clark, Mr.	Loton, Mr.
Cockburn, Dr.	Macdonald-Paterson, Mr.
Cuthbert, Mr.	Moore, Mr.
Deakin, Mr.	Munro, Mr.
Dibbs, Mr.	Parkes, Sir Henry
Donaldson, Mr.	Rutledge, Mr.
Fitzgerald, Mr.	Smith, Colonel
Forrest, Mr. A.	Wrixon, Mr.

NOES.

Atkinson, Sir Harry	Grey, Sir George
Barton, Mr.	Griffith, Sir Samuel
Bird, Mr.	Jennings, Sir Patrick
Brown, Mr.	Kingston, Mr.
Douglas, Mr. Adye	Marmion, Mr.
Downer, Sir John	Playford, Mr.
Forrest, Mr. J.	Russell, Captain
Gillies, Mr.	Suttor, Mr.
Gordon, Mr.	Wright, Mr.

Question so resolved in the affirmative.

Mr. DEAKIN: There will naturally be a consequential amendment in the next part of the clause. My hon. colleague, Mr. Cuthbert, will move an amendment, in order that the provisions with regard to naturalised citizens may be the same as those with regard to other citizens.

Amendment (by Mr. CUTHBERT) agreed to:

That the following words be added to the clause:—"at least three years before he is elected."

Clause, as amended, agreed to.

Clause 37. The place of a member of the house of representatives shall become vacant if for one whole session of the parliament he, without permission of the house of representatives entered on its journals, fails to give his attendance in the house.

Mr. GORDON: I move as an amendment:

That the words "one whole," line 2, be omitted with a view to the insertion of the words "four consecutive weeks during a."

It appears to me that as members are to be paid £500 a year it is not right to allow a member the opportunity of nursing his seat during a whole session without the leave of the house, and in defiance, perhaps, of the wishes of his constituents.

Mr. DEAKIN: Surely four weeks is a little too short. A member who neglects his duties will certainly be brought to book by his constituents. I am in sympathy with the hon. member, but I would suggest that he should increase the period to eight or ten weeks.

Sir JOHN DOWNER: I entirely agree with the amendment. It appears to me that when a man is paid £500 a year he should not be absent from his duty for four weeks without giving some reason for it. Any reasonable explanation which he can give will always be accepted. That system has existed in the South Australian legislature for a long time.

Mr. FITZGERALD: This is really a very small matter. I hope the feeling which will actuate members of this highly responsible body will be such as to induce them not to be absent, and that consideration of pay will have no influence with them. I think the clause may be safely allowed to pass. We might very well trust that no member would be absent without good and sufficient reason. To tie a member down to two, three, or five weeks, appears to me to be a reflection upon the character of this future parliament which is unworthy of the Convention.

Mr. MUNRO: It appears to me that hon. members wish to make an exception in regard to members of one chamber, and not of another. Surely, if the representatives who have not to go to the trouble and expense of an election are to be allowed to remain away a whole session, without being interfered with, it is not fair play to those who have to go to the trouble and expense of an election, to declare their seats vacant, if they are absent for a month.

Mr. GILLIES: It is state rights!

Mr. MUNRO: Well, it is personal wrongs.

Sir SAMUEL GRIFFITH: I should like to know whether this provision is in force in any parliament in the world?

Mr. PLAYFORD: Yes, in South Australia!

Mr. GILLIES: That is the most exceptional country in the world!

Sir SAMUEL GRIFFITH: I remember that a session of parliament was once called in Queensland. Two members were absent the whole of the session, and of course they lost their seats. They never heard of the session until after parliament had been prorogued, although they were in the country. That may happen in this instance. Who knows but that a session may be held, and a member may be away at the other end of the world, and who is to say that parliament will give him leave of absence? Let his constituents deal with him.

Sir HARRY ATKINSON: I shall vote for the limited time, but with the view of recommitting clause 19, and putting the same restriction in that.

Dr. COCKBURN: I shall vote for the excision of these words, for I think that a whole session is far too long a period for a member to be absent. On the other hand, in voting for the excision of these words, I do not bind myself to vote for four weeks, which I think is rather too short. I think that we might very well say two months. I hope that my hon. friend, Mr. Gordon, will accept this suggestion.

Mr. BAKER: Either eight or four weeks might be longer than a session. Parliament might be suddenly called together, and the session might not last a week and as the hon. and learned member, Sir Samuel Griffith, pointed out, some members might never have heard of it.

Amendment negatived; clause, as read, agreed to.

Clause 38. Upon the happening of a vacancy in the house of representatives, the speaker shall, upon a resolution of the house, issue his writ for the election of a new member.

In the case of a vacancy by death or resignation happening when the parliament is not in session, or during an adjournment of the house for a period of which a part longer than seven days is unexpired, the speaker, or if there is no speaker, or he is absent from the commonwealth, the governor-general shall issue or cause to be issued, a writ without such resolution.

Dr. COCKBURN: I would ask the hon. and learned member, Sir Samuel Griffith, what is the meaning of the words "upon a resolution of the house"? It seems to me that that is unnecessary. I think the fact of a vacancy occurring should, without any intervention of a distinct resolution, cause the speaker or the president, as the case might be, to issue a writ for a fresh election. I think that any delay in this matter might be very serious to the smaller states, who have only a small number of representatives, and, without liking to suggest that party considerations or state rights considerations might interfere so as to delay a resolution, I would suggest that it would be better to strike out those words, and, as I know is the case in South Australia, and, I believe elsewhere, let the speaker, directly a vacancy occurs, proclaim it, and issue a writ for a fresh election. I do not think it is well that any unnecessary delay should occur even in regard to our state legislatures; and it is all the more necessary that no delay should occur in the case of members of the house of representatives, who would have a double duty to perform—to look after not only the people of Australia as a whole, but also to a certain extent the special privileges and rights of the states they represent. I move:

That the clause be amended by the omission of the words "upon a resolution of the house," lines 2 and 3.

Sir SAMUEL GRIFFITH: I would point out to my hon. friend that he has omitted to consider that vacancies in the house might occur by a great many means, and that there must be some judge as to whether the vacancies have occurred. It is provided, for instance, in clause 44:

If any question arises respecting the qualification of a member, or a vacancy in the house of representatives, the same shall be heard and determined by the house of representatives.

If those words were left out the speaker would be the judge. Some one might come and tell him, "So-and-so has become insolvent"; that might or might not be true. Some one might tell him, "So-and-so has become a government contractor." How is the speaker to know whether that is true or not?

Mr. FYSH: That would be a very awkward question for the house to decide!

Sir SAMUEL GRIFFITH: If a member had either taken the oath of allegiance to a foreign power or had been convicted of a crime, how would the speaker know that?

Mr. GILLIES: What is the meaning of the words, "upon the happening of a vacancy"?

Sir SAMUEL GRIFFITH: Whenever the seat of a member becomes vacant.

Mr. GILLIES: Who is to determine it?

Sir SAMUEL GRIFFITH: The house.

Mr. MUNRO: That would not do!

Sir SAMUEL GRIFFITH: Is the hon. member aware that every constitution provides for it? The stereotyped words are, "Upon a resolution of the house declaring such vacancy." When a member of the house becomes either a government contractor or a bankrupt, does the speaker exercise the power of declaring that member's seat vacant? I have known

instances where serious questions have arisen as to whether the writ should or should not be issued—in cases of bankruptcy, for instance. Suppose a man is adjudged a bankrupt, and lodges an appeal against the adjudication, would not the house, under those circumstances, decline to issue the writ until it knew the result of the appeal? Of course it would. Some one must exercise that discretion, and it cannot be left to the speaker. In every parliament of which I know this is the practice.

Dr. COCKBURN: The exceptional cases that the hon. and learned member mentions—such as members becoming government contractors—are already provided for in clause 48, where it is laid down that in those cases either the senate or the house of representatives are to be the judges. I take it that this clause applies more to vacancies such as those caused by death.

Sir SAMUEL GRIFFITH: No!

Dr. COCKBURN: In clause 44 it is laid down that where the question respecting the qualification of a member, or a vacancy in the house of representatives, is debatable at all, it is to be determined by the house of representatives. I think that in all cases where the fact of a vacancy can be called in question there should be an adjudication either by some tribunal of justice or by some resolution of the house. But in the case of a vacancy occurring in consequence of death, it is not necessary to declare the vacancy by a resolution. I am speaking of the time when the house is in session, and legislation is in active operation.

Mr. FITZGERALD: No harm, then!

Dr. COCKBURN: There might be harm. One vote might make all the difference; and there might be a certainty that when the vacancy was filled up it would be known on which side the vote would be given; and that might make all the difference in the world. I say, leave it to the speaker to act on his own motion, and not on a resolution which might be brought forward for party purposes; and we know very often that party feeling does run very high.

Mr. FITZGERALD: How would it be when the facts were disputed?

Dr. COCKBURN: Where there is any dispute, it would be governed by clause 44. I think it is a mistake to retain the words to which I object; but, if the feeling of hon. members is against me, I do not wish to occupy their time. I think the words are superfluous, and it would be better if they were left out. But, although I have moved that they be struck out, I will not divide the Committee on the question.

Mr. DONALDSON: I think there is a great deal of force in the contention of the hon. gentleman. There will be large constituencies represented in the federal parliament, and it will take a considerable time before a member can be returned, and several more days might elapse before he could attend in his place in parliament, and during that time very important questions might be hanging in the balance. I do not believe in any state being practically disfranchised through not having an opportunity of returning a member in a case where he would lose his seat through insolvency, or perhaps through treason, or through being convicted of an infamous crime. All these disqualifications are provided for in clause 44, and I do not think there can be the slightest objection to provide for them in this clause; in fact, I think there can be no doubt that words should be added to the clause to provide for a case in which a man is convicted of either treason or an infamous crime. I can understand that when a man either resigns or dies the speaker has power to issue a writ to have the vacancy filled; but I know that in Queensland, in a case of insolvency, a vacancy once existed for some time after the meeting of the House. It was reported to the House early in the session, of course, but before the writ was issued and returned some three or four weeks elapsed, and I believe that a longer period than that will be required in connection with the federal parliament. I have no strong feeling on the point, but I believe we would be acting fairly by inserting these other provisions in the clause.

Amendment negatived; clause, as read, agreed to.

Clause 41. Every house of representatives shall continue for three years from the day appointed for the return of the writs for choosing the house and no longer, subject nevertheless to be sooner dissolved by the governor-general.

Sir JOHN BRAY: I would ask Sir Samuel Griffith if he has considered the practice in the different colonies at the present time in regard to the duration of parliaments? In South Australia the practice is that the house shall last three years from the date of its first meeting.

Sir SAMUEL GRIFFITH: The committee considered the matter carefully!

Sir JOHN BRAY: I am not going to propose an amendment, if the matter was fairly considered by the committee; but it seems to me that it might be rather inconvenient to fix the period of three years from the date of the return of the writs.

Mr. MACDONALD-PATERSON: There might be three or four batches of writs!

Sir JOHN BRAY: Exactly. The writs are not necessarily all returned on the same day. The electoral laws of the different colonies will remain in force, and in some instances there is a difference of three or four weeks in the return of the writs.

Mr. DONALDSON: That is so in Queensland!

Sir JOHN BRAY: It would, therefore, be absurd to fix the date as that appointed for the return of the writs. I think it should be three years from the first meeting of the parliament, and in order to test the feeling of the Convention on the question, I beg to move, as an amendment:

That after the words "for the," line 2, the words "first meeting" be inserted with the view of striking out other words.

Sir SAMUEL GRIFFITH: The hon. gentleman asked whether the committee considered this question. They did consider it, and they thought that if they adopted the suggestion just made the effect would be, in very many instances, to give members of parliament a longer life than three years. We considered that a member of parliament should be a member of parliament as soon as he was elected; he must then, or very soon afterwards, make his arrangements for the meeting of parliament.

Mr. MUNRO: Does this bill provide that he shall be paid from the day of his election?

Sir SAMUEL GRIFFITH: It means that as it stands. If we provide that the three years shall date from the meeting of parliament, and parliament does not meet for a considerable time after the election—and a month or possibly three months might intervene—we shall practically be giving the members a longer life than three years, and we did not desire to frame a bill which would enable a man to be a member of parliament for more than three years. As to this particular phrase, it was taken from the English Constitution. The practice in England has been that when the House of Commons is dissolved, the *Gazette* which contains the proclamation, or one issued concurrently, also contains a proclamation summoning a parliament to meet on a given day, and all the writs are appointed to be returned on that day.

Mr. DONALDSON: That has not been done in Queensland!

Sir SAMUEL GRIFFITH: It has not until lately been the practice in Queensland; but it has been the custom in England. The time required there is very short, and probably it would not make very much difference; but the meeting of parliament might be postponed beyond the day for which it was first summoned. I have known that to happen before now, and it may happen frequently again. Taking all these matters into consideration, we thought it best to adopt

the proposal in this clause, and in doing so we followed the old established form, the meaning of which has been ascertained by long practice, and one advantage of which is that it always secures a dissolution before the last day. There being some doubt in the matter, we though it wiser to adhere to the old form.

Sir JOHN BRAY: I am very glad to hear that the committee considered the point, although I think they arrived at a very unwise decision. The hon. gentleman who last spoke is mistaken in what I take to be the drift of all parliaments. No parliament lives out the full term of its existence. It is always dissolved before it actually expires, and so it would be in this case. The practice almost invariably is for the the house to be dissolved, and a new house elected, before the expiration of the three years, the object being that there shall always be a parliament in existence. The intention is not that the members shall be elected for three years, but that they shall absolutely serve for three years, and the three years ought, for the sake of convenience, to date from the first meeting of parliament; at any rate, we ought to ensure that all the members shall be elected for the same term, and that one member's time shall not expire three or four weeks before the term of another member, as might be he case under this clause.

Sir SAMUEL GRIFFITH: No!

Sir JOHN BRAY: I think so, because the date appointed for the return of the writs is not necessarily the same in every district.

Sir SAMUEL GRIFFITH: The clause does not say that each member shall sit for three years, but that the house shall endure for that time!

Sir JOHN BRAY: But the house consists of members. At any rate, the operation of the clause is not very clear, and I would ask hon. members to agree to the amendment I have proposed.

Mr. BAKER: The hon. member, Sir Samuel Griffith, says that this clause is not intended to fix the term for which members of the house shall hold office, but to fix the duration of the house itself; but there can be no house without members. If the writs are returned at different dates, members of parliament will hold office for different periods.

Sir SAMUEL GRIFFITH: No!

Mr. BAKER: That is how it strikes me. If the writ of one member is returned three weeks before that of another, the first man will be a member of parliament for three weeks longer than the other.

Mr. BARTON: The writs are appointed to be returned on the one day!

Mr. WRIXON: I must say that the amendment of the hon. member, Sir John Bray, commends itself to my mind. Until parliament meets, and the members present themselves, you do not really know who is a member of parliament and who is not. Up to that time a man is only returned to serve in parliament, and it may be that he will not take the oath when he presents himself at the table, or it may be that he is disqualified, and, therefore, until the house meets, and the members take the oath, and qualify themselves, you do not know who are members of parliament and who are not. It seems to me, therefore, that you have one uniform date at which you know those who really are members of parliament when you start from the first meeting of parliament. But if the day of the return of the writs is uncertain, you will not know who are members of parliament until they are actually sworn in.

Mr. FITZGERALD: I apprehend that all candidates who are returned are members of parliament, and are entitled to all the privileges of the position. If they refuse to take the oath or commit any act which deprives them of the right of membership, they divest themselves of those privileges quite as much as they would by resignation; but until that happens they are members. But the point is that no period is mentioned within which parliament must be summoned after the date of the return of writs. According to the clause the governor, acting under the advice of his executive council, may take no action for nine months, and persons may be members of parliament for nine, or possibly ten, months before parliament is convened. I submit to the consideration of the Convention whether some limit should not be provided in the clause within which it should be compulsory to call parliament together, even if it were only to have an adjournment immediately afterwards. In that case the roll would be called, members would take their seats, and it would be known who were the members. I intended, if the amendment of the hon. member, Sir John Bray, had been adopted, to ask the Convention to assent to the insertion of these words, "The meeting of parliament, which shall be summoned within a period of not longer than two months from the date of the return of such writs." I do not know whether this point was considered by the Constitutional Committee, but if it was, perhaps the hon. member, Sir Samuel Griffith, will be kind enough to give us some reasons why no reference is made to it at all in the clause?

Sir SAMUEL GRIFFITH: I shall endeavour, if I can make myself heard, to answer my hon. friend's question. I have in my hand the Constitution of New South Wales. It originally provided that

> every legislative assembly of the said colony hereafter to be summoned and chosen shall continue for five years from the day of the return of the writs for choosing the same and no longer subject nevertheless to be sooner prorogued or dissolved by the governor of the said colony.

That provision was amended by what is called the Triennial Parliaments Act, which uses exactly the same language:

> shall continue for three years from the day of the return of the writs.

And the Electoral Act—a later act—contains this provision:

> The day to be fixed for the meeting of parliament after the return of writs for general election shall not be later than the seventh clear day after the date on which such writs shall have been made returnable.

It is assumed, it will be observed in the clause, that the English practice is observed, that all the writs are returnable on one day.

Sir JOHN BRAY: That is not the practice in all the colonies!

Sir SAMUEL GRIFFITH: No, because we have drifted, unfortunately, into another practice, and the return of the writs has been treated in many of the colonies—in Queensland for a long time until lately—as something quite different from the meeting of parliament. The theory is that the writs are all returned to the Queen at Westminster on the same day, the members bringing them themselves, and that parliament is then constituted. That practice has been departed from in the colonies, and I think several make the writs returnable as soon as possible after the elections. It is simply an accident arising from want of sufficient familiarity with the Constitution they were following. I agree with the hon. member, Mr. Fitzgerald, that a day ought to be fixed for the meeting of parliament. I would suggest the adoption of the provision in the New South Wales Electoral Act.

Mr. FITZGERALD: Seven days might be too short!

Sir SAMUEL GRIFFITH: Whatever time it is, it ought not to be long.

Mr. FITZGERALD: I should suggest thirty days!

The CHAIRMAN: I would ask hon. members to dispose of one amendment before they suggest another.

Sir SAMUEL GRIFFITH: I was addressing myself to the amendment before the Committee, and giving reasons why it is more convenient to pass the clause as it is, agreeing that a subsequent provision be put in to the effect suggested by the hon. member, Mr. Fitzgerald.

Mr. GILLIES: I would like to draw attention to the fact that it may be very inconvenient for a government to be tied down to meet parliament within a certain period after the election. We have known cases in which that would have been extremely inconvenient. We have known, I suppose, in all the colonies, that it has been advisable to allow some time to elapse after the election has taken place.

Colonel SMITH: We want to stop that!

Mr. GILLIES: It is provided in every colony that parliament shall be elected for a certain period, and shall expire at a certain period. Let me give an illustration, which is not solitary to Victoria. The Parliament of Victoria will expire next February, the election will take place very shortly after the dissolution, probably in March, and if you are going to insist that it shall meet within thirty or forty days, Parliament will be called together in April.

Colonel SMITH: The hon. member did that himself after the last election!

Mr. GILLIES: It might be extremely inadvisable to meet at that time, and it might be advisable that the meeting should be postponed. It has not up to the present time been determined that parliament shall be absolutely called upon to meet at any particular period, except on the determination of the governor-in-council, who will call parliament together, and who will be responsible. With reference to the determination of the question as to when the duration of parliament should begin, it has been set out in numerous cases as the time when parliament is called together. The provision in our act runs in this way:

> The present and every future legislative assembly shall exist, and continue for three years from the day of the first meeting thereof, and no longer, subject, nevertheless, to be sooner dissolved by the Governor.

I believe that provision is also contained in the Constitution of New South Wales.

Sir SAMUEL GRIFFITH: No; I read the provision in the New South Wales Constitution!

Sir JOHN BRAY: It is in the South Australian Constitution!

Mr. GILLIES: Of course, in the different colonies, the return of writs has been sometimes settled differently. The return of writs in cities is generally shorter than anywhere else. The return of writs for towns, and portions of surrounding districts, is a little longer, and then the return of writs for very large agricultural areas is longer still.

Sir SAMUEL GRIFFITH: That is because people blunder!

Mr. GILLIES: That is an assumption on the part of the hon. member which I think is wholly unwarranted. We are speaking of the experience of legislation for the last thirty years, and to say that it is a blunder is in my judgment quite an error.

Sir HENRY PARKES: The practice in New South Wales at a general election is to make all the writs returnable on the same day!

Mr. GILLIES: That is not the case in some of the other colonies. What we are considering now is the question whether it is desirable to fix the term of three years for which the parliament will exist from the time at which it meets? That is the question. The writs may be returned in one month and parliament may not meet until three months afterwards. Under the provisions contained in some of our constitutions a time is fixed for the meeting of parliament.

Sir HENRY PARKES: In New South Wales the writs are returnable, in case of a general election, on one day, and Parliament must be convened within seven days!

Mr. GILLIES: That is very true; but that provision is not made in a number of local acts.

Sir HENRY PARKES: It is made in the New South Wales Electoral Act!

Mr. GILLIES: What we have to consider is the most convenient way. The principle is that parliament is to exist for three years. Does parliament in reality exist for three years if it be elected on say the 1st March, if return of writs be due at the end of March, and it meets seven days afterwards? As I have pointed out, it is frequently not advisable for parliament to be called together within seven days of the return of writs. As a matter of fact, several of the colonies do not have their parliaments meeting at that time, and it appears to me that the proper time from which to date is when the governor-in-council requires parliament to meet—that is, that the term of the existence of the parliament should be three years from the day of meeting, not earlier. The parliament would then exist three years from the commencement of business, and that appears to me to be a fair and correct way of looking at the question. I think the Convention would do well to adopt that view. If parliament is to exist for three years, it is in reality called upon to exist for three years from the time of its meeting.

Sir JOHN DOWNER: I think the hon. member, Sir Samuel Griffith, and the hon. member, Sir John Bray, are aiming at one and the same thing, although each hon. member has a different way of putting the matter. As the hon. member, Sir Samuel Griffith, pointed out, really the writs are returnable on the day parliament meets, and members are expected themselves to return them. We, however, have got into a different usage. We preserve the constitutional words in some cases, but we have departed from the constitutional usage. In South Australia we have used words not to meet the old constitutional principle, but to meet the modern usage, and it is proposed now to return to the old words, which admit of a different interpretation. Surely the shorter way would be to put the clause in the form suggested—from the day of meeting. The hon. member, Sir Samuel Griffith, has shown that strictly and constitutionally the day of meeting and the day of return of writ mean the same thing. If they mean and should be the same thing, why not say so?

Dr. COCKBURN: I think it is a bad thing to give to a parliament power to prolong its own life, and yet if we adopted the suggestion of the hon. member, Mr. Gillies, and made the parliament exist for three years from the date of its first meeting, we should practically give it that power. A ministry might find it extremely inadvisable to call parliament together soon after a general election. They might, representing a majority of the lower house, postpone the day of meeting for almost a year. They could not go beyond that time, because the constitution provides that not more than twelve months shall elapse between the first day of a session and the last day of the preceding session. A ministry, however, would have it in its power to prolong the life of a parliament considerably.

Mr. FITZGERALD: And the ministry might, after a general election, be in a minority!

Dr. COCKBURN: That would be still worse than the case I have already put. In any case, it would be a bad course to give the ministry such a power. I think some provision should be made that the writs be returned within a certain time after a general election.

Mr. FITZGERALD: Or that parliament should meet—that is the point!

Dr. COCKBURN: It does not matter much which—it comes to the same thing.

Sir SAMUEL GRIFFITH: I suggest that it would be convenient to at once settle the question whether the day appointed for the return of writs should be the date, or whether the day of meeting should be the date. To leave the question vague and uncertain as to when parliament should meet is, I admit, a most dangerous thing. The period of the existence of the parliament becomes uncertain if it is to date from the date of the meeting. The object of the hon. member, Sir John Bray, is to fix the period from which the three years is to date. I want not only to fix that,

but to make the period not more than three years. The hon. member secures one part of the object, and makes the term absolutely definite from which to count the three years, but he leaves the actual duration uncertain and indefinite. The hon. member is definite in form, but not in substance.

Sir HENRY PARKES: I think that unless some definite provision is made we shall leave matters in a somewhat dangerous position. I think I am quite justified in stating a case that occurred in this colony, and which led to the present restriction in the electoral law. A government in former years in New South Wales dissolved parliament. In the general election it was decisively defeated, but it nevertheless kept parliament from meeting, if I remember aright, for a period of six weeks, and just before it met tendered its own resignation, so that after the defeat had actually taken place at the polls, this particular government to which I now allude actually kept the new parliament from meeting for a long period. That is the circumcumstance which led to the provision in our present electoral law—that parliament must be convened within seven days from the return of the writs. It seems to me that it would be possible for men to do exactly the same thing in the federal parliament if the provision stands as now proposed, and I should think it would be better to fix a period for the final return of the writs, and to insert a provision similar to that in our electoral law—at all events, it can do no harm—that the government must call parliament together within seven days of their return. In our case the provision has been found to work extremely well.

Mr. PLAYFORD: If that provision be inserted it does not matter whether we fix the date of the commencement of the life of the parliament at the return of the writs or at the meeting of parliament, because both must take place within seven days of each other. All we want to do is to fix a date at which the life of parliament shall commence. I think if we adopt the proposal of the hon. member, Sir Henry Parkes, it will meet the case. It is immaterial, however, whether we make the date that of the return of the writ or that of the day of meeting, if only seven days can elapse between the two things.

Mr. GILLIES: Can all the writs be returned at the same time?

Mr. PLAYFORD: I think a time can be fixed at which the writs can be returned from all parts of the colonies, because the date of return, if fixed intelligently, would be some considerable time after the actual election. Some hon. members seem to have confused the date of the election and of the return of the writs as if they occurred at the same time. They do nothing of the sort. The return of the writs may be subsequent to it, and may vary in time and date. In our colony we have the writs returned at different dates. In other colonies they have them returned on one day. The old constitutional form in England is to have them all returned on one day; and it was intended by the committee that they should be returned on one day. This does not refer to the mere election of members. Therefore, there will be plenty of time on the return of the writs for members to be present, and a date should be fixed for parliament to meet after the return of the writs. For the reasons given by Sir Henry Parkes, I think we should adopt the words which are contained in the New South Wales Electoral Act.

Mr. MUNRO: The difficulty is the difference between the territory of New South Wales or any other colony and the very large area of territory which this bill has to deal with. If there had been a contested election in East Kimberley, the member for that district could not have been present at the meeting of parliament within seven days after the return of the writ. The question is, what time should be fixed? Are we going to fix the time for the expiration of parliament at three years after the date of the return of the writs? I assume that all the colonies will come into the confederation in the course of time. Just imagine what might happen if parliament had to meet seven days after the return of the writs from New Zealand! A steamer might break down, or there might be a storm, and the government might be turned out of office owing to the non-arrival of their supporters from New Zealand. We must fix some time from which the three years are to begin; and I think the proper time is the meeting of parliament.

Colonel SMITH: We will fix a time for the return of the writs!

Mr. MUNRO: The hon. member is only thinking of Victoria, where all the writs could be returned in forty-eight hours; but for the whole territory of Australia we must allow a reasonable time.

An HON. MEMBER: What is reasonable time?

Mr. MUNRO: It is for those who have to travel over the territory to say. I think that the proper time to fix for counting the three years would be the date of the meeting of parliament.

Sir SAMUEL GRIFFITH: There is evidently some confusion still in the minds of hon. members. For instance, the hon. member, Mr. Munro, says it will take a long time for members to come from the different places to the parliament; but surely the members can come as fast as the writs can come. The question is not of the actual return of the writs, but the date on which the writs are directed to be returned. When parliament is dissolved the day is named. An hon. member has been talking of the day appointed for the return of the writs as if it was the day on which the pieces of paper were actually received. It is nothing of the kind. When parliament is dissolved, and the writs are issued, a day is fixed on which the writs are to be in, and if we adhere to the English practice it will be the day already named for the meeting of parliament. According to the English practice, there is always a parliament either summoned or prorogued. Coincident with the dissolution of the old parliament is the proclamation calling the new parliament.

An HON. MEMBER: We have departed from that!

Sir SAMUEL GRIFFITH: I know; but is every departure that is made from the English Constitution to be regarded as the English Constitution? In the minds of some hon. gentlemen every departure made in their own colony, perhaps by inadvertence, from the English Constitution is regarded as the essence of the Constitution.

An HON. MEMBER: It is an improvement!

Sir SAMUEL GRIFFITH: How is it an improvement? Some hon. members have spoken as if the date for the return of the writs was the date of the physical receipt by post. That is not the case. There is no difficulty whatever. A date must be fixed in the first instance before the writs are issued. It must be one day, and that is the day from which the three years count. That is fixed at the date of the dissolution.

Sir JOHN BRAY: I do not see why, when we have a practice in vogue in several of the colonies which we understand, by which the term of the parliament is fixed from the first meeting of parliament, we should go back to a practice fixed 200 years ago in England. If we have a practice that works well, we should adhere to it. It seems to me that we should have a fixed time for the meeting of parliament, and the idea is that the house of representatives shall not continue to exercise its powers for more than three years. If we adopt the amendment I suggest, fixing three years from the time of meeting, the parliament cannot do anything after that term. They cannot exercise any legislative powers before they meet.

Sir SAMUEL GRIFFITH: They can draw their salaries!

Sir JOHN BRAY: I think it is quite right that they should; but I think it is right, as the hon. member, Mr. Fitzgerald, says, that no government should be allowed to put off indefinitely the meeting of parliament. Seven days would be too short a limit, and

we might make it thirty days. I would ask the Committee to say what we mean. Let us have a fixed time from which the house of representatives shall count its three years, and let that time be the date of its first meeting. It is all very well to say that the date fixed for the return of the writs is not the date; but let us say what we mean. The date for the return of writs might be put off indefinitely by some ministry. I ask the Convention to say plainly that parliament shall not exercise its powers for more than three years, and after a parliament has met on a certain day, unless it is sooner dissolved, it should cease to exist three years after that day, and parliament should be called together within a certain time after the last writ has been returned.

Sir HENRY PARKES: I am very unwilling to refer to anything done in the colony which I represent, and I only do so now because what I am about to refer to seems to me singularly in point. In the Electoral Act under which we now live, for which I am personally responsible, there are several restrictions. First of all, it is provided that for a general election the writs shall be issued within two days. That restriction arose from an abuse of the law, that is, from an unnecessary delay in the issue of the writs. Our present Electoral Act provides that such writs shall in every case be made returnable on a day not later than the thirty-fifth clear day after the date of the issue thereof. In the first place, it is rendered impossible for the government for the time-being to delay the issue of the writs, and, in the second place, it is rendered impossible to delay the fixing of the date of the return of the writs beyond a reasonable term. Then it is distinctly provided that the date fixed for the meeting of Parliament after the return of the writs shall not be later than the seventh clear day after the date of such return, so that under our law it would be utterly impossible for the government in office to tamper in any way with the Parliament. They must issue the writs; they must make the writs returnable within a given time, and they must convene Parliament within seven days. All these restrictions arose out of actual abuse of the law, that is, delay in issuing the writs, delay in making them returnable, and delay amounting to a long time in calling Parliament together. It appears to me that Sir John Bray's amendment would leave this power in the hands of the executive government still; they could delay calling parliament together unless we had some provision that they should call parliament together not within seven days, but within fourteen or twenty-one days, or whatever may be deemed a sufficient time for the larger constituency. I think we shall make a great mistake if we do not fix the law so definitely as not to leave anything in the hands of the executive for the time-being, which can be so manipulated as to delay the convening of the new parliament.

Question—That the words proposed to be inserted be so inserted—put. The Committee divided:

Ayes, 18; noes, 17; majority, 1.

Ayes.	
Atkinson, Sir Harry	Kingston, Mr.
Bray, Sir John	Marmion, Mr.
Brown, Mr.	Moore, Mr.
Burgess, Mr.	Munro, Mr.
Donaldson, Mr.	Russell, Captain
Fitzgerald, Mr.	Rutledge, Mr.
Forrest, Mr. J.	Smith, Colonel
Gillies, Mr.	Wright, Mr.
Grey, Sir George	Wrixon, Mr.
Noes.	
Baker, Mr.	Forrest, Mr. A.
Barton, Mr.	Fysh, Mr.
Bird, Mr.	Griffith, Sir Samuel
Clark, Mr.	Jennings, Sir Patrick
Cockburn, Dr.	Loton, Mr.
Deakin, Mr.	Parkes, Sir Henry
Dibbs, Mr.	Playford, Mr.
Douglas, Mr. Adye	Suttor, Mr.
Downer, Sir John	

Question so resolved in the affirmative.

Amendment (by Sir JOHN BRAY) agreed to:

That the words "return of the writs for choosing" be omitted.

Amendment (by Sir JOHN BRAY) proposed:

That the following words be added to the clause:—"The parliament shall be called together not later than thirty days after the day appointed for the return of the writs for a general election."

Sir SAMUEL GRIFFITH: I would suggest to my hon. friend that thirty days is too long a time. He still seems to think that the duration of the parliament dates from the time when the writs come in, instead of from the time at which the writs are returnable. This you may make as distant as you like.

Sir HENRY PARKES: Thirty days is too long!

Sir SAMUEL GRIFFITH: I believe seven days is enough.

Dr. COCKBURN: The clause has now really returned to its original form—that is to say, the time of the return of the writs is still practically the date from which the duration of the parliament is to be reckoned, and we are far from the position pointed out by the President, of taking out of the hands of the government the power to prolong the life of the parliament by delaying the return of the writs. As the hon. member, Sir Samuel Griffith, has said, the writs may be made returnable at as distant a day as you like. Parliament is to meet within thirty days from that time, and the life of the parliament is to date from its first meeting, so that we have not yet attained the object at which we are driving. I would ask the hon. member to amend his amendment by striking out the words "for the return of the writs."

Mr. PLAYFORD: I think that as far as this matter is concerned we need not try to frame an electoral law. No doubt the commonwealth parliament will do that, and will meet the contingency pointed out by the President. All that we want to do is to fix the date at which the federal parliament will begin its work, and having done that the parliament will no doubt make all the necessary provisions with regard to the electoral laws very shortly after they meet. We are simply wasting our time now.

Amendment agreed to; clause, as amended, agreed to.

Clause 43 (Continuance of existing election laws until the parliament otherwise provides).

Mr. BARTON: I think there is too much verbiage in this clause. It reads:

The manner of conducting elections for the more numerous house of the parliament, the proceedings at such elections, the oaths to be taken by voters, the returning officers, their powers and duties, the periods during which elections may be continued, the execution of new writs in case of places vacated otherwise than by dissolution, and offences against the laws regulating such elections . . . . . .

I think the words "elections for the more numerous house of the parliament" would be quite sufficient. We need not go into the proceedings at elections and so forth, because if we use the word "elections" it covers all that.

Sir SAMUEL GRIFFITH: If the hon. member's suggestion were adopted the whole of the existing electoral laws would be incorporated. The clause is intended to be a selection of the provisions of the electoral laws which might fairly be incorporated, that is, as to the manner of conducting elections, the proceedings at them, the oaths to be taken by voters, the powers and duties of the returning-officer, the periods during which elections may be continued, the execution of new writs in cases of places vacated otherwise than by dissolution, and offences against the laws regulating such elections. If the hon. member's suggestion were adopted, however, the clause might as well read, "The laws in force in the several states regulating" such elections shall apply. I know that the matters referred to in the clause must be provided for; but what else there may be in the several electoral laws I do not know.

Mr. WRIXON: I venture to suggest that it will be better to refer these mere drafting points to the hon. member in charge of the bill. The whole time of hon. members who are kept here away from their business is taken up in considering points of drafting. Only one man can properly draft a bill, and I know that it is a most risky thing to consider amendments in the verbiage at the table. I think these suggestions should be sent to the hon. member in charge of the bill, as otherwise we shall be kept here interminably.

Sir SAMUEL GRIFFITH: I do not at all agree with the hon. member, Mr. Wrixon, that this is a matter of drafting; it is a substantial provision.

Clause agreed to.

Clause 45. Each member of the senate and house of representatives shall receive an annual allowance for his services, the amount of which shall be fixed by the parliament from time to time. Until other provision is made in that behalf by the parliament the amount of such annual allowance shall be five hundred pounds.

Mr. WRIXON: I am not going to violate my own rule, and raise a point on the drafting here, except to suggest to the hon. member in charge of the bill that the wording is not, I think, the best that could be adopted. I think that to describe the payment mentioned in the clause as an allowance for services is a misdescription. It is really an allowance for the reimbursement of expenses.

Mr. CLARK: We argued that out in committee!

Mr. WRIXON: I should prefer to see the wording which is used in some of the statutes of those colonies which have adopted payment of members, namely, that it should be put as the reimbursement of expenses, because otherwise you get into the public mind the idea that members of parliament are actually paid a salary for their work, which they are not.

Mr. MARMION: I do not see why these words "for their services" should be included at all. Why not say that each member of the senate, and of the house of representatives, shall receive an annual allowance? I move as an amendment:

That the words "for his services," line 2, be omitted.

Mr. GILLIES: I beg to move:

That the Chairman report progress, and ask leave to sit again to-morrow.

If hon. members will take the opportunity of looking at the laws in the several colonies, with reference to the payment of members, they will find that a series of provisions ought to be inserted in the bill which are not inserted. If they look at the New South Wales act, they will find provisions which take into consideration the salaries that are paid to ministers, to officials, and so on. Some provision is required in order to guard against officials being paid double. When a member of parliament becomes a minister of the Crown, the amount he was previously paid as a member of parliament lapses. There is no provision of that kind in the clauses of this bill. It is not at present contemplated in this bill to make any other provision than the bald provision already made, Surely it is not contemplated that in the event of a member of parliament who was being paid £500 a year accepting office, he is to receive his salary as a minister of the Crown plus his salary as a member of parliament. We have to consider these questions in a rational manner; and to settle a matter of this kind without consideration is not likely to commend it to our own judgment, and certainly not to the judgment of the public.

Sir SAMUEL GRIFFITH: I certainly think that we have done as much work as we are likely to do well to-day, and I doubt very much whether the Committee is prepared to give proper attention to further work to-night. I should like to say a word or two in reference to what the hon. member, Mr. Gillies, has stated in regard to the absence of provision on matters of detail. The omission was intentional so far as the drafting committee was concerned, because we thought it was not our business to encumber the constitution with matters of detail. One of the first things to be done by the parliament of the commonwealth in its first session would be to settle the salaries of ministers, and a great number of other matters of that kind. We have, therefore, given them power to deal with this subject. We did not think it necessary to make this in any sense a payment of members bill. We lay down, however, the principle that they are to receive an annual allowance for their services, and we thought that it should start in the first instance at £500.

Motion agreed to; progress reported.

Convention adjourned at 6·33 p.m.

FRIDAY, 3 APRIL, 1891.

Commonwealth of Australia Bill—Adjournment.

The PRESIDENT took the chair at 11 a.m.

COMMONWEALTH OF AUSTRALIA BILL.

In Committee (consideration resumed from 2nd April):

CHAPTER I.—THE LEGISLATURE.

Part IV.—Provisions relating to both Houses.

Clause 45. Each member of the senate and house of representatives shall receive an annual allowance for his services, the amount of which shall be fixed by the parliament from time to time. Until other provision is made in that behalf by the parliament the amount of such annual allowance shall be five hundred pounds.

Upon which Mr. Marmion had moved, by way of amendment:

That the words "for his services" be omitted.

Amendment negatived.

Mr. A. FORREST: I wish to draw the attention of the Committee to the amount of the allowance to be paid to the members of both houses of the Federal Parliament. The allowance will amount to at least £100,000 for the different states, and I think it would be better if it were left to each colony to fix the amount of the payment to members.

Mr. MUNRO: Oh, nonsense!

Mr. A. FORREST: I am sure that the colony which I have the honor to represent will object most strongly to pay its members anything like £500 a year. At the present time we have no payment of members, nor are we likely to have it in Western Australia; and if we allow this amount to stand in the clause, we shall find that the local parliament will move in that direction. The colony is not in a position to pay any large sum as an allowance to its members, and I protest most strongly against this Convention in any way pledging the local parliaments to the payment of £500 per annum to members to attend the senate sitting in Sydney or Melbourne. I am certain that in our colony we can get men to come for a far less sum than that; in fact, I believe we can get men to come without payment at all. It has been a principle of our Parliament for many years, and will be, I hope, for years to come, that members shall have that amount of good feeling towards their country that they will not ask the country to pay their expenses. I trust, therefore, that the Committee will leave it to the different state legislatures to arrange for the payment of their members.

Clause, as read, agreed to.

Clause 46. Any person—

(1) Who has taken an oath or made a declaration or acknowledgment of allegiance, obedience, or adherence to a foreign power, or has done any act whereby he has become a subject or citizen or entitled to the rights or privileges of a subject or a citizen of a foreign power; or

(2) Who is an undischarged bankrupt or insolvent, or a public defaulter; or

(3) Who is attainted of treason, or convicted of felony, or of any infamous crime;

shall be incapable of being chosen or of sitting as a senator or member of the house of representatives until the disability is removed by a grant of a discharge, or the expiration of the sentence, or a pardon, or release, or otherwise.

Sir SAMUEL GRIFFITH: I think, in line 14, after the word "expiration" the words "or remission" ought to be inserted.

Mr. WRIXON: If my hon. friend will allow me, before the amendment is put, I wish the Convention to consider whether it is necessary to have these words at all:

until the disability is removed by a grant of a discharge or the expiration of the sentence, or a pardon, or release, or otherwise.

It seems to me that it would be better to leave out those words, and to provide that if a man is convicted of treason, felony, or an infamous crime, he shall be disqualified.

Mr. CLARK: For ever?

Mr. MUNRO: Yes!

Mr. WRIXON: There is a great awkwardness in saying that a man is not to be chosen until he is discharged; but in addition to that, looking to the broad principle, if a man is convicted of one of these serious crimes, I do not think it is an unreasonable thing to disqualify him for a position of trust which he would receive as a member of parliament. It is not an additional penalty upon him. It is done much on the same prudential motives which would induce us not to nominate such a man as a trustee in our private affairs.

Mr. CLARK: It is left to your own choice!

Mr. WRIXON: Here you say, on the face of your law, that a man convicted of a serious offence is disqualified until he gets out of prison. That, I think, is a mistake, and it would be well to omit the words I have quoted.

Sir SAMUEL GRIFFITH: You mean that it should read "who has been attainted"!

Mr. WRIXON: There is one case I admit which ought to be provided for. It is the case, and the very unusual case, of an innocent man who may have been convicted and afterwards pardoned. But I propose, after leaving out the words I have quoted, to add a few words providing for that case.

Sir SAMUEL GRIFFITH: The hon. member should say "who has been attainted," otherwise the clause would be ambiguous!

Mr. WRIXON: Certainly I would say, "who has been" instead of "who is," and then I would strike out the words I have quoted with a view to insert these words:

Provided that nothing in this section shall apply to any person who shall receive a free pardon from the Crown.

Amendment (by Mr. WRIXON) proposed:

That the word "is," line 10, be omitted, with a view to insert in lieu thereof the words "has been."

Sir GEORGE GREY: The proposed amendment raises a point of considerable importance. A bill was sent home to the Imperial Parliament some time ago containing a clause in the form in which this amendment would make this particular clause. On the question being argued in parliament it was decided to add to the clause words similar to those it is now proposed to strike out. I was satisfied, from the discussion which took place upon the subject, that the provision as originally drawn by me was wrong, and that all hope of reform ought not to be cut off from a man. It is proposed, not only to give him the punishment the law has allotted to his offence, but when he has undergone that punishment, you send him forth with a brand upon him which he can never wipe out. There is less danger really in allowing a man who has undergone the sentence the law has imposed, and which he was entitled to receive, to afterwards go free, and thus have a chance of reformation—there is much less harm done to the community in that way than in condemning a man to an unknown punishment. The judge in delivering his sentence would not take this other matter into consideration, and yet the additional heavy penalty is inflicted on the man. He is literally sent out a pariah among his fellow-countrymen without any hope of being restored to his former social status. By no good conduct could he relieve himself of the result of the errors of his past life. His children would also know that their father had been guilty of a crime of which they might not otherwise have heard, and disgrace might be brought upon a family for one or two generations. I think it would be better to leave the clause as the British Parliament left it.

Mr. RUTLEDGE: I hope the Committee will not accept the amendment; and I hope hon. members will carefully consider the influence which it would be likely to have. Take the case of a man who may be convicted of what may be technically called a felony, although it might not be more than the stealing of a £5-note. He would be at once stamped as a man belonging to a class who could not by any subsequent good conduct establish a claim to such recognition as is implied in the possibility of election to the federal legislature. I consider, also, that we are doing an injustice to men who may perhaps have passed all their lifetime in Australia, whose antecedents are all known. If any one of these men had made a slip in his early youth, it would at once become known. We are thus establishing a condition of things decidedly disadvantageous to those who have passed the whole of their lifetime under the eyes of their fellow-Australians as against a man who may come here to-morrow, and about whom no one may know anything. In our liberality yesterday we decided to make any man who comes here from abroad, and who has fulfilled the usual six months' residence, enabling him to be registered as a voter in any one of the states, eligible for election to the house of representatives.

Mr. CLARK: No; we agreed to a three years' residence!

Mr. RUTLEDGE: I am glad to hear it; but I thought we were defeated on the point. But take the case of a man who has been here three years, and of whose antecedents we know nothing at all. He may have been guilty of slips in his youth in England, or in some other part of the world, of which we know nothing, and our ignorance of those slips would render him eligible for election to the house of representatives. I do not think we ought, by a deliberate vote of this Convention, to establish the principle that a man who has fallen in his early life—it may be under circumstances of temptation—can under no possible circumstances redeem himself, and render himself eligible for a position implying trust and confidence on the part of his fellow-man. I think we ought to hesitate before we revert to a condition of things which I am sure existed only a great many years ago, if indeed it ever existed in any portion of the British dominions. I hope the amendment will be rejected.

Mr. MUNRO: I understood the hon. member, Sir George Grey, to lay great stress the other day upon the point that we should raise a high standard to which our young men might aspire. I venture to say that you can have no higher standard for our young men than the knowledge that if they are convicted of a felony they will cease to have certain civil rights they formerly possessed.

Mr. CLARK: For a time!

Mr. MUNRO: Not only for a time, I think. An hon. member has said that this law belongs to olden times; but it is the law of Victoria at the present moment.

Mr. DIBBS: That does not make it a good law!

Mr. MUNRO: I believe it is a good law. You are about to frame a constitution applying to a very extensive area, and you may find that a man who has

been in one of the colonies convicted of murder, and who, according to our law ought to be hanged, has, through some particular circumstances, been ordered to receive three lashings of twenty-five lashes each and twenty-one years in irons, going to another colony where his previous character would be unknown, and there associating with honest men in making laws for the federation. I say it would be a disgrace to the federation if you were to allow such a thing to take place. We know perfectly well that the result would be not to put upon crime the stamp that ought to be put upon it. I say that the man who has broken the law of the land to such an extent as to be convicted of a felony ought not to be allowed to make laws for a free people, and for that reason I strongly support the amendment of my hon. friend. It would make the clause correspond to the law in Victoria at the present time. We are very proud of that law, and we should be very sorry to see it repealed.

Mr. CLARK: The last speaker seems to think that because a certain provision is law in Victoria, that is quite sufficient reason for its embodiment in the federal constitution; but all the wisdom of the world is not concentrated in Victoria now any more than it has been concentrated there in years gone by. There has been impressed upon the laws of the colonies from time to time the mark of their local and social origin, and we know very well that this particular clause was introduced into the Victorian Constitution with regard to special circumstances in the past history of Australia. I think it would be a great pity to preserve such a record in the constitution of the commonwealth, and so revive what I am sure all free-born Australians would rather bury and forget. I think the argument put forward by Sir George Grey is all-sufficient to condemn the proposed amendment. It is an attempt by anticipation to affix to particular crimes a greater punishment than the parliament of the commonwealth may, in its wisdom, affix to them. We are attempting to tie the hands of that parliament, and to say that, in addition to whatever punishment they think sufficient to impose for these particular crimes in the future, we will add this punishment, and render it impossible for them to alter it. The hon. member talks about this being a disgrace to the constitution. Surely it would be a disgrace to our constitution if beforehand we said that every punishment hereafter inflicted shall be intensified by something which had no relation whatever to the particular circumstances under which the man committed the offence. The hon. member, Mr. Wrixon, himself admits that there ought to be exceptions to the particular rule laid down. He says we should make exceptions with regard to men who receive free pardons. The hon. gentleman's experience in Victoria will enable him to recall many cases where the Executive had good reason to believe that the convicted person was innocent, but there was not sufficient evidence to justify the Executive in going through the form of granting a free pardon, although he has been allowed to go free. Other cases have occurred where men have served their full term, after which evidence has been discovered showing that they were innocent. The hon. member, Mr. Munro, says that once a man is convicted he should never thereafter be allowed to associate with honest men in making laws. Does he wish us to infer from that that we can guarantee that every man who will sit hereafter in the parliament of the commonwealth will be absolutely free from all dishonesty?

Mr. MUNRO: Until he is convicted!

Mr. CLARK: Simply because he has not been convicted he is to be treated as a man superior to another man, who, perhaps in his youth, twenty or thirty years before his election, has been convicted of some offence. The only way to carry out that principle in its entirety would be to add the words "has been, or ought to have been, convicted," and to make the speaker sole judge of the moral qualities of every candidate for parliamentary honors. We should then, certainly, be a model nation, and we should set a high standard before our young men such as no nation ever erected, or would attempt to erect.

Dr. COCKBURN: I do not believe in eternal punishment; therefore I shall vote against the amenndment. If a man were wrongly convicted, and afterwards pardoned, this provision would exclude him.

An HON. MEMBER: No!

Dr. COCKBURN: I understood that that was intended. Take the war of secession in America. I do not know whether any of the seceders were convicted of treason, but they could have been, and the result of a provision such as this would have been the exclusion from the Congress and Senate of some of the very best men in America. Take, again, the fathers of the United States Constitution. I think we had better leave this alone.

Mr. DIBBS: There is one thing which will easily adjust this difficulty. We must have some regard for the common-sense of the people who have to give their votes for members of parliament. It is a strong ground to take, that we should not pass a restrictive law of this character to further punish a man who has already paid the full penalty inflicted by the law for, perhaps, a minor offence. We should simply admonish him to "turn from his wickedness and live." We may very well trust the electors to do what is right.

Mr. MUNRO: But the electors will not know anything about it!

Mr. DIBBS: In Victoria, of course, they would know about it. I could go to Victoria and name people who sat in parliament and in the government, and yet who were previously convicted of treason. I could go to Queensland and find people who have occupied seats in parliament——

Mr. FITZGERALD: And afterwards in the House of Commons!

Mr. DIBBS: Who were previously accused of treason.

Mr. FITZGERALD: And who were convicted!

Mr. DIBBS: I could mention instances of members of parliament there who were previously Irish rebels, who struggled for home rule. The hon. member, Dr. Cockburn, says he does not believe in eternal punishment. I quite agree with him, and I think that when a man has once paid his debts, either to individuals or the state, he should be allowed to go free, and he should be regarded as having given full satisfaction. We must leave everything to the intelligence of the electors, who will have the aid of the press, which, in New South Wales, is particularly searching in its mode of action. No man will venture to seek to be a senator of the commonwealth of Australia if there is any charge against his character, because he can rely upon the press stirring the thing up from the bottom. Let us do what is fair and right. When a man has once paid his debts, let us say that they shall not be cast up in his teeth. I often notice that in the criminal courts when an unfortunate wretch has been found guilty by a jury the judge asks an officer of the court, "Has this prisoner been convicted before?" I maintain that when once a man has served his punishment it is not right to ask such questions.

Mr. GILLIES: It is a question of habit and repute!

Mr. DIBBS: No, it is simply a question as to whether a man has been convicted previously, and the unfortunate man probably pays twice over for some insignificant crime. I shall vote against the proposed amendment, because I am prepared to rely upon the common-sense and intelligence of the electors, aided as they will be by a powerful, and I was going to say, unscrupulous, but I prefer to say searching press, which will not allow any man to occupy a public position without probing his character to the bottom.

Mr. J. FORREST: I wish to ask the hon. member, Sir Samuel Griffith, whether the last part of this clause might not be struck out? It has a significance which I do not like. One would imagine that we are likely to have a lot of persons attainted with treason, or guilty of felony, as members of parliament. It seems to me that the clause would be equally as good if the words "by a grant of discharge, or the expiration of the sentence, or a pardon, or release, or otherwise" were struck out. I quite agree with the hon. member, Sir Samuel Griffith, that there is a good deal to be said on both sides of this question, and that we do not want such people to be members of parliament. But at the same time we do not want to shut out altogether those people who may have done wrong. I feel considerable difficulty about it; but I think the clause should be allowed to pass if the words I have referred to are struck out.

Sir SAMUEL GRIFFITH: Of course the Committee can strike out those words if it likes. But the result will be that nobody will know exactly what the clause means. That is the only objection to it.

Question—That the word proposed to be omitted stand part of the question—put. The Committee divided:

Ayes, 27; noes, 9; majority, 18.

AYES.

Atkinson, Sir Harry	Griffith, Sir Samuel
Bird, Mr.	Hackett, Mr.
Bray, Sir John	Kingston, Mr.
Brown, Mr.	Marmion, Mr.
Clark, Mr.	McMillan, Mr.
Cockburn, Dr.	Moore, Mr.
Deakin, Mr.	Parkes, Sir Henry
Dibbs, Mr.	Playford, Mr.
Douglas, Mr. Adye	Russell, Captain
Downer, Sir John	Rutledge, Mr.
Forrest, Mr. J.	Smith, Colonel
Fysh, Mr.	Suttor, Mr.
Gordon, Mr.	Thynne, Mr.
Grey, Sir George	

NOES.

Cuthbert, Mr.	Loton, Mr.
Donaldson, Mr.	Macdonald-Paterson, Mr.
Fitzgerald, Mr.	Munro, Mr.
Forrest, Mr. A.	Wrixon, Mr.
Gillies, Mr.	

Question so resolved in the affirmative.

Amendment (by Sir SAMUEL GRIFFITH) agreed to:

That the words "or remission" be inserted after the word "expiration," line 14.

Clause, as amended, agreed to.

Clause 48. Any person who directly or indirectly himself, or by any person in trust for him, or for his use or benefit, or on his account, undertakes, executes, holds, or enjoys, in the whole or in part, any agreement for or on account of the public service of the commonwealth, shall be incapable of being chosen or of sitting as a senator or member of the house of representatives while he executes, holds, or enjoys the agreement, or any part or share of it, or any benefit or emolument arising from it:

If any person, being a senator or member of the house of representatives, enters into any such agreement, or having entered into it continues to hold it, his place shall be declared by the senate or the house of representatives, as the case may be, to be vacant, and thereupon the same shall become and be vacant accordingly:

But this section does not extend to any agreement made, entered into, or accepted, by an incorporated company consisting of more than twenty persons if the agreement is made, entered into, or accepted for the general benefit of the company.

Sir SAMUEL GRIFFITH: An hon. member yesterday called attention to the repetition in this clause of words that were not necessary, having regard to the provisions of clause 38. I move:

That the following words be omitted, lines 12 to 15:—"be declared by the senate or the house of representatives, as the case may be, to be vacant, and thereupon the same shall become and be vacant accordingly," with a view to insert the words, "thereupon become vacant."

Amendment agreed to; clause, as amended, agreed to.

Clause 49. If a senator or member of the house of representatives accepts any office of profit under the Crown, not being one of the offices of state held during the pleasure of the governor-general, and the holders of which are by this constitution declared to be capable of being chosen and of sitting as members of either house of parliament, or accepts any pension payable out of any of the revenues of the commonwealth during the pleasure of the Crown, his place shall thereupon become vacant, and no person holding any such office, except as aforesaid, or holding or enjoying any such pension, shall be capable of being chosen or of sitting as a member of either house of the parliament.

But this provision does not apply to officers of the military or naval forces who are not in the receipt of annual pay.

Mr. DIBBS: I shall propose the omission from this clause of any words that would debar any person holding a pension from having a seat in parliament. I do not see why a gentleman who has a pension which he has legitimately earned should be prevented from having a seat in either house of the legislature. Having in view the discussion which took place on the 46th clause, why should we exclude any one lawfully enjoying a pension which he has honestly earned? I should like to hear some explanation of the matter.

Sir SAMUEL GRIFFITH: It applies only to pensions during pleasure. The object is to prevent persons who are dependent for their livelihood upon the government, and who are amenable to its influence, from being members of the legislature. There is no reason that I can see why a man who has served his country, and to whom a permanent pension has been allowed, should not be permitted to sit in the legislature. But a "pension during pleasure" might be given; and the holder of such a pension should certainly not be allowed to become a member of parliament.

Sir JOHN BRAY: Why should we contemplate the possibility of such things?

Sir SAMUEL GRIFFITH: I cannot sympathise with the hon. gentleman in thinking that our forecast at the present time includes all possible contingencies. I do not think that such a thing is likely to happen; but, so far as I know, human nature has not changed much in the last 300 or 400 years, and such a thing might happen again.

Sir JOHN BRAY: I agree with the hon. member, Mr. Dibbs, in thinking that these words should be struck out. It does not seem likely to me that the commonwealth will provide for pensions during pleasure, and I do not think that the words are necessary. I would, however, ask the hon. member whether it is not necessary to except in this clause the speaker and president?

Sir SAMUEL GRIFFITH: They are not under the Crown!

Sir JOHN BRAY: They hold offices of profit under the Crown, though they are not appointed by the Crown. I shall support the proposal of the hon. member, Mr. Dibbs.

Mr. KINGSTON: Although it seems improbable that there will be a case of a pension created during the pleasure of the governor-general, still it seems to me highly desirable to provide against such a contingency. To permit a member to sit in the federal parliament whilst he was liable to be controlled by the governor-general by the withdrawal of his pension, would be a great mistake, and, as provisions similar to this are contained in the various local constitutions, I trust that this will be retained.

Sir GEORGE GREY: We must all admit that what has been may be again, and there can be no doubt that not very many years ago pensions held at pleasure did exist to a considerable extent in England, and were a vast abuse. Now, one object in putting these words in is that they would make it impossible to resume this practice here without due warning that an illegal act was about to be done. We thus stamp illegality upon the proceeding.

Sir HARRY ATKINSON: I do not quite see the effect of the clause with regard to naval and military officers. Would it not exclude officers and privates belonging to what are called the partly-paid forces, who are receiving a small payment of £6 or £7 per annum?

Mr. THYNNE: I think that the hon. member, Sir Harry Atkinson, has touched a very important point. The clause, as I read it, is intended to exempt from the disability created, men who are receiving only a small remuneration, perhaps for a certain number of days during each year, but not permanently employed in the defence force. The exception, however, applies only to officers. As one looking forward to the day when our defence forces shall be entirely a citizen army, I think that both non-commissioned officers and men should be dealt with in this clause. I, therefore, beg to move:

That in line 13, after the word "officers" the words "or men" be inserted.

Mr. CLARK: Say "members"!

Mr. THYNNE: Very well. Then I shall move:

That in line 13 the word "members" be substituted for the word "officers."

Mr. BURGESS: I think it would be well to have this point cleared up. In my own colony I unfortunately suffered from the operation of a similar clause. Under our constitution no member of Parliament, except those holding office as responsible ministers of the Crown, can accept any salary or emolument from the Government. I was an officer in the defence force, and Parliament passed a bill providing for the payment of all the officers of that force, and I was then compelled by the Attorney-General to retire from my seat in the House, resign my commission as an officer, and afterwards submit myself to my constituents for re-election. That being so, I think it would be well if this point could be cleared up, so that there may be no mistake about it.

Mr. THYNNE: I think my first proposal is the better one. I therefore ask to be allowed to withdraw my amendment, so that I may insert after the word "officers" the words "or men."

Amendment, by leave, withdrawn.

Sir SAMUEL GRIFFITH: I think the criticism directed towards this clause is sound; the clause is not nearly sufficient as it stands, and I have with me a similar clause in the Queensland Constitution Act, which includes several cases not here dealt with. It reads thus:

This section shall not apply to any person in receipt only of pay, half-pay, or a pension, as an officer of her Majesty's navy or army, or who shall receive any new or other commission in the navy or army respectively, or any increase of pay on any such commission, nor to any person who is in receipt only of daily pay as an officer or member of the defence or volunteer force of Queensland, and is not employed permanently, or at an annual salary.

There is no doubt that the clause requires amplification, and it would be convenient if it were postponed.

Clause postponed.

Part V.—Powers of the Parliament.

Clause 52 (Legislative powers of the parliament).

Mr. GORDON: It appears to me that we ought to take the sub-clauses which enumerate the powers of the parliament separately. It would be impossible to discuss the whole of the clause at once, and to make our arguments, covering the whole ground, to be appreciated by hon. members. I would like to ask whether the clause could not be put in sections, so that each sub-clause could be treated by itself?

The CHAIRMAN: That cannot be done with a clause; but hon. members can pursue the well-known practice of moving an amendment in one part of the clause, and then going on to the next. There is an unwritten practice, too, for one hon. member to give way to another who wishes to move a prior amendment.

Sir SAMUEL GRIFFITH: It is the practice in some parliaments, when a clause is very complicated, as this is, to put it to the Committee in sections, and it would be convenient to do that now. I do not know that we are bound by any hard and fast rule of parliament.

The CHAIRMAN: I am quite willing to adopt any course which will suit the convenience of hon. members.

Preamble postponed.

Sub-clause 1. The regulation of trade and commerce with other countries, and among the several states.

Mr. BAKER: I should like to know from the hon. member in charge of the bill whether the question of the advisability of giving powers to the federal government to alter, for federal purposes, the gauge of railways in any one or two states, was considered by the committee?

Sir SAMUEL GRIFFITH: No; it was not!

Mr. BAKER: I desire to ask whether the hon. gentleman considers that this sub-clause is wide enough to cover that matter?

Sir SAMUEL GRIFFITH: I do not think so!

Mr. BAKER: I would point out that by-and-by, when the different states contain much larger populations, when they come much closer together, and when the inter-communication between them is much greater, this question of railway gauges will assume very large proportions, and it seems to me that it would be advisable to give the federal parliament power, at the federal expense, to alter the gauge of any line of railway where it is considered advisable that it should be done. Of course I do not say that the parliament would do it, and I dare say it would not be done for a great many years to come; but it might, and probably will, in years to come, be advisable, if not to adopt a uniform railway gauge for the colonies, at all events to alter the gauge of certain specified intercolonial lines, so as to make them of one gauge. This is a matter, I think, of considerable importance. Perhaps this is not the proper sub-clause in connection with which to deal with the matter. I will, however, take an opportunity, before we get to the end of the clause, of inserting a sub-clause to the effect I have mentioned.

Sir SAMUEL GRIFFITH: In answer to the hon. gentleman, I would point out that sub-clause 29 is the only one in the list which the committee considered covered a matter such as that which he has mentioned. The committee, however, had not the matter under their attention specially. It would require a mutual agreement of states before it could be carried out.

Mr. GORDON: I would suggest that the point raised by the hon. member, Mr. Baker, would be more likely to come under sub-clause 6. The subject has already been raised in connection with the question of the defence of Australia. I should like to ask the hon. member, Sir Samuel Griffith, whether he thinks the sub-section will confer on the federal parliament sufficient authority to regulate railway tariffs on intercolonial lines?

Sir SAMUEL GRIFFITH: I do not think so!

Mr. GORDON: Which clause will?

Sir SAMUEL GRIFFITH: The chapter on finance and trade contains a provision, in section 12, which was considered very carefully by the committee in connection with that subject.

Mr. GORDON: Then I shall move, subject to further criticism of the sub-clause, the postponement of its consideration, with the view of inserting words which will cover that condition.

Sir SAMUEL GRIFFITH: It should be a separate paragraph, then!

Mr. GORDON: It may be argued that the subject will be covered; but the hon. gentleman who is principally responsible for the bill thinks it is doubtful.

Sir SAMUEL GRIFFITH: It is not covered by this sub-clause!

Mr. GORDON: And it is not clearly and specifically covered by the other. It is important that it should be covered. I shall move an amendment later on.

Mr. CLARK: I have already expressed the opinion that under this clause the federal parliament would have power to control railway tariffs to a certain extent. I do not know whether the language I used overstated the case I meant to put before the Convention; but I remember that what I stated was disputed at the time by certain hon. members. In the first instance, I would say that this sub-clause is about the very widest one in the whole of the clause. It contains the widest power which we propose to give to the federal parliament. Under a similar power conferred upon them, the Congress of America have from time to time introduced very startling legislation, which the Supreme Court has sustained; and it is very hard to say what legislation will yet be enacted under that power by the Congress of America which the Supreme Court of that country will not sustain. The most startling and revolutionary act passed by the American Congress under that power is known as the Inter-State Commerce Act; and although that act sets out by stating plainly that it refers only to common carriers carrying goods from state to state, or from territory to state, or from foreign countries to several states, yet the historical origin of that act points to the control of commerce within the state. The state of Illinois passed a law to regulate the tariffs upon the railways, within its own borders, and a case under that act was brought before the Supreme Court. The law was declared to be unconstitutional, although it purported to regulate tariffs only within the state on the ground, as stated by Judge Miller, that the regulation of commerce as a whole throughout the whole of the union was transferred from the states to the federal government. That is a very strange fact in connection with the history of that act. Immediately after that judgment was delivered the Inter-State Commerce Act was passed, and up to the present time it has gone thus far: it prohibits any one railway company from running at lower rates even within a state on one line or another, if the line upon which they are taking the goods for a lower freight is part of a line of communication running out of the state. I would say that, on parallel grounds, if any colony in Australia attempts to reduce its rates on its own lines when that line is connected with another line going into another state, and reduces the rates for the purpose of drawing traffic from outside its own borders—bringing goods from another state within its own—it would come within the provisions of an inter-state commerce act similar to that now in force in America; but so long as any state shall carry goods absolutely within its own boundaries, and does not attempt to attract traffic over its border, it could not, of course, be touched. How far the Inter-State Commerce Act of America will be interpreted by the Supreme Court of that country, and how far legislation under this sub-clause would be sustained in Australia, is, of course, a matter of speculation. It is impossible to say definitely what the power is. I only know from the history of the act in America that it is one of the widest powers given to the federal government, and its future developments are altogether unforeseen and immeasurable.

Mr. GORDON: It appears to me undesirable that we should leave anything to the interpretation of this sub-clause which, being admitted to be an important principle, ought to be laid down in it. If, whilst we are drafting this bill, we can possibly state specifically an important point such as this, it is very much better than to leave the interpretation of it to the court, and I think that course will save a great deal of trouble. I shall move an amendment to the sub-clause.

Mr. DEAKIN: I hope the hon. member will not move an amendment immediately. The question is evidently one of the utmost delicacy and difficulty, and will require to be approached with the greatest caution. I am so thoroughly in sympathy with the hon. member in the object he has in view that I think the clause merits, by its recommittal—if it is not possible to postpone the subsection—the fullest attention of the Convention. It is perfectly clear from what the hon. member, Mr. Clark, has said, that these words have an undefined significance in America, which is valuable in one direction, but perilous in another. I am sure that the states will jealously resist any attempt to interfere with their management of their own railways or their own affairs. Therefore, if we desire to impinge upon that in any way for federal purposes, we should make it perfectly clear where the federal control begins, and where it ends, and for what purposes it may be used. To do this, I think, will necessitate an amendment of perhaps some length, or, at all events, consideration of the subject in all its parts with the greatest care; and I would suggest that the hon. and learned member who is in charge of the bill might see his way to put this suggestion in a form which will fit in with the other provisions of the bill. The sense of the Committee should be taken generally upon the matter; and, if it be in favour of the views of the hon. member, Mr. Gordon, it might suit him just as well to leave the particular form which the amendment should take to the hon. member who has drafted the bill.

Mr. FITZGERALD: I quite concur in the remarks which have just fallen from my hon. and learned friend. I think that, considering the magnitude of our railway systems and the importance to the various states of the revenue from their management, no point would be more fiercely contested and opposed than interference by the federal government in their management, unless on such broad and patriotic ground that the justice of it would be recognised by every state. I apprehend that it is of the utmost importance that there should be no possible doubt in the minds, not only of every hon. member here, but also of any one outside, as to the extent to which any interference in the management and control of the railways could be brought to bear by any federal authority.

Mr. MOORE: I think that as far as this sub-clause is concerned the difficulty could be met by the excision of one word and the insertion of another—by striking out "among" and inserting "between," which will leave it perfectly clear what is to be understood by the sub-clause. Then it would read: "The regulation of trade and commerce with other countries and between the several states." That would not allow any interference with the internal management of railways in any of the states, but simply regulate the commerce between the several states. I think that we ought to jealously guard the autonomy of the several states, and therefore this clause requires very careful consideration. I think the suggestion I have made would meet the case.

Mr. FITZGERALD: It would not be broad enough!

Sir JOHN DOWNER: No doubt we ought to carefully conserve the autonomy of every state, but we ought also to be equally careful that the main principle of this federation is carried out. This matter when before the committee was thought to be sufficiently met by clause 12, page 18. I suggest to my hon. friend, Mr. Gordon, that he should carefully consider that clause, and on that move any amendment that may occur to him to be necessary, for that which is under the heading "equality of trade" is the proper branch of the subject in which to deal with this matter. On questions of doubt we ought to be as specific as we can; but as a general rule in framing a constitution it is much better to use large general words which are all-embracing, and take in every branch of certain subjects, than to come down

to detail, and so limit the operation of the general words. I fancy that the words in clause 12, page 18, are sufficient; but if the hon. member who has brought this matter before the Committee does not think they are, I would suggest to him that that is the place in which he should make any necessary amendments.

Mr. WRIXON: I think there would be doubt as to whether the words of the clause to which my hon. friend refers are sufficiently precise to meet this particular case, especially if we bear in mind that the only reference to railways is in subdivision 28 of this clause, which gives control of the railways for one particular purpose, and has nothing to do with the question of border freights. There is that one point which we want to reach—to prevent hostile tariffs on the railways, and rivalry between the particular states; and I think it is a matter for consideration whether it might not be better to put in an amendment of that alone—the particular thing we want—rather than go into general words.

Sir JOHN DOWNER: So far as the internal control of railways is concerned, we do not want to interfere in the slightest degree, and sub-clause 28 was put in in order to give a limited control over the railways in matters where the interests of the commonwealth were concerned—in war questions, and things of that kind.

Mr. WRIXON: It does not touch this point!

Sir JOHN DOWNER: No, neither by extension nor by limitation, and I do not think it will need to be interfered with.

Mr. GORDON: I shall move the postponement of the sub-clause. Looking at the matter from the point of view of the colony of South Australia, it appears to me that unless we have specifically stated here the right given to the federal parliament to control railways on certain lines we shall very likely miss the whole commercial benefit of this federation. I would ask the hon. and learned member, Sir Samuel Griffith, and the Committee, whether if I move the postponement of this sub-clause they will consider the question?

Mr. PLAYFORD: I do not think this is the place to put it!

Mr. GORDON: In this sub-clause, dealing with the regulation of trade and commerce, such an amendment would naturally fall in with the scope of this clause more clearly certainly than with the scope of the clause which the hon. and learned member, Sir John Downer, pointed out, under the heading, "equality of trade." There is no question of equality of trade. It is a specific point which did not arise in America, but which arises here, because of the peculiar circumstances of these colonies. It is a difficult question to determine right off, and if the Committee will consider the question I will move the postponement of the sub-clause.

Sir HENRY PARKES: I trust the hon. member will not move his amendment right away. Clearly if he desires to have this question submitted to the Committee, he ought to move his amendment in the distinct shape of a sub-clause by itself. There is nothing to prevent his taking that reasonable course, and he would be liable to do something which he does not really intend if he were to mix it up with this sub-clause. Let the hon. member frame a sub-clause to come in at any place he has thought of, and submit his view in a distinct form at a subsequent stage in our consideration of the clause. There can be no objection to that.

Mr. GORDON: I accept the hon. member's suggestion!

Sir SAMUEL GRIFFITH: I should like to know, as far as possible, what it is the hon. gentleman is driving at? This matter has received the anxious consideration of committees during the last fortnight, and of the drafting committee specially in the choice of words. There were long discussions in committee on this point. Does the hon. member wish that the federal parliament shall have general control of railways?

Mr. GORDON: No!

Sir SAMUEL GRIFFITH: The hon. member does not want the control of tariffs in the states at all.

An HON. MEMBER: Yes he does!

Sir SAMUEL GRIFFITH: Well, what does he want? Before you can attempt to formulate an idea, you must know what the idea is.

Mr. GORDON: I will put my proposition in a concrete form. Broken Hill, which belongs to the colony of New South Wales, is on the South Australian border. We will assume for the purposes of this argument that to reach the sea-coast, we have to travel 300 miles from Broken Hill. The trade there is very valuable to us. I have heard some New South Welshmen say that it is very valuable to them. If, notwithstanding that 300 miles of railway carriage to reach the coast in South Australia, the New South Wales Government chose to build a line which would take 800 miles to reach the sea-coast, and to run upon that line ——

Sir HENRY PARKES: I knew it was some broad federal thing!

Mr. GORDON; And to run upon that line at a rate lower, or as low, as South Australia maintained on their 300 miles of line, it would absolutely do away with the whole of the benefits of free-trade. It is a simple proposition. The hon. member sees it as clearly as possible, and what I am aiming at is that the federal parliament shall have power to prevent the imposition of cut-throat railway rates, so that each colony shall have the benefit of its own geographical position as a port of shipment or a depôt.

Sir SAMUEL GRIFFITH: Now I know the hon. members idea, I may tell him that I considered it in consultation with, amongst others, our lately deceased colleague Mr. Macrossan, months ago, and we came to the conclusion that the only form of words that would express it was "control of railway tariffs." You will not find any shorter words to do it, if that is what is meant. It is a fair issue for us—do we intend to give the federal parliament control of railway tariffs; or do we intend to let the states do what they like? We must mean one or the other; we cannot mean both. The two ideas are quite opposed to one another, and there is no middle course between them that I can see. We have tried at various times to find expressions to indicate the control of certain tariffs only; for instance, the control of lines of railway communicating from one colony to another, leaving the states, of course, absolute power with regard to local railways—and we have had very great difficulty in defining the matter. I do not think you will be able to use any words except "control of railway tariffs." Well the committee did not see their way to recommend any such general proposal. The extent to which they did see their way to make a recommendation is contained in clause 12 of chapter IV, and it is not by absolutely prohibiting anything of the kind from being done, but by giving the parliament of the commonwealth power to make a law to annul any law made by a state which would really interfere with freedom, which would be prohibitive of trade going through a state to its natural port. That is the only extent to which we could see our way to go.

Mr. GORDON: If you give the colonies the power, why not say so?

Sir SAMUEL GRIFFITH: We have given them the power in those words. I can assure the hon. gentleman that this section of chapter IV occupied the committee for some hours, and I think that if he will look at it he will find that it will bear very close scrutiny.

Mr. DONALDSON: I think this discussion touches upon one of the most important matters that

could be considered by the Convention. I have long held the opinion that we cannot have complete federation unless the whole of the debts of the Australian colonies are taken over by the federation, and also the public works. I am confident that the more this is looked into the more will the fact impress itself upon the minds of the Convention. I think the federal parliament should have full power to take over these debts and assets. What has been the greatest cause of friction between the different colonies up to the present time? Nothing has caused more friction than the practice of imposing differential railway rates, and so filching trade from a neighbouring colony. That has been done for years past, and the ill-feeling engendered has been intensified year by year, until it has become very strong indeed; in fact, I know of no other cause of strong feeling between the people of these different communities than that which has arisen from commerce. If we attempt in the way suggested to interfere with the tariffs of the various colonies, we shall at once interfere with state rights, because the colony owning the railway will immediately say, "We wish to run our lines on such commercial principles as will enable them to pay interest on the cost of construction." Some railways, if they were unduly interfered with in regard to tariff, would not be able to command any trade at all. Take, for instance, the railway that runs from Sydney to Bourke, about 500 miles in extent. If the rates upon that railway were not low, nearly all the traffic would go down the Darling, because every one knows that carriage by steamer is much cheaper than carriage by railway. At the present time very low rates are charged on this railway for the purpose of bringing the trade to Sydney. I need not, of course, go into particulars now, but I question very much whether, owing to the very low rates prevailing, this railway is made to pay. Then, again, take the railway running down the Murrumbidgee to Hay. We know that the rates are very low upon that railway, and that it is worked at a dead loss to the state. But at the same time a railway has been constructed, and if we were to insist upon a uniform rate per mile throughout the whole of that district the railway would have hardly any traffic at all, and the result would be a great loss to the state. That, I maintain, would be unduly interfering with the interests of the state, and would, of course, cause very great friction. Let the federal parliament have power to take over the whole of the railways, and also the debts of the colonies, and things will go on much smoother. While I agree with the principles of the bill before us, and must give credit to the sub-committee for the great care they have exercised in its preparation, I am of opinion that it does not go far enough. Some of the colonies think their railways are such good property that they would be doing an injury to themselves if they allowed them to be taken over by the commonwealth. But I maintain that nothing of the kind will occur. They would not lose anything, because they would not have to pay the interest on the debt, for which they have to provide at the present time, and the amount of money they would receive in the shape of customs and other revenue would be exactly the same as under the present proposal. For some years, at all events, accounts would be kept between the states, and the surplus revenue would be distributed in the way proposed under this bill. This would include railway revenue as well as customs revenue, and I am sure the system would have a good effect upon the community generally. Why should we wish to bring trade to any particular port by running railways to the borders of another colony, and there levying a differential railway rate? For whose benefit? Merely for the benefit of the persons who send their goods by that line, and a few persons at the seaport to which the goods go. This is the way some of our cities are built up at the cost of the country. The complaint can be made with regard to nearly all the country districts throughout Australia, that large benefits are given to the capitals at the expense of the country. If the whole of the railways were under the control of the federal government that would not be the case, because they would be worked for the common good, and so as to bring trade to its nearest port. Although this matter has been considered by many members of the Convention, I know they are not prepared at the present time to consent that the colonies should give up their railways. But I venture to say that in the future this question will be a great bone of contention between the various colonies, and I fear that federation, if it takes place, will not have the good effect we desire on that account. Whilst on the subject of railways, I might say a little more. I think there is not a colony in the whole of the Australasian group that has not got to its limit so far as railway construction is concerned. There is no part of the world which, for its population, has such an extent of railway communication as exists in Australia. The progress that has been made in this respect during the last few years has been enormous. But all the railways have been constructed out of borrowed money. Few of the lines of late years have paid interest on the cost of construction. There is not a colony at the present time in which the taxpayers have not to find a considerable amount over and above the receipts from their public works to pay the interest on the debt.

Mr. PLAYFORD: Yes!

Mr. DONALDSON: If South Australia is an exception, she is the only exception.

Mr. MUNRO: And Victoria!

Mr. DONALDSON: Victoria does not pay all the interest on the loans.

Mr. MUNRO: She has done so!

Mr. DONALDSON: Can the hon. gentleman tell me in what year she did it?

Mr. MUNRO: A couple of years ago there was £34,000 to the good!

Mr. DONALDSON: And strong questions have been asked since about the way in which those accounts were kept. I have been given to understand that some charges were not made against the account which should have been properly placed against it, and I know that strong exception has been taken to the correctness of the balance-sheet. I do not wish to make any charge, or to say anything offensive about this matter, but I know that for the present year the railways have not been a success in Victoria.

Mr. MUNRO: How does the hon. gentleman know?

Mr. DONALDSON: I follow the accounts closely enough to know that the railways are not paying the interest on the cost of construction.

Mr. MUNRO: They are coming right!

Mr. DONALDSON: And I venture to say that if Victoria goes on in the way it has been doing or proposes to do, she will be greatly behind in the next few years.

Mr. GILLIES: Do not discuss the action of the different colonies—they will do as they think right!

Mr. DONALDSON: It is quite right that they should, while things are in their present condition; but, taking all the colonies in a group, I venture to say that the colonies have gone to the limit of their borrowing powers, or very nearly so.

HON. MEMBERS: No!

Mr. DONALDSON: That is my opinion, to which I am going to adhere, notwithstanding the great number of noes I hear.

Mr. MUNRO: They have only started.

Mr. DONALDSON: They have only started, but they will have to give a better account in the future for some of the works they carry out, or else the English money-lender will close his pocket against them. At the present time there is considerable difficulty in floating loans, and I am sure the difficulty will be greater in the next few years.

Dr. COCKBURN: Only a ring formed—that is all!

HON. MEMBERS: Question!

Mr. DONALDSON: I am speaking to the question quite as much as the hon. gentleman who preceded me. Of course if the chairman says I am out of order, I am quite prepared to sit down; but I think considerable latitude should be allowed upon this subject, which is a very wide one. It is certainly not contained within the four corners of this bill, and it should, I think, be included, in order to make the federation perfect. I do not desire, however, to express my opinion in such a way as to offend the representatives of any colony. Railway construction, I repeat, has been going on very rapidly, and all this has been done with borrowed capital. We have been spending altogether, I suppose, in Australia from £6,000,000 to £10,000,000 per annum.

Colonel SMITH: Not all borrowed capital!

Mr. DONALDSON: Nearly all. I am aware that some of the Victorian railways have been constructed out of receipts from land sales. Are we able to spend at this rate in the future? I know perfectly well the difficulty there has been in restraining the construction of railways. I have had sufficient experience of that. Rings are formed for the purpose of getting railways built, and I question if some of the railways are going to be profitable to the states. If the railways are placed under the control of the federation I am sure that a good case will have to be made out before the construction of any railway is undertaken—and it will, I believe, be for the salvation of Australia generally. If we go on expending million after million of money on railways which will not be profitable, we shall land ourselves in such a position that the burdens of the taxpayers will have to be increased to an enormous extent in order to meet the loss on the undertakings. My purpose will be perfectly served by a discussion of the question, whether or not the whole of the railways should belong to the federation? I am in a minority, but I venture to say that before a great number of years are over our heads the opinion will strongly prevail that the whole of the public works of the colonies, along with the public debts, should belong to the federation. See another advantage that we would have in regard to the present as well as future debts: The federation will, I am sure, be able to borrow at a much lower rate of interest than the colonies can borrow at now. There would be a considerable saving in the percentage, as the hon. member, Mr. McMillan, showed the other day. If we interfere largely—and we are unduly interfering, I maintain—with the states by taking away their customs revenue, a great deal of that money will be spent on the cost of government, and the states will have no control over that money, except the balance which they will get back from the federal parliament. The federal government may be extravagant, for my experience is that nearly all governments commanding large surpluses are extravagant. They may have the control of £8,000,000 or £10,000,000, and need spend only £2,000,000; but what is to prevent them from spending £3,000,000 and distributing only £7,000,000 amongst the various states? That is going to be a real bone of contention in the future; and it would be far better, therefore, to give the control of the railways to the federal parliament. I feel that I am in a delicate position, inasmuch as the railways of Queensland are not paying as well as the railways of other colonies; but at the same time there would be a small sum to be paid back to that state, because it would be deducted from the customs revenue. However, I believe this question has been considered in a cursory way by hon. members. I feel that they have made up their minds on the question, and that the railways are not going to become the property of the federation. Of course, as an individual member, I accept that position; but at the same time I take this opportunity of saying that I do not believe the federation will ever be complete until the public works of the various colonies are handed over to the control of the commonwealth.

Sub-clause agreed to.

Sub-clause 3. Raising money by any other mode or system of taxation; but so that all such taxation shall be uniform throughout the commonwealth.

Sir HARRY ATKINSON: Do I understand that the Convention is prepared to give to the federal parliament the power of levying taxation, without at the same time taking over the debts of the colonies? I venture to say that, if you do, there must of necessity be several bankrupt colonies before long, because you take away the power of taxation which each colony possesses. I want to know, if you take away the power from our state parliament to levy customs duties, how the state can raise sufficient revenue to pay its way? If any one can tell me, I shall be happy to hear the answer.

Mr. MCMILLAN: Direct taxation!

Sir HARRY ATKINSON: The charge now imposed upon all property in New Zealand is 1d. in the £. I say we could not tax property to any greater extent than that without driving a large portion of our movable capital into other colonies where it would receive much better interest for present investment. That is a serious point which I venture to say will apply to other colonies in the same way. I do not wish to raise any unreasonable discussion; but I should not be doing my duty to my colony if I did not point out at this time that, unless we are prepared to take over the liabilities when we are taking over the power of taxation, we can never have a satisfactory federation, because, I say, as one with every desire to raise the money in the colony, it cannot be done; and I speak with some authority on the question. If we are not ripe to take over the responsibilities of the colonies, then we cannot possibly take over the right of unlimited taxation, because it would take away the power of a colony to fulfil its obligations with the outside world.

Sir JOHN BRAY: I think there is a great deal in the point raised by the hon. member, Sir Harry Atkinson. I think we ought seriously to consider whether we shall give this power of additional taxation unless we are prepared to say that the federation shall take over a good deal more of the responsibilities of the different colonies than we suggest they should do at the present time. There is no doubt whatever that the difficulty will be great in the appropriation of this money. At the present time we do not propose to impose on the commonwealth the duty of appropriating more than about a third, at the outside, of the revenue which they will receive from customs duties. I think we are rather premature in authorising the commonwealth to impose unlimited taxation in any manner they please in addition to imposing customs duties. It seems to me that we ought to withhold this power until we are prepared to give them some duties to discharge in connection with it. I am not prepared to adopt the suggestion of my hon. friend, Mr. Donaldson, that the railways of the different colonies should be taken over entirely by the commonwealth; but I do say that when we are proposing to authorise the collection of customs duties amounting in all probability to £7,000,000 or £8,000,000 a year, we ought to impose on the federal government the duty of spending that money for the benefit of the commonwealth. We ought not for a moment to entertain the idea of giving the power of collecting so much larger an amount of revenue than is required, with the intention of afterwards returning it to the several colonies by some unscientific method. I shall be glad to hear from any member of the Constitutional Committee why they have proposed this general power of imposing taxation. It seems to me entirely unnecessary. Personally, I feel that we ought not to give the federal parliament this power unless we

know to a greater extent than we do at the present time the purposes to which the revenue is to be applied.

Mr. McMILLAN: It seems to me that if you are about to create a federal body with sovereign power, it cannot be limited in its power of taxation. It is part and parcel of the case that you cannot dictate in any sense or particular the class of taxation that shall take place in the future. We have given over the customs revenue, and no doubt there will be a surplus. It seems to me, however, that you may go too far, and do too much as well as too little. In framing this constitution, I think the power to deal in the future, say, with the railways or with the national debts of the colonies, and all these other matters, ought to be left to the possible evolution of the constitution, for no doubt when it is framed all the elements of public life in these colonies will be brought into one focus. Those questions which we see from a local aspect will have a more general aspect, as far as the whole of Australia is concerned; and to limit the greatest and necessary power of any state, the power of taxation, which lies at the bottom to a certain extent of all government, would be to at once stultify the whole constitution you bring into existence. Notwithstanding the many fears which may possess those representing certain colonies, it seems to me that we are going into this federation with the hope that the central power will be animated by a sense of justice to the whole of the colonies, and it would certainly be a step backwards, and we should at the same time practically stultify the whole of our work, if we were to stop short of the sovereign power necessary to the creation of a state. It also occurs to me that we are liable in this case if we omit powers of direct taxation to enunciate a policy which has no right to be enunciated at the present stage of our procedure. I am not sure that we should not by our very silence enunciate the policy that there should be no direct taxation in the sovereign state.

Sir JOHN BRAY: Strike out the words!

Mr. McMILLAN: The matter is one upon which I see no possibility of unanimity of opinion, and to strike out the general power of taxation would, to my mind, be practically bringing these proceedings to a close at once. It is an absolute necessity that this power should be vested in the sovereign state irrespective of the consequences.

Mr. BAKER: I would remind the hon. member, Sir John Bray, that every power ought to be commensurate with its object, and that there ought to be no limitation of power to effect an object which is in itself incapable of limitation. Who can pretend to say what the result of this federation will be in time to come? We may have to spend our last shilling or to sacrifice our last man in our own defence. We do not know what the expenditure of the federal government may be, and to limit the power of taxation would be to altogether misunderstand a fundamental principle of government. It is utterly impossible in a federal form of government to attempt to limit the power of taxation in any way whatever.

Captain RUSSELL: I think the last two speakers have failed altogether to appreciate the point raised by my hon. colleague, Sir Harry Atkinson. I did not by any means understand him to say that he did not approve of a system of direct taxation forming part of the taxation of the commonwealth. But he did raise the practical question as to what would become of individual states if you took away from those states one of their chief means of raising revenue? If you take away this means of raising revenue, you deprive certain colonies of the means wherewith to discharge their liabilities. How is it possible to get away from the fact that in this clause it is proposed to grant to the commonwealth power to take away from the colonies every penny of the revenue they now derive from customs? There are enormous responsibilities resting upon every colony, and they must be met. What my hon. colleague wanted to point out was not that the commonwealth should not have absolute power in the matter of taxation; but that having that power, it should also take over proportionate responsibilities. If, in other words, you take away from the several colonies the means of paying their debts, it is evident that you put them in a position of being unable to meet their liabilities. Being unable to raise taxation sufficient to pay the interest on the money they have borrowed, they will, as my hon. colleague suggested, be reduced to a position of bankruptcy.

Mr. PLAYFORD: We are not considering, at the present moment, what responsibilities we will take over from the several colonies. The question we are considering is the power we will give to the parliament of the commonwealth in the matter of taxation; and so far as my reading extends, no commonwealth in the world has existed, or can exist, without possessing unlimited power of taxation. It is so in the case of the United States, in the case of Canada, and also in the cases of Germany and Switzerland. If you take away the general power, and draw the line at customs and excise duties, then those who believe in a free-trade policy will have no hope whatever of being able to give effect to that policy. We want the people of these colonies to be perfectly free so far as taxation under the commonwealth is concerned to decide what form or mode of taxation they will adopt for the raising of the necessary revenue. If you limit the power of the commonwealth in the way suggested, those who hold free-trade views will never be able to give effect to them.

Mr. THYNNE: It seems to me that the point raised by the hon. member, Sir Harry Atkinson, does come within this clause, for there can be no doubt that in giving to the federal parliament these powers we must necessarily give to it the power to take advantage of every resource of the colonies when it may become necessary to meet the stress of times. We must, at the same time, consider that we are by one of these sub-clauses taking away from the several states their principal sources of revenue. I would remind the hon. member, Mr. Playford, that this source of revenue is now pledged by each colony to its debenture holders, and we are proposing to take away from the debenture holders a security pledged to them, and to hand it over to a body which will not be under the control of the several states,

Mr. FITZGERALD: We are giving a first mortgage.

Mr. THYNNE: Since the hon. member refers to mortgage, I would say that we are postponing to an unlimited extent, at the pleasure of the federal parliament, a first charge, which the debenture holders have upon a portion of our revenues.

Mr. McMILLAN: There is no such charge; the credit of the state is involved!

Mr. THYNNE: If the credit of the state is pledged its revenue is pledged, and in many loan acts I think the expression "first charge upon the revenues of the colony" is used.

Mr. McMILLAN: Only in one act!

Mr. THYNNE: The colonies are now proposing to give away this security, and the consequence will be, as suggested by the hon. member, Sir Harry Atkinson, that any one of the colonies being unable from misfortune to meet its engagements with its creditor, the federal parliament will of necessity and duty be bound to come to the rescue and take the responsibility upon itself.

Mr. PLAYFORD: There is no harm in that!

Mr. THYNNE: That may be; but it is very much better that we should make provision for it now, and not after the credit of any one of the states has been injured.

Mr. PLAYFORD: It will come in later on in the bill!

Mr. THYNNE: At this stage, when we are discussing the powers of the federal parliament, every portion of the bill comes more or less under our review. I take it that we can now refer to any portion of the measure, and that we can compare with this, its central clause, any other provision. If we take away from the colonies their principal sources of revenue, we must also take upon ourselves the responsibilities of those colonies.

Mr. BIRD: Although it be quite true, as the hon. member, Mr. Playford, has put it, that we are not now discussing directly the responsibilities we are going to hand over to the federal government, yet the question is so intimately associated with the powers of taxation we are going to confer upon that government that it has been very properly raised by the hon. member, Sir Harry Atkinson. If we were going to limit in this particular bill the responsibilities which the federal government are to have thrust upon them, it might be well to limit their powers of taxation; but inasmuch as their responsibilities are not limited, and may be, I hope, far in excess of anything which this bill indicates, it becomes a question for consideration whether we ought not to do what has been done in every other federation that I know of—that is, to confer on the federal body full powers of taxation. It would be a weak and helpless thing if it had not the power to raise all that is required for the fulfilment of its obligations. I hold strongly that, together with this power of taxation proposed to be given in this clause, there should be thrust upon the federal government the whole obligation for the debts of the colonies. No doubt some arrangement will have to be made to give compensation to those colonies whose debts are small. Unless we take that course, we are proposing to give to the federal government far more revenue than we need give to it. We shall only want about £2,000,000 for federal expenditure, while we shall be giving the federal government about £10,000,000. It seems absurd to give the federal government power to collect £10,000,000 that it may have the pleasure of handing back £8,000,000. Until full provision is made for the working of a uniform tariff and the fulfilment of all the obligations which shall eventually be permanently thrust upon the federal government, I should prefer that the federal revenue should be secured by a contribution levied upon the various colonies. If we pass this clause, we can only reasonably do so in view of our intention to impose upon the federal government the obligation of discharging the liabilities of the colonies with regard to their public debts. I trust that the clause as now before us will be agreed to, and that in that we shall have to some extent an indication of the determination of the Convention to impose upon the federal government before we have done with this bill the obligation of the debts of the colonies.

Mr. DEAKIN: It is useless for the Convention to impose upon the commonwealth any duties which the several states are not prepared to surrender. What the hon. member assumes as the premiss of his argument is, that the several colonies will be only too willing to hand over their railways and other public works to the federal government.

Mr. BIRD: No; that they should hand over their debts!

Mr. DEAKIN: The proposition, as amended by the hon. member, is much simpler and much more tempting to the colonies. That is, they should keep their assets and hand over their liabilities. The proposition would be much more tempting to the colonies than to the federal government.

Mr. CLARK: Figures show that it is quite practicable.

Mr. DEAKIN: I did not rise, however, for the purpose of entering into these questions, because, although they are related to the matter in hand, they do not appear to be very pertinent. The special purpose for which I rose was to protest against the inadvertent use of language which even, in the course of debate, may lead us into serious difficulties. Not one, but several hon. members, have used the phrase that this clause would "take away" the power of taxation at present possessed by the several states. I can imagine nothing more calamitous than that such an idea should be adopted by any of the communities that compose Australasia. This clause could not possibly, except in the narrowest and most restricted meaning of the word, take away any power of taxation from any colony. Suppose this clause is passed, the same unlimited power of taxation as is possessed at the present time by the colonies will be retained by them in every respect, except as regards duties of customs or excise. With regard to direct taxation, which we are more particularly discussing, the colonies will possess in future every power which they now possess. Consequently, no power is taken away except the power of imposing duties of customs or excise. Neither is it fair to say that the creditors of the colonies are losing the priority of their mortgage on the assets of the colonies. There is nothing in this clause which will give the federal tax-gatherer any priority over the state tax-gatherer. On the contrary, in the natural order of things, owing to the transference of the customs revenue to the central government, the several colonies, or some of them, may be brought face to face with the question of direct taxation, long before such a question is likely to be raised in the parliament of the commonwealth. Consequently the direct taxation will be in existence in the colonies before it can be imposed by the commonwealth. The commonwealth will find, therefore, that the priority in time will have been gained by the states. In no part of this clause is priority given to the federal government in the matter of the right of levy. All that can be said is that necessarily there is a certain point at which the taxable resources of the community will cease, and that when powers of taxation are possessed by the commonwealth there will be less revenue for the colony which at present has the sole power of taxation. That is undoubtedly true; but that is a point at which we are never likely to arrive. What is proposed to be given in this clause is that unlimited power of taxation which must accompany the unlimited responsibilities of the commonwealth. One of the foremost of its duties, that in fact which created this Convention, was to provide for the common defence of Australasia, and it may be necessary to devote not only the last ship, but the last shilling to that object. It is impossible to cast the duty of defence on the government of the commonwealth without giving them unlimited taxing power.

An HON. MEMBER: In the case of a blockade, there would not be much income!

Mr. DEAKIN: All the more reason for granting unlimited powers of taxation. If one source of revenue is cut off, they should certainly have another. However much force there may be in Sir Harry Atkinson's contention that it will be necessary for the federal parliament, if it gets the revenue of all the colonies, to consider the question of taking over their liabilities, it does not follow that we in this Convention should attempt to determine what are the liabilities which the commonwealth should accept. We are bound to prepare such a constitution as will enable the commonwealth to come into existence on terms fair to all the colonies; but we are not authorised to go one step further. We are not called upon to undertake what will be the duty of the federal parliament, or to discover what particular expedients should be resorted to. We provide hereafter one source of revenue of which the colonies are to be deprived—the customs revenue; and we provide a certain method by which any surplus remaining after the payment of the

obligations of the commonwealth may be disposed of so that the several colonies will be justly dealt with. Whether the particular proposal in the bill is or is not the best, the fact remains that we have provided a safety-valve so that in the rather unlikely event of there being a surplus for a length of time we can deal with it. In the constitution there already exists not only special powers with which the commonwealth is endowed, but there is the power of referring other matters to the commonwealth by the colonies. I hope we shall secure the privilege to the several colonies of requesting the federal parliament, with the consent of all the states, to take over their railways or other public works, or do any other matter or thing which all the states may agree is desirable in the interests of the whole people. All that should be possible. Under the bill the federal parliament should be able at the instance of the states to undertake any or all such obligations. It is a much wiser course to give that wide latitude of choice, than to attempt now to forecast the future, and to determine what it shall or shall not take over. We were not sent here for that purpose, and the federal parliament of the future will not thank us for attempting to anticipate what they should do. What will the federal parliament be? It will not be, as some members seem to infer, a foreign body, taxing the people of the colonies without regard to their obligations or the debts already incurred. The same constituents who return the members of the local parliaments will be the people who will return the members of the house of representatives, which will have the sole right of initiating taxation. And are we to suppose that the people having once taxed themselves through their several legislatures will again wish to impose taxes for the mere pleasure of taxing? Have we ever found any of our constituents so anxious to increase their burdens that we should expect to find them insisting upon their representatives laying heavy taxes upon them for purposes not clearly and absolutely defined?

An Hon. Member: One kind of taxation might suit one colony, and not another!

Mr. DEAKIN: That is possible; but there can be no difference as to the taxpayers' interests as between one colony and another. It can never be the interest of a man to pay more taxes than he can help. If the hon. member thinks that because a citizen belongs to a community with a larger area he is more ready to put his hands into his breeches' pocket, his experience has been limited in respect to taxation.

Mr. Marmion: What I say is that one kind of taxation might suit one state, and that another kind might suit another state!

Mr. DEAKIN: That is true; but it is foreign to the issue. Surely we need feel no alarm in endowing the commonwealth with these large powers of taxation, since they can only be exercised when the need commends itself to the people of the commonwealth, who are also the people of the several states whose lot we are asked to commiserate.

Mr. FitzGerald: And when you have an upper house to control it?

Mr. DEAKIN: I think it is unkind, when struggling with one misfortune, to be reminded of another. The difficulty of dealing with taxation cannot be mitigated by remembering that we have an upper house. I rose simply to point out that if these debates are, as they will be, criticised by the enemies of federation, it is desirable that our language should be as accurate as possible, and we should hasten to explain even apparent misconceptions which may arise from the language of hon. members. I rose to show that we are not taking anything away from the colonies, not injuring their credit, and also that this alarm as to the exercise of the power of taxation by the commonwealth is greatly dissipated by the recollection that it is the people of the states who will compose the commonwealth, and who will tax themselves. We may rely, therefore, in giving them these ample powers on their not using them against themselves. Members have spoken of the commonwealth as if it was outside Australasia; but the commonwealth will be the people of Australasia. The power of taxation will only be exercised with the consent of the people of Australasia; and we need not fear its exercise. It will only be enforced when such an imperative need arises as will commend it to the people of the country, who will return representatives to parliament for the purpose of imposing special taxation for the special ends which they have in view. We have not to protect the people of the federated states against themselves, and there is certainly no one else to protect them against in this regard. The commonwealth consists of the people; and this power of taxation can only be exercised by and with the consent of the people.

Mr. THYNNE: Before the clause is passed I would like to reply to the argument of the hon. member, Mr. Deakin. He stated that in certain circumstances the power of taxation by the local state parliaments would be undoubtedly affected by the provisions of the bill. In clause 3, chapter v, it is provided that when the law of the state is inconsistent with the law of the commonwealth, the law of the commonwealth shall prevail. It is quite easy to realise circumstances under which a tax, say upon land, might be imposed by the state, and made a first charge upon property, and a similar impost might be levied by the commonwealth; but the state law would have to come second, and the commonwealth would, therefore, have the first helping out of the fund for providing that particular tax.

Mr. Deakin: That is quite possible;

Mr. THYNNE: It is quite possible, and of course, in theory, it is quite feasible. There is another matter to which I intended to refer a little earlier. It would be a great pity if we had in the bill any provision which would tend to raise opposition to its provisions when going through the Imperial Parliament, and I am quite sure that unless we make some provision here by which the rights of our several states' creditors are sufficiently protected, the Imperial Parliament will be inclined, and I think justified, in taking some steps to procure the necessary security. My own opinion is that the federation could very well take over the debts of the several states, looking to the customs for the means of paying them without interfering with the state management of the railways.

Mr. BURGESS: I must confess that I think it is very expedient that full provision should be made in connection with our finance matters—and, mark you, this clause really touches upon finance—and that the federal government should take upon itself some further obligations than those that are proposed. At the present time the federal government takes upon itself simply the cost of the civil government and finance, and for that purpose they have placed at their disposal a sum based upon what might be called a protective tariff. I think it would be absolutely necessary to enforce such a tariff if ever we were to have federation of the colonies. This would place in their hands a sum of over £9,000,000. Now, we know that all colonial governments, and I presume that the same remark would apply to the federal government, having such an enormous surplus as there would be under such circumstances, and not being tied down in any way, would certainly be liable to become extravagant, and it would, therefore, be wise and well on our part to, as far as possible, guard against that extravagance. I think we can well guard against it, and I believe that the objection to which the hon. member, Mr. Thynne, referred can be removed if, in connection with this matter, we authorise the federal government to take over the various responsibilities which

we have in connection with our colonial indebtedness. If any one will take the trouble to look into the subject as the members of the Finance Committee did, they will find that the sum at the disposal of the federal government, after making full provision for all ordinary expenses, will fully cover the amount of interest that would be payable upon the total indebtedness. At all events, I am quite convinced that it is so within a very small sum indeed, and it would then be merely necessary on the part of the federal government to state what should be the mean indebtedness of the colonies which it should take over, and then either to debit or to credit those colonies, according to the amount of their specific indebtedness. In matters of this kind we cannot be too careful. Let us recollect that one of the principal objections that will possibly be raised by some of our fellow-colonists in connection with this movement will be, that we are calling upon them for an additional sum for general government, and they will naturally ask, "What are you going to give us in return for this; if we are to be called upon for extra taxation, what are you going to give us in return?" And unless we can show, as we ought to show, that there are some distinct advantages to be gained, I think that in many of the colonies strong objections will be raised. In connection with this matter, the remarks of Sir Harry Atkinson must not be overlooked. Taxation through customs is the sheet-anchor of all our colonial finance; and if we hand over all rights in connection with customs and excise, it will be a matter of extreme difficulty, to put it in mild language, for some of the colonies, more particularly those colonies that have already had to resort to direct taxation, to carry on their respective governments. I trust, therefore, that whilst we are considering this sub-clause, hon. members will bear in mind the very great importance of the subject, and that if we do not make provision for it now, special care will be taken to do so later on.

Mr. DONALDSON: This is a subject that is worthy of the fullest consideration and discussion. It would certainly be absurd to try to limit the powers of the federal parliament. We cannot do that. Any parliament, to be effective in the future, must have the full power to be able to levy whatever taxation they require to carry on the government of the country. We have not the slightest idea now what will be required in the future. Therefore, we must trust all these powers to the parliament. Looking at the matter in regard to the immediate future, we have to bear in mind that, according to the proposals as we are now dealing with them, the federal parliament will collect from customs from £8,000,000 to £9,000,000; and, according to the information we have obtained, the total expenditure will be only about £2,500,000. Of course that would mean that a large surplus would have to be handed back to the states in proportion to the amount which had been contributed by them. That is fair enough, so far as it goes; although I fear that in the future it will cause some trouble, and, as the hon. member, Mr. Burgess, has pointed out, any parliament having such a large surplus as that is very likely to be extravagant. We know that the states have no control whatever, nor should they have control, over the expenditure of the federal parliament. The federal parliament should do whatever they please with the money, although there is an understanding that any surplus should be handed back. But not having obligations, as all the states have at present, of providing interest on loans, how do we know the position the federal parliament may take up by-and-by? Supposing the federal parliament were dominated by free-traders. They might say, "There is no necessity to levy large customs duties; we will reduce them one-half." At the same time they might submit a scheme embodying a direct form of taxation. As was pointed out by the hon. member, Mr. Thynne, they might go in for a land tax. The states will then be left in this position: That, getting back a smaller amount than they anticipated from the federal parliament, they will not have sufficient to pay the interest on their loans. They will therefore be cut off, in the first instance, by not being able to levy customs and excise duties; and if they are compelled to raise money by other means they will probably have to double or treble the direct taxation of the people of the state. That is an awkward position in which to be placed, and it is one that is worthy of the gravest consideration. I do not think any form of federation will be complete or satisfactory, unless the debts at least of the whole of the states are taken over by the federal government.

Mr. DIBBS: I move as an amendment:

That after the word "money," line 1, the words "if required for defence purposes in time of war" be inserted.

I move this amendment for the purpose of limiting the power of the federal government. Where the customs and excise revenue will provide £8,500,000 a year, and where the probable expenditure in time of peace is £2,500,000 a year, there is no necessity to allow the indiscriminate power provided in the sub-clause.

Mr. MUNRO: Perhaps, if I call the attention of the hon. member to another clause in the proposed constitution bill, he will see that his amendment will not only not be required, but that it will really act against the intentions of all those gentlemen who wish the federal parliament eventually to take over the debts of the various states. It is stated in clause 13, chapter IV—

The parliament of the commonwealth may, with the consent of the parliaments of all the states, make laws for taking over and consolidating the whole or any part of the public debt of any state or states, but so that a state shall be liable to indemnify the commonwealth in respect of the amount of a debt taken over, and that the amount of interest payable in respect of a debt shall be deducted and retained from time to time from the share of the surplus revenue of the commonwealth which would otherwise be payable to the state.

Therefore, if the hon. gentleman confines this power to raising money by any other mode of taxation only in case of war, all that is intended to be done in the clause I have referred to will be defeated. I think the best plan is to allow the sub-clause to stand as it is, and if any further amendment is required it can be made in the 13th clause of chapter IV. The intention of the framers of the constitution has been to make the constitution as flexible as possible, so that arrangements can be made between the various states and the commonwealth when the time comes to make them.

Amendment negatived; sub-clause agreed to.

Sub-clause 4. Borrowing money on the public credit of the commonwealth.

Colonel SMITH: I purposely abstained from addressing myself to the last sub-clause, because the whole question of the new dominion is involved in their borrowing power, and this sub-section deals with that point. I thoroughly concur with what fell from the hon. member, Mr. Bird, the Colonial Treasurer of Tasmania, and from the other hon. members sitting behind him. I think we should take power in this sub-clause to enable the dominion government to borrow sufficient to consolidate the whole of the debts of all the colonies. I venture to say that if that power is given they will raise quite sufficient money from customs and excise, without touching one penny of the railway revenue of any one of the colonies. They will be enabled to do what is required by a system of taxation from customs —a plan that has been adopted by every federal government that has ever been formed in the world up to the present moment.

Mr. BURGESS: And excise!

Colonel SMITH: It has been done in the case of Germany. When their revenue was less than £6,000,000 a year they increased it from that source alone up to £26,000,000 per annum. What was the result? All the states were brought into the union without any pressure, without any special taxation being placed upon them, and they came into it in the pleasantest possible manner. The various colonies, I suppose I am within bounds when I say, are now paying on an average 4 per cent. If we allow the dominion parliament to take something like £9,000,000 for the purpose of paying back £7,000,000, I agree with some hon. member who said it is the most clumsy way of doing it. I think that with the money which they receive they should have the obligation of consolidating the whole of the debts of the colonies. If they consolidate the whole of the debts of the colonies, I agree with the hon. member, Mr. McMillan, that they will be enabled to borrow very advantageously upon the whole territory of the Australian dominion—upon all their revenue, because that virtually will be in their hands. It will not disarrange the finances of the country by adopting a system of this description, and all the colonies will be anxious to come into the federation, because the dominion will be able to borrow on the security of the entire colonies—the enormous public properties they possess—within ½ per cent. of, or at all events something near, what consols are now in London. We should be enabled to do this by having a dominion parliament, with power to impose taxation, if it is necessary, beyond the amount at which the debts of all the colonies would be consolidated, and the dominion would take the responsibility with the funds that we are going to give to them. We are giving them, I think, within a few hundred pounds—certainly within £1,000,000 —of what would be necessary to pay the interest on the whole of the national debt of the Australian colonies, and I say that all the colonies then would be anxious to come in. It is merely a question of accounts—merely a question of sending to the under-treasurers of the various colonies, and getting them to meet together to decide how each colony stands as regards the others—merely a matter of arrangement. It was so in Canada. Exactly that process was adopted in Canada. Some portions of Canada borrowed more than others, and the matter was adjusted, and it ought to be adjusted here. I would ask the hon. and learned member, Sir Samuel Griffith, and the other gentlemen who are dealing with this matter, whether they could not give powers, not only for borrowing money on the public credit of the commonwealth, but also for the purpose of paying interest on the whole of the indebtedness of the whole of the colonies?

Sir SAMUEL GRIFFITH: This covers everything!

Colonel SMITH: I should like a special clause inserted, because I think it is most undesirable that we should hand to the dominion parliament something like £9,000,000 with a view to their giving back £7,000,000. We ought to consolidate the whole of the indebtedness of the colonies, and if we consolidate the whole of the indebtedness of the colonies, I venture to say there will not be the slightest difficulty in getting them to come into the federation, because then they would understand that, with the money handed over to the dominion the obligations would be met, and the advantages would at once be manifest. Supposing the dominion borrowed £20,000,000, there would be a saving of ½ per cent. interest, which would amount to £500,000 in a year. Probably we might get it for something less, but I thoroughly agree with the hon. member, Mr. McMillan, that the dominion will be able to borrow money at 3 per cent. English consols we know are less than that; and I believe that we should borrow money, not only at 3 per cent., but also at par, which would be a manifest advantage. I venture to say that within a few years that could be done, which means that we would get £100 for every £100 debenture, and pay 3 per cent. upon it. I would ask hon. delegates to think this matter over. I think that we ought to make it compulsory that the whole of the indebtedness of the colonies should be adjusted, and that the dominion parliament would express its willingness, and should have the power conferred upon it, to do this, and then we should disarrange the finances in the least possible way. Every colony knows what it is paying for interest now; and if that is paid for them on an adjustment that could be easily settled by competent accountants, I believe, as I said before, it would be a great advantage, and all the colonies would be anxious to join, because they would get public money much cheaper, and the dominion parliament would have the power that is conferred in the last sub-clause to impose taxation if the revenues from the custom and excise were not sufficient. I think that if that were done the sting of the last clause would be taken away, because under the last clause we have given them power to impose any taxation they please; and my hope and belief is that the effect of the last clause will be this: if they have to pay the public interest due upon all the indebtedness of all the colonies, they will take care that they get enough from the customs and excise to do it. That is one reason why I am very anxious to see, if possible, this power conferred with the view of its being exercised. If I had my way, I would make it compulsory that they should exercise it within a reasonable time. It would meet one great difficulty that I have seen all through the proceedings of this Convention, and that is, that, in having a uniform tariff, they will not be desirous of imposing direct taxation: and I think it is very undesirable they should impose direct taxation. We know that nothing has been resisted so much in any of these colonies from time to time as attempts at direct taxation. The human family seems to be constituted like this: you can put as much as you like on the customs; and when people pay duties on their daily food and garments, they do not think much about the matter; but ask them for half the amount direct, and there is at once great objection. Therefore, I am glad to hear, if it be agreed, that that power is given; but, I should like some clause inserted in the bill, which would make that compulsory on the dominion taking over £9,000,000, which I venture to say they will be enabled to increase from £9,000,000 to £12,000,000 by an adjustment of the tariff that will be oppressive to none and equal to all. Once it is known that that power was not only conferred upon them, but also that they must exercise it within a reasonable time, I say federation is accomplished. You do not disturb the finances of the treasurer of any of the colonies. With the money that we hand over to the central government, at the same time we say, "Now you must pay our interest; you must adjust our accounts; you must see how much we borrowed more than someone else, and adjust the matter." I say that what has been done in Canada, an English-speaking community, under the British Crown, we can and ought to do here. I quite concur with the hon. member, Mr. Bird, that we ought not to hand over to the commonwealth more money than it requires. In asking each colony to contribute its share, the difficulty would be that one colony might refuse, and the whole thing would fail. Therefore, you must give the commonwealth the money direct, and, having done so, you must show them what they are to do with it. You must say, "We do not want it back again; but, having taken all our money, you must pay some of our debts, and the way to begin is to pay the interest on those debts." While I agree that we should hand over the revenue to the commonwealth, I think we should at the same time, insist that they should consolidate the debts of the various colonies, and readjust them in proportion to the

amount borrowed. I believe that one thing of itself would do more to cement and fasten the various colonies together in one whole than anything else we could possibly accomplish.

Mr. McMillan: Had we not better discuss this when we come to the special clause dealing with the subject?

Colonel SMITH: That is the very thing I suggest; but here is a sub-clause which says, "Borrowing money on the public credit of the commonwealth."

Mr. Baker: Does the hon. member object to that?

Colonel SMITH: I think the hon. gentleman must have been absent during my remarks, because the whole gist of what I have said has been in favour of the commonwealth having the power not only to borrow, but also to consolidate the whole of the debts, so as to be able to pay the interest. What I wish to avoid is that it shall have nothing to pay back to the various colonies.

Mr. Baker: That is not the point now; we will come to that by-and-by!

Colonel SMITH: I think my remarks are relevant to the question of borrowing. If anything is proposed by-and-by which shall carry out what I am now recommending, I shall be satisfied, and I shall expect the assistance of the hon. gentleman, who has taken a great deal of trouble over this matter. What I wish is that it shall not be a matter of option, but a matter of absolute compulsion, and that if the commonwealth takes over this money, it shall expend it for the benefit of the various colonies in the way I have suggested.

Mr. MACDONALD-PATERSON: There has been a general consensus of opinion in the Convention to-day that this sub-clause 4 should pass, and with all respect I think that the remarks of the last speaker were premature, and that his speech would more properly come in on clause 13, at page 22. I mention this with the object of endeavouring to curtail discussion of the character introduced by the hon. member, Colonel Smith, at this stage of the debate. At the same time, I take the opportunity of stating that the whole of Australia will be greatly disappointed if we do not in this Convention go fully into the question of the public debt. At an earlier part of the proceedings, the hon. delegate, Sir Samuel Griffith, invited reference to a measure which he recently introduced into the Queensland Parliament, in which he said we would find a list of the subjects proposed to be relegated to the general government, and those which would be left to the three provinces into which it is proposed that Queensland should be divided. In that draft occur these words, which we are now invited to adopt:—

> That matters of general concern, including the administration of the public debt, should remain under the control of one legislature and one executive, having jurisdiction over the whole of the present colony of Queensland, until the establishment of an Australian federation, when their functions should pass to the legislative and executive authorities of the federation.

Here is a proposal which indirectly affirms that immediately upon federation taking place the administration of the public debt shall pass into the hands of the central government.

Mr. MARMION: I do not know whether I have misapprehended the remarks of some of the previous speakers, and especially those of Colonel Smith; but it seems to be suggested that the commonwealth should have power to borrow money on the public credit, not only for its own purposes, but also for the purposes of the several states—that, in the first instance, it should absorb the debts of the several states, and afterwards, I suppose, borrow money on account of the states. If the indebtedness of the states is taken over, I presume the future borrowing power will have to be given to the federal parliament.

Mr. Playford: Not necessarily!

Mr. MARMION: This matter was fully discussed by the Committee on Finance and Trade, and it was so difficult to deal with, that it was thought desirable to leave it to be settled by the federal parliament. The greatest difficulty was felt to be this: that if the federal parliament took over the present liabilities of the various states it would be absolutely necessary, in the event of any of the states desiring to borrow thereafter, that they should be compelled to refer any loan bill they might pass to the federal parliament. That was one of the greatest difficulties that was encountered.

Colonel Smith: The municipalities in Victoria borrow on their own account!

Mr. MARMION: I am not talking of municipalities; I am talking of states. The difficulties surrounding this question are so great that considerable time will be required to settle it. Fully half a day, if not longer, was devoted to the question by a body who had the opportunity of dealing with it in a conversational way, and, as I said, the difficulties were found to be so great that it was thought advisable to leave the question open to be dealt with by the federal parliament. I thought the hon. member's object was to add some words that would express the meaning which I have endeavoured to convey. If that is not the case, then of course I am mistaken, and I quite agree with those who think the discussion should be postponed until we arrive at page 18.

Mr. THYNNE: By this sub-clause we propose to give to the federal parliament an unlimited power of borrowing money on the public credit of the commonwealth; but there is no provision in any part of the bill that I can find which in any way restricts or limits the objects for which they may borrow money. In one of the drafts that were considered by the Finance Committee, I observed a paragraph giving to the state parliaments the power of appropriating money for the purposes for which they are entitled under their constitution to appropriate money. That practically limited the power of raising taxation or borrowing money to the purposes which they are authorised to administer under the bill generally. I think it is rather a mistake that that limitation of the right of appropriating money has been left out. I trust that the hon. gentleman in charge of the bill will restore the paragraph to the bill. The hon. member, Mr. Clark, has pointed out that under sub-clause 1, reasoning by analogy from decisions given in the United States, an enormous power may be given to the federal parliament. I think that to give this unlimited power of borrowing money without any restriction as to the objects for which it may be borrowed, is placing the federal parliament in a position in which it becomes, and justly becomes, an object of suspicion on the part of the state parliaments and the different peoples.

Sub-clause agreed to.

Sir SAMUEL GRIFFITH: Before you, sir, put the sub-clause "navigation and shipping," I wish to mention a matter to which my hon. friend, Mr. FitzGerald, called my attention a little while ago. I thought he was going to mention at this stage the question of controlling munitions of war. I will not take the argument from his mouth, but will afford him an opportunity of saying what he desires to say by moving:

> That the following stand as sub-clause 7 of the clause:—
> "Munitions of war."

Mr. FITZGERALD: I offered a suggestion to the hon. member, Sir Samuel Griffith, in order to ascertain whether or not the question had been considered by the committee. Considering the importance with which we all regard the subject of defence, I thought it might be of very great value indeed to the federation that it should have control over the manufacture of munitions of war. It might occur,

for instance, at some point in the commonwealth, that the local government, through carelessness or for some other reason, were inattentive to the manufacture of such munitions, which might be a menace to the commonwealth. Therefore, with the view of eliciting information, I suggested that it would be a very important power to put in the hands of a federal government. I do not think it requires much argument to recommend the suggestion to hon. members. It appears to me that if we are actuated by a desire to give the federal authority control over the federal defence it might be a subject of great danger indeed if it did not also have the power of framing regulations for the manufacture of munitions of war.

Mr. McMILLAN: This is an amendment, which, I think, is scarcely necessary. Surely the power to control the military and naval defence of the colonies covers everything. It is not natural that it would undertake the control of the military and naval defence without having munitions of war and everything necessary for the defence of the commonwealth.

Colonel SMITH: Yes; but not of regulating the manufacture of munitions of war, which may be in private hands, and which may be exercised to the great danger of the commonwealth!

Mr. BARTON: It is quite clear to me that the power of dealing with munitions of war is included in the power of dealing with the military and naval defence of the colonies.

Sir SAMUEL GRIFFITH: I understood my hon. friend to refer rather to the danger of munitions of war being manufactured and exported to the injury of the commonwealth. That is a different subject from the defence of the commonwealth. It may be necessary to absolutely prohibit the manufacture and exportation of munitions of war.

Mr. PLAYFORD: I think the sub-clause dealing with military and naval defence includes the power of dealing with the manufacture of munitions of war if it is thought necessary to exercise that power for the safety of the commonwealth. In the United States they have not required the provision, neither in Canada, nor in any other part of the world.

An HON. MEMBER: But they have in Switzerland!

Mr. WRIXON: It would seem to me that the point raised by my hon. friend, Mr. Fitzgerald, is well worthy of consideration, because we forbid by the bill any state to raise or maintain a military or naval force of its own. It may be necessary, in order to carry out that provision, to control the manufacture of munitions of war; therefore, I think it would be well to take power to that effect.

Amendment agreed to; sub-clause agreed to.

Sub-clause 13. Banking, the incorporation of banks, and the issue of paper money.

Colonel SMITH: I should like to ask the hon. member, Sir Samuel Griffith, if the word "banking" covers the possibility of establishing a bank for the commonwealth?

Sir SAMUEL GRIFFITH: I should think not!

Sir JOHN BRAY: I should also like to know whether the sub-clause would include savings banks? Is it intended to interfere with the establishment of savings banks in the different colonies? If not, we ought to insert the words "other than incorporated savings banks." I do not think it is necessary for the federal government to interfere with them. They are managed in almost all the colonies at the present time in a different way.

Mr. DONALDSON: The federal government is to take over post-offices!

Sir JOHN BRAY: But there are savings banks other than those in connection with the post-offices, and I think it would be better to exclude them from the operation of the clause.

Sir SAMUEL GRIFFITH: Of course there are two kinds of savings banks in Australia. There are what may be called private savings banks—that is to say, savings banks under the management of directors—and there are also the post-office savings banks. They would be taken over, I presume, with posts and telegraphs.

Mr. DEAKIN: No; money orders would, but not the post-office savings banks!

Sir SAMUEL GRIFFITH: Yes; the hon. member is right. Those banks belong to the treasury in each state. I fail to see, however, why, in providing for the general safety of the commonwealth, savings banks should not be an object of federal legislation as well as other matters. Some savings banks have been known to go insolvent.

Mr. GILLIES: The government is in reality responsible. Of course they are not liable in the case of general savings' banks, but in other cases they would be bound to pay in the case of anything untoward happening to the banks.

Mr. THYNNE: I think it will be found that sub-clauses 13, 15, and 16 deal with civil rights in property, and I would ask the Convention to consider whether it would not be wiser, even although there were a little inconvenience on account of the want of uniformity in the law, to leave to each state full and complete control over all questions of civil right in property? The issue of paper money is a matter perhaps with which the federal parliament should deal; but banking, bills of exchange, and promissory-notes, and bankruptcy and insolvency, I think might be left to the state parliaments. Complaints have been made in the past that these matters have not received equal attention in the different states; but that has been on account of the large amount of work the different parliaments had to perform in connection with other branches of legislation, which will now be taken over by the federal parliament, and they would, therefore, have ample time to deal with these other matters. I think we ought to lay down the principle that the states should deal with all matters of civil right in property, and that we should not break in upon that rule by the inclusion of these several sub-clauses. I ask hon. members to consider the matter also from this point of view: that persons interested in the states and in the state parliaments might, if these reservations are made, be likely to look more favourably upon this scheme of federation than they would otherwise do.

Mr. MACDONALD-PATERSON: I regret that I am unable to agree with the observations of the hon. member, Mr. Thynne. The laws relating to bankruptcy, to banking, to bills of exchange and promissory-notes, are laws which we would all be happy to see upon a level footing all over Australia. I unhesitatingly say that the absence of uniformity as to these several matters has tended very much, especially within the last fifteen or twenty years, to clog the wheels of commerce and finance. It is a trouble, for instance, to Victorian capitalists to find that we have in Queensland a law which does not exist in Victoria. While the disparity in the law is not of much moment, still it is these little grains of sand falling in between the wheels of commerce, causing hesitation in investment in different parts of Australia, which do so much to clog the whole machinery. I trust hon. members will endeavour to maintain a uniformity of law in these respects.

Sub-clause agreed to.

Sub-clause 19. The status in the commonwealth of foreign corporations, and of corporations formed in any state or part of the commonwealth.

Mr. MUNRO: We have agreed to sub-clause 13, dealing with the incorporation of banks, and I do not see why a similar provision should not be made in regard to the incorporation of companies. Why should they not be under the control of federal officers? At the present time the law as to incorporation is different in the different colonies, and the result is extremely unsatisfactory in many cases. I do not see why we should not make the same provision

in regard to the incorporation of companies as we have made in regard to the incorporation of banks. We might introduce at the commencement of the sub-clause words to this effect: "The registration or incorporation of companies."

Sir SAMUEL GRIFFITH: I do not think we should. There are a great number of different corporations. For instance, there are municipal, trading, and charitable corporations, and these are all incorporated in different ways according to the law obtaining in the different states.

Mr. MUNRO: But as to trading corporations!

Sir SAMUEL GRIFFITH: It is sometimes difficult to say what is a trading corporation. What is important, however, is that there should be a uniform law for the recognition of corporations. Some states might require an elaborate form, the payment of heavy fees, and certain guarantees as to the stability of members, while another state might not think it worth its while to take so much trouble, having regard to its different circumstances. I think the states may be trusted to stipulate how they will incorporate companies, although we ought to have some general law in regard to their recognition.

Sir JOHN BRAY: I think the point raised by the hon. member, Mr. Munro, is worth a little more consideration than hon. members seem disposed to bestow upon it. We know what some of these corporations are; and I think joint-stock companies might be incorporated upon some uniform method. In South Australia, a banking company is not allowed to be incorporated under the Companies Act; still, there is nothing in Victoria of which I am aware to prevent a banking company from being registered there as a limited company and opening a branch in South Australia a few days afterwards. I think it is necessary, therefore, to have some uniform law. There is nothing in which the public should have more confidence than in banks which are in any way recognised by the state; and I think we should have some uniform system of incorporating banks. Many companies, although doing business under different names, are, in reality, banks.

Mr. MUNRO: The banks are incorporated under the Companies Act in Victoria!

Sir JOHN BRAY: You can establish financial companies, which you do not call banks, but which answer all the purposes of banks. We have provided that the federal parliament shall legislate as to the incorporation of banks; but there is nothing to prevent the incorporation by the states themselves, quite apart from the federal parliament, of trading companies which will do all the ordinary business of banks. If it is desirable to entrust legislation as to the incorporation of banks to the federal government, there is no reason why we should not say that the registration of financial companies doing all the business of banks should be dealt with in the same manner.

Sub-clause agreed to.

Sub-clause 21. The service and execution of the civil and criminal process and judgments of the courts of one state or part of the commonwealth in another state, or part of the commonwealth.

Mr. BAKER: I should like to know whether sub-clause 21 or 22 will include the recognition in one colony of probate issued in another colony? It can hardly be called a civil or criminal process or a judgment, nor can it be called a public record or judicial proceeding. I want to know if this point has been considered by the sub-committee, and if they are quite sure that probate issued in one colony will be recognised in another colony? There is at present a great deal of unnecessary expense and trouble in the registration of probates and letters of administration issued by one colony in another colony. It is not so easy a question as at first sight it appears, because persons often die possessed of property in more than one colony.

Sir SAMUEL GRIFFITH: I think that probate of a will must be regarded as coming under the heading of a judicial proceeding. It is the official recognition by a court of judicature of the will of a person. In addition to that, there is the committal of the administration of the estate to some person. I do not think we ought to interfere with that.

Mr. BAKER: Supposing, as is probable, that one colony passed a law providing that probate and succession duties should be paid, and paid only on the property in that colony, and that is universally recognised by the other colonies, the consequence would be that no probate or succession duties would be paid in other colonies where the same man had property. That would be the case if a resident in South Australia died possessed of Broken Hill shares, and the probate in South Australia was *ipso facto* recognised in New South Wales.

Sir SAMUEL GRIFFITH: No!

Mr. BAKER: That is what I want to obtain information about. One reason why I have brought this matter forward is, that in South Australia last session a probate and succession duty bill was introduced, providing for two distinct principles. In the first place, if a man died after being domiciled in South Australia, all the property he had, wherever it might be situated, was to pay probate and succession duties in South Australia. Another principle was also sought to be included; that was, that if the man was not domiciled there, and held property in South Australia, that property should also pay probate and succession duties. I only point this out to show what different laws may be passed by the various colonies. I wish to know whether, under this clause, cases of that kind will be met? It seems to me that they will not be met. I should like to see the federal parliament authorised to make laws concerning probate and the issue of letters of administration. All those difficulties would then disappear.

Sir SAMUEL GRIFFITH: I think the difficulty the hon. member suggests is not likely to arise. This is a clause to enable the federal parliament to make a law recognising a judicial proceeding—that is, probate; but it recognises the probate for what it purports to be—that is, the proof of the will and the committal of the administration of the property in that state to some person. The committal of the administration of the property in any state is a matter for that state. Another state will recognise the probate; but they do not necessarily commit the administration to the same person. They will recognise the will as far as the judicial proof of it extends, and no further. With respect to succession duties, the court recognises the revenue law as a law, but it only applies within the state which made it. That question has never come into contest. But so far as a revenue law might be in force in South Australia, providing that certain probate and succession duties should be payable there, no court would recognise that as creating an obligation to pay duties in Victoria and New South Wales. I do not think this will enable the parliament of the commonwealth to require committal of the administration of an estate in one state to the same person to which it has been committed elsewhere, and I do not think it is intended to go so far.

Mr. BAKER: If that is the state of the case, the same results will continue as accrue at the present time—that is to say, if a person dies having property in different colonies, his successors will have to go to the expense and trouble of obtaining administration of the estate in all the colonies. That is an unnecessary expense and trouble which might be done away with under a federal form of government.

Mr. CLARK: I think the hon. member does not see the full effect of this clause. I take it that this will enable the federal parliament to do what all the colonies can now do conjointly, and what several of them have done. Tasmania, New Zealand, and

Queensland have passed intercolonial probate acts, whereby the probates issued in any of those colonies can be received and registered in the courts of the other colonies. It required the action of the several legislatures to do that. This sub-clause will enable the federal parliament to do that in one act for all the colonies. I take it that is the intention of the clause.

Sub-clause agreed to.

Mr. KINGSTON: I desire to propose a new clause, to follow sub-clause 22, as follows:—

The establishment of courts of conciliation and arbitration, having jurisdiction throughout the commonwealth, for the settlement of industrial disputes.

I do not propose to discuss the question at any length; but I think, in view of the magnitude of the recent industrial disturbances which have affected Australia and the whole of the civilised world, it is desirable, when we are framing this federal constitution, that we should at least consider whether we cannot do something in the way of avoiding difficulties of the character to which I have referred. I am not in favour of conferring unnecessarily any powers on the federal parliament. I have hitherto seized various opportunities for advocating the expediency of leaving the settlement of matters of purely local concern to the local legislatures. But we cannot avoid recognising this fact—that in disputes of the magnitude to which I refer, which affect not only one, but all the Australian colonies, it is utterly impossible for any local legislature to constitute a tribunal competent to deal satisfactorily with the question. The adoption of the amendment which I now indicate will not in the slightest degree interfere with the powers which are at present possessed by the various state legislatures to legislate within their state limits. It seems to me that there is only one way out of this industrial difficulty which will commend itself to the good sense of the general community. It is impossible, having regard to the disastrous effects which are occasioned to society generally, to leave the contending parties to fight the matter out to the bitter end, and the only means which occur to me by which some good can be done is the appointment of a tribunal qualified to investigate the matters in dispute, to reconcile the parties if possible, or, if such a course be impossible, to pronounce an award which will fix what, according to the decision of the court, is right and proper to be done, and will carry with its pronouncement the means of its enforcement. Conciliation and arbitration therefore seem to me the only means of doing anything towards the settlement of the difficulties to which I refer. Hon. delegates will recognise that courts having competent jurisdiction cannot be established by the local legislatures. I would therefore ask the Convention to assist me in procuring the insertion of the amendment which I am moving, which will simply give the federal parliament the power to deal with a most momentous question in a way which I trust will commend itself to the good sense of this Convention.

Sir SAMUEL GRIFFITH: If the court is to have jurisdiction throughout the commonwealth, surely it will be a federal court. That being so, the amendment ought to be inserted in that part of the bill which deals with the federal judiciary. If it is intended to empower the states to establish such courts, they can do it already.

Mr. KINGSTON: It is not!

Sir SAMUEL GRIFFITH: We could have provided for all the judicial powers in this section if we had wished to do so. If it is desired that the commonwealth should have power to establish such a court as the hon. member suggests, upon which I do not now express any opinion, provision ought to be made for it in the part of the bill which deals with the judiciary.

Mr. KINGSTON: I am very desirous to meet the wishes of the hon. and learned member responsible for the form of the bill, as regards the moving of the amendment, though I do think there is much to be said in favour of proceeding with the discussion of the question at the present time; because, in the natural order of things, it will hardly be proposed to confer upon the ordinary federal judicature the powers which could be only properly exercisable by a commercial tribunal such as that which it is proposed by the amendment to establish. I might also emphasise the fact that this is simply a proposal to confer upon the federal parliament power to legislate with reference to the establishment of these courts, and though no doubt the terms of the amendment show that a federal court having jurisdiction to deal with the entire commonwealth is contemplated, it may be contended that will hardly be a federal court in the ordinary acceptation of the provisions contained in the subsequent portion of the Act dealing with the establishment of a federal judicature. However, as I understand the hon. and learned member much prefers that the amendment should be deferred to a subsequent stage, I shall be happy to meet his wishes, and ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Sub-clause 23. Immigration and emigration.

Colonel SMITH: I should like to ask Sir Samuel Griffith the exact meaning of these two words, "immigration" and "emigration"? The colony which I represent objects to immigration unless the immigrants come at their own expense. For many years we have abandoned the system of assisted immigration. I should like to know, therefore, if power is to be conferred upon the dominion parliament to override the local parliament in reference to this matter?

Sir SAMUEL GRIFFITH: The words as they stand are as general as they can be, and should be read with the introduction:

The parliament shall, subject to the provisions of this constitution, have full power and authority to make all such laws as it thinks necessary . . . . . with respect to immigration and emigration.

That is wide enough.

Colonel SMITH: Rather too wide!

Sir SAMUEL GRIFFITH: It will enable them to keep out Chinese, Hindoos, or other aliens—even English, if necessary. It will enable them to impose conditions, if found necessary, such as America has imposed to prevent pauper and other undesirable immigration. It may under some circumstances be a very useful provision.

Sub-clause agreed to.

Sub-clause 27. River navigation with respect to the common purposes of two or more states or parts of the commonwealth.

Mr. McMILLAN: This is a sub-section that I think requires some kind of elaboration, which probably those who have drawn the bill may be able to undertake. The sub-section means more than the river navigation. We want the control of the rivers as regards the use of the water, and, furthermore, it is necessary to have some control over the tributaries. As we know in connection with the Murray, there may be tributary streams to check the flow of water from which might have such an effect as to render the river useless. It seems to me—although I do not propose now to indicate any actual amendment—that there ought to be some very general powers with regard to the control of the river, not merely for navigation purposes, but also for purposes of irrigation and the conservation of the water. That I look upon as one of the most important matters in connection with the whole scheme of federation. We have large rivers which are absolutely essential to future schemes of irrigation and the conservation of water. These run through different colonies, and if

economically managed by one power, equitably dealing with all the rights of the different states, they may be great sources of wealth in the future. Consequently it seems to me that a clause ought to be introduced into the Bill which will give the central government general powers to deal in some equitable way with the different rights of different states, and with the general conservation of all rights with regard to these rivers.

Sir SAMUEL GRIFFITH: The hon. member's observations certainly demand attention. The subject was considered pretty fully by the committee, and a form of words which was suggested, and which at one time we were disposed to adopt, was, if I remember rightly, "river navigation and the conservation of water, with respect to any purposes, &c." I think myself that it would be an improvement to have these words. The delegates for colonies bordering on great inland rivers, however, know more about the subject than I do. I move:

That, in line 1, after the word "navigation" the words "and conservation of water" be inserted.

Mr. CUTHBERT: And distribution!

Mr. DEAKIN: That would belong to the states!

Mr. GILLIES: I should like to ask whether the meaning of the amendment is to give to the federal parliament the control of the conservation of water?

Mr. DEAKIN: It is only "with respect to the common purposes of two or more states"!

Mr. GILLIES: The question of the conservation of water would scarcely be raised between two states. Any question as to local conservation, however, might be seriously affected by the legislation of the federal parliament with respect to conservation. The control of water conservation belongs to the individual states, and they undertake it; but if there were legislation with respect to conservation generally that would affect the tributaries of any particular river, I am afraid that we should get too deep into the subject, and that there would be trouble. Some of the colonies deeply interested in water conservation might decline to join this federation if they thought that the whole of their conservation schemes might be interfered with by the federal parliament. I think it should be made perfectly clear that their schemes will not be interfered with.

Mr. DEAKIN: It does not apply!

Mr. BARTON: I would suggest to the hon. member, Sir Samuel Griffith, that he should withdraw the amendment. Surely it is not intended to transfer to the federal parliament the power of legislation for the purposes of the commonwealth with respect to the general conservation of water. That is a matter for the taking away of which from the individual states there is no reason whatever. Matters relating to irrigation and so on, which are intimately connected with property and civil rights, and which we are all prepared to leave to the several states, ought certainly not to be dealt with by the federation. I can see no reason why control with respect to these matters should be transferred from the states to the commonwealth, and I think that the idea of the commonwealth being given power to take over control with regard to them will cause very great alarm. I trust that the amendment will be withdrawn.

Mr. PLAYFORD: What I understand the amendment to mean is that, supposing by any water conservation at the source of a river, navigation on that river might be stopped, the parliament of the commonwealth would have power to step in and conserve the rights of the states which were injuriously affected. I think that the clause will give full effect to this intention without putting in the words "and conservation" at all. Conservation on the upper branches of the river Murray might tend in the future to make that stream unnavigable, since the water taken for irrigation might never find its way back to it, and what we are now proposing to do is, I understand, to give over to the dominion parliament the charge of the navigable rivers, and, therefore, the conservation of the interests of those colonies which require to have the rivers kept open.

Mr. McMILLAN: As I see by sub-clause 29 matters generally may be referred to the federal parliament, this matter might probably, I think, be referred by the states concerned to the parliament. No doubt if the amendment were carried it would place a very large power, which might be abused, in the hands of the federal parliament, and which would cause irritation in the different local parliaments. I therefore urge my hon. friend to withdraw the amendment, and leave the matter to be settled under sub-clause 29.

Sir SAMUEL GRIFFITH: I moved the amendment because it was suggested in the committee, and I knew that members of the committee would be familar with it. I admit that I do not like the term myself. The hon. member, Mr. Bird, has suggested another expression, which I think it would be a great improvement to use; that is, the words "navigation and use." South Australia, Victoria, and New South Wales are, however, more interested in this matter than is the colony which I represent, and their delegates will know more about it.

Mr. GILLIES: I am afraid of inserting words which might be so wide in their meaning as to cause trouble!

Sir SAMUEL GRIFFITH: There was not a single line in this clause which gave the committee so much trouble as this did, and the result of all our trouble, which was very great, is the phrase before the Committee.

Mr. DEAKIN: It may be as well to point out one circumstance in connection with this matter—namely, that conservation may be absolutely essential to navigation, and it may, therefore, be taken to that extent to be implied in the words already used. As a matter of fact, even upon the magnificent streams of America, steps are now being taken to conserve water at the heads of the rivers to preserve a regular flow in the summer season. The idea that the hon. member, Mr. Playford, had in his mind is, therefore, so far, provided for in the clause as it stands. For my own part, I think that some such words as those suggested by the hon. member, Mr. McMillan, would be very advantageously added in this place. The introduction of the word "conservation" would have permitted the conservation of water for the purpose of irrigation.

Mr. PLAYFORD: Leave that to the states!

Mr. DEAKIN: It may very well be left to the states; but it is an indisputable fact that water conservation will be absolutely necessary to the future of one or two of the states, and it will be a matter of great difficulty for them to cope with all the difficulties of the question by any of the legislative powers which they now possess. Each state can legislate within its own borders; but that is a different thing from passing a measure which will exactly dovetail in with the legislation of another colony, so as to permit of joint action and joint responsibility. If the matter cannot be dealt with by its reference to the federal parliament, what ought to be a national question will become a local question, whereas if you introduced the words suggested, you would enable all these issues to be dealt with federally as occasion arose.

Mr. McMILLAN: With respect to the remarks of the hon. member, Mr. Deakin, suppose there were an extensive scheme of locking these rivers for the purpose of navigation, would that be covered by the sub-section?

Mr. DEAKIN: It depends on whether it is for the common purposes of two or more states!

Mr. McMILLAN: Perhaps the best thing to do would be to allow the sub-clause to pass as it stands, and to consider very carefully the whole question, with a view to the adoption of some amendment afterwards. It is a very difficult matter to deal with,

and I do not think it can be dealt with off-hand at the present moment. The best thing to do would be, taking note of the debate, to allow the sub-clause to pass as it stands, and, perhaps, to introduce another sub-clause afterwards.

Sir JOHN BRAY: I may state that the Finance Committee recommended, on this point, as follows:—

That the federal government should be empowered to legislate on the following subjects:—Intercolonial rivers, and the navigation thereof.

We felt, and it is clear from what has been stated that most hon. members feel, that there is something more than the navigation of the rivers with which the federal parliament ought to be empowered to deal. The words I have quoted, however, did not meet with the approval of the Constitution Committee, and consequently they were abandoned. Still the Finance Committee were strongly impressed with the idea that there was something besides the navigation of the rivers which required to be controlled by the federal parliament.

Mr. DEAKIN: Infinitely more important than navigation!

Sir JOHN BRAY: It is true, as has been pointed out by the hon. member, Mr. Deakin, that by leaving the words as they stand, you may do more than is intended, and may prevent people taking water from a river at all by saying that it is necessary for the purposes of navigation. The subject is a very important one; and it will require most careful consideration before it is finally dealt with.

Amendment, by leave, withdrawn.

Sub-clause agreed to.

Sub-clause 28. The control of railways with respect to transport for the purposes of the commonwealth.

Mr. GORDON: I move:

That the following words be added to the sub clause:—"and the regulation of traffic and traffic charges upon railways in any state in all cases in which such regulations are required for freedom of trade and commerce, and to prevent any undue preference to any particular locality within the commonwealth or to any description of traffic."

The amendment attempts to meet a patent difficulty which, if not met, may upset the whole of the commercial advantages of federation. If, notwithstanding intercolonial free-trade, it is possible for any colony to run a competitive line which will deprive an adjoining colony of the advantages of its position, then intercolonial free-trade is a mere fiction, so far as the colony which is deprived of its geographical position is concerned. We must certainly have some power in the federal parliament to regulate differential rates on competitive lines, that is to say, upon lines open simply for the purpose of competition.

Mr. BARTON: Will not sub-clause 12, chapter IV, meet the difficulty?

Mr. GORDON: I think not. At any rate, it is open to doubt whether it will or not. If we mean to do this, why should we not say so specifically? It is possible that sub-clause 12 of chapter IV may meet the difficulty; but the matter would have to be left pretty much to the interpretation of the law courts to give it that distinct application, and the constitution will be sufficiently legalistic as it is without relying too much upon the interpretation which the courts of law will place upon the general words. It seems to me that this is an important matter; it certainly is important to some of the colonies. If we mean it, we had better say so, and if we do not mean it, we had better say we do not mean it, so that the colonies may fairly understand the terms upon which they come into the federation, and so that they may understand the dangers they may have to face, and the contingencies which may exist in the commonwealth. The amendment embraces a large proposition, and it may be possible to cut it down to meet the exigencies of the case. I have, however, made it as large as possible, and I think it ought to be made as large as possible to cover what is required. I hope that it, or some amendment of it, will meet with the approval of the Convention.

Sir SAMUEL GRIFFITH: I should like to ask who is to be the judge as to whether the charges were required or not?

Mr. GORDON: Parliament of course!

Sir SAMUEL GRIFFITH: Then all the words of limitation are mere surplusage. If the regulation of traffic charges is to be made in all such cases as parliament thinks necessary for certain purposes, we may as well leave out the words of limitation altogether and say, "the regulation of traffic charges upon railways."

Mr. GORDON: They are not federal traffic charges, but state charges!

Sir SAMUEL GRIFFITH: Exactly, they are for a limited purpose. If parliament is to be the absolute judge, what is the use of the words of limitation?

Mr. McMILLAN: I think it is as well to face this question at once. I do not think the parliaments of the country under existing circumstances would bind themselves to absolutely do away with differential rates at the present moment. There may be a great many contingencies to bring about differential rates. I do not say that the question of free-trade between the colonies is bound up with that of the differential rates. We may have keen competition between the different colonies in the way of carrying on their respective businesses, and at the same time we may have free-trade across the borders as far as customs duties are concerned. I will take a case. Supposing the central power has the right to the navigation of the rivers, and supposing, by a further power we may give them, they have the right to lock them and create a large traffic in a certain direction away, say, from New South Wales; and supposing New South Wales had spent some millions of money in constructing a railway right to the edge of those rivers. Do you mean to say we are bound to accept any regulations on two totally distinct matters—the regulation of the river traffic and the regulation of the railway traffic—both from the central government, although there may have been millions of money spent upon the one and very little money spent upon the other, or *vice versa*? It seems to me that if we are to allow anything like this at all it must be in regard to the taking over of the whole of the railway systems, the unification of the railway systems of the colonies; but we have not got so far, and it would be very dangerous for us to get so far. Starting, as we did, at the early stage of our proceedings, with an anxiety to give very little to the central government, we are now, it seems to me, running the danger of giving too much and leaving too little for that central government to do in the evolution of its political life. As far as railways are concerned, and speaking with regard to the debt too, some hon. delegates seem to imagine that the two matters are absolutely intertwined with one another. I may say to those delegates who seem to me to be a little misty in their view of this question, that you may have a consolidation of all the debts of the colonies under the central power, and you need not necessarily have anything to do with the particular assets which make up those debts. Well, if the states are liable for their debts and for the interest on those debts, and if they are, as it seems to me they must be to a certain extent, the authority for deciding where their lines of railway should run, you cannot, at any rate at the present stage of our Australian existence, where the conditions are so very different in the various colonies, attempt to take away the control of those railways. And if you do not take the control of the railways, each railway system must be governed according to the particular conditions that surround it. Personally, as a matter of principle or theory, I should like to see the abolition of differential rates,

when the time comes when it is possible to abolish them, and to have a mileage system throughout the whole of the continent; but we are dealing with each state at the present moment on the supposition that each state retains its own railway system, and has to pay the interest upon the debt incurred in bringing the railways into existence. Consequently, if the experts of those railway systems say that, in view of river navigation, of competing colonies, and of steamers going along our coasts, they must must have some system of differential rates in order to secure a general result, it would be madness on our part to introduce any hard and fast principle in this constitution which would practically override the opinions of the railway experts of the different colonies. It seems to me that these are matters which it is far better for us to leave to the general evolution of things, which will come about in due time, than to deal with them by this general sub-clause introduced into these powers by which certain things can be relegated by the different parliaments to the central parliament. A great deal that we are trying to introduce now will, no doubt, be ultimately carried out.

Mr. BIRD: I quite agree with a great deal of what has fallen from the hon. member who last spoke; but I think it should go without saying that if the states are to keep their railways in their own possession they should have control of the tariff of those railways; and if we adopt the amendment now before us, it would necessitate the adoption of a similar restriction with regard to other state action. For instance, it might be that a state would own or charter a fleet of steamers, and lay them on to the ports of some neighbouring colony for the purpose of bringing the traffic from those ports to ports of its own, and thus bring about the very thing which it is feared by the hon. member, Mr. Gordon, would be brought about by differential railway rates; so that if we adopted the hon. member's proposal we should be compelled to prevent the states not only from imposing differential railway rates, but also from taking action in regard to any other mode of communication by which the same result would be brought about. I think we should reject the amendment, and leave the states entirely free to regulate their own railway traffic so long as the railways are in their own hands.

Dr. COCKBURN: From another aspect of the case, I think arguments can be advanced in favour of the amendment of the hon. member, Mr. Gordon. I think free-trade is bound up with the question of differential rates. A remission of railway rates on the manufactures of any state might be equivalent to a bonus given to the manufacturers. Take the case of two adjoining states, in one of which manufactures are established, and a large capital invested in them, whereas in the other manufactures are just in their struggling infancy. The tendency is for the large manufacturers to attempt, by underselling, to crush out the smaller manufacturers, and if the state, by making large remissions in the railway rates, are allowed to carry the products of the manufacturers of the one state, so that they will be practically free from charge, it is equivalent to giving a bonus to the manufacturers, and diminishes that actual protection which free-trade always acknowledges is due to mileage. This principle is protection in the best possible way commercially. Unless we abolish the possibility of differential rates, we might destroy the only protection which acts through mileage against distant manufacturers. I think that free-trade without disallowing differential rates, will fall short of its object, and will tend in an indirect way to bring about the granting of bounties by states.

Mr. DEAKIN: If the contention of the hon. member, Dr. Cockburn, be correct, there would be no necessity for his hon. colleague to move this amendment. If, as he contends, any differential rates are equivalent to an interference with freedom of trade, there can be no question that clause 12 of chapter IV does definitively and absolutely prohibit any such interference. For my own part, taking sub-clause 1 of clause 52, which we have passed, together with the clause which we are approaching, it does appear to me that a very strong case could be made out under the bill as it stands for arguing that the authority is already vested, in the commonwealth, to deal with the case the hon. member proposes. The argument, however, which he might fairly urge is, that on a question of this delicate and difficult nature it is very desirable that there should be no possible room for doubt, and that the hon. member, the chairman of the Constitution Committee, has already indicated there is doubt in his mind as to the sufficiency of the present provisions. Under these circumstances, following his colleague's argument, I would suggest to the hon. member that any amendment made would come very much better in clause 12, chapter IV. If for instance, it read that "the parliament of the commonwealth may make laws prohibiting or annulling any law or regulation or differential rates made by any state or authority constituted by any state," it then appears to me that he would be taking as absolute a power as he could desire. The only question is whether that power would not be too absolute. I do not suppose that any one can dispute the argument of the hon. member, Mr. McMillan, that the imposition of differential rates under many circumstances would be perfectly legitimate. There can be no desire to interfere with them, and there should be no authority in the Commonwealth to interfere with them, except, in so far as their action interfered with the federal principle. But that would need a much narrower and closer definition than the amendment, which does not err either in its explicitness or scope. It embraces all the hon. member desires, but also a good deal more than is necessary, and, if moved in the form he has adopted, might give rise to a good deal of doubt and suspicion in the several parliaments. Sympathising with the hon. member, and with the end he has in view, I question whether this wide amendment, if accepted by the Convention, would be accepted by the parliaments of the different colonies.

Mr. FITZGERALD: I suggest to the hon. member, Mr. Gordon, that if he hampers the states in their control over their own railways, he will certainly interfere very materially with what may hereafter be, in their wisdom, considered a proper and wise policy, namely, the leasing of those railways. If any of the states determine to lease their railways, surely the imposition now of conditions which might affect the terms which could be obtained under such leasing would be a very serious infliction upon those states. I apprehend that unless the Convention see that it is absolutely necessary that some restriction should be placed upon the fullest power over the railway system of each state, they will be very cautious indeed in imposing any such restriction. The railways represent a large sum of money, the policy of governing the railways is one which requires men of considerable power to direct it, and I think the Convention would act very unwisely if it interfered in the slightest degree with the fullest and most absolute discretion in the exercise of that control.

Mr. CLARK: I sympathise very much with the object that the hon. member, Mr. Gordon, has in view in moving the amendment. But I believe the criticism offered by the hon. members, Sir Samuel Griffith and Mr. Deakin, is well founded, namely, that the amendment expresses in language much too wide the particular object which he has in view. I think the hon. member, Mr. Gordon, must agree that the argument of the hon. and learned member, Sir Samuel Griffith, in particular, was well founded. At any moment it chose the central government could

pass an act regulating the rates from one end of the commonwealth to the other. All the hon. member and his colleagues want is power to prevent some particular wrong being done, or what they regard as a wrong, and I think that object would be more definitely and successfully achieved by an amendment of this description:

And the prevention of discriminating rates being charged, for railway services by any state, company, or person, so as to give any preference or advantage to any particular person or class of persons, or any locality, or any particular description of traffic.

Those are very much the words that are used in the Inter-State Commerce Act of America. There they legislate only with regard to private railways, none of the states owning railways. I can conceive at once that a number of difficulties might arise as to how this law should be enforced against the states. We could easily enforce a law against a private person by saying that he shall be guilty of an offence and prosecuting him if he breaks the law.

Sir SAMUEL GRIFFITH: In the case of a state we could declare the state law to be invalid!

Mr. CLARK: But whatever difficulties there might be in the way of administering the law, I think the amendment I suggest definitely points to the evil which the hon. gentleman desires to cure, while it does not go beyond the particular object aimed at. It does not give the federal parliament power to do anything more than prevent the specific evil we wish to provide against.

Mr. BAKER: I do not think the amendment just proposed would meet the case. Take, for instance, the railway between Melbourne and Geelong. The Victorian Government spent a considerable amount of money in making a railway from Melbourne to Geelong, and why should we give the federal parliament power to prohibit them from so fixing the rates on that railway as to enable it to compete with the steamers running between Melbourne and Geelong? I believe the Victorian Government lowered the rates on that line for the express purpose of competing with the steamers, and enabling the railway to pay the interest on the cost of construction.

Mr. CLARK: The Inter-States Commerce Act in America is managed by a commission who have very large discretionary powers as to whether or not they will allow a departure from the strict lines of the act, and that might meet the particular case to which the last speaker has referred.

Mr. KINGSTON: It has been suggested that the amendment of the hon. member, Mr. Gordon, would have the effect of enabling the federal legislature to deal with the question from time to time as it thought fit, and to usurp to itself powers which it is not intended should be conferred upon it. The decision of the matter will not rest with the federal legislature. It will rest with the federal courts, which it is expressly provided will be charged with the interpretation of the constitution, and which by their decisions will control anything in the shape of the improper exercise or assumption of power on the part of the federal legislature. Therefore the suggestion that the amendment will enable the federal legislature to deal with the question, utterly irrespective of the principle laid down by the hon. member who moved it, is not well founded.

Question—That the words proposed to be added be so added—put. The Committee divided:

Ayes, 11; noes, 21; majority, 10.

AYES.

Baker, Mr.	Gordon, Mr.
Bray, Sir John	Grey, Sir George
Cockburn, Dr.	Kingston, Mr.
Deakin, Mr.	Playford, Mr.
Dibbs, Mr.	Smith, Colonel
Downer Sir John	

NOES.

Bird, Mr.	Loton, Mr.
Burgess, Mr.	Marmion, Mr.
Clark, Mr.	McMillan, Mr.
Cuthbert, Mr.	Munro, Mr.
Donaldson, Mr.	Parkes, Sir Henry
Douglas, Mr. Adye	Russell, Captain
Fitzgerald, Mr.	Rutledge, Mr.
Forrest, Mr. A.	Suttor, Mr.
Forrest, Mr. J.	Thynne, Mr.
Gillies, Mr.	Wrixon, Mr.
Griffith, Sir Samuel	

Question so resolved in the negative.

Amendment (Mr. CLARK) negatived:

That the sub-clause be amended by the addition of the following words:—"And the prevention of discriminating rates being charged for railway services by any state, company, or person so as to give any preference or advantage to any particular person or class of persons, or any locality or any particular description of traffic."

Mr. BAKER: I move:

That the sub-clause be amended by the addition of the following words:—"The altering of the gauge of any line of railway, and the establishing a uniform gauge in any state or states."

I do not say that at the present time there is any great reason why such an addition should be made; but we must look ahead a little. We know that the railway systems of the different states are gradually drawing closer and closer together. We do not know what the mineral resources of any colony are; it is possible that at any moment enormous mineral treasures may be found in different parts of the interior, and an enormous traffic may spring up. It is only right and proper, therefore, I think, to give the federal parliament the power of dealing with this question.

Mr. MUNRO: At the cost of the federation?

Mr. BAKER: Of course.

Mr. MUNRO: Then say so!

Mr. BAKER: That is assumed.

Mr. GILLIES: Has the hon. member any idea how much it will cost?

Mr. BAKER: I shall come to that directly. Of course I admit it must be at the cost of the federation, because I presume that the federal parliament will not pass such a law unless it thinks it is necessary for the good of the whole commonwealth. The inhabitants of the states of Victoria, New South Wales, and Tasmania are perhaps not very familiar with this question, and it has not been so plainly brought before them as it has been brought before the inhabitants of South Australia. In South Australia we have two railway gauges. We have already met the Victorian system with a 5 feet 3 inch gauge; we are extending our railway north to meet the Queensland system with its 3 feet 6 inch gauge, and we shall rapidly meet the New South Wales system with its 4 feet 8½ inch gauge. It has been proposed in our parliament—even by the Government, I think—that we should pull up some 300 miles of our railways and relay them with a 4 feet 8½ inch gauge, in order to meet the railway system of the great colony of New South Wales.

Mr. PLAYFORD: Never!

Mr. KINGSTON: Not by any Government!

Mr. BAKER: It has been seriously proposed and earnestly discussed. I bring the question forward to show that it is bound by-and-bye to become an important question. Any hon. member who has travelled in America knows what an important question it has become there. He knows that railways with different gauges starting from different points have gradually met, and that the different gauges have involved an enormous annual expense.

Mr. PLAYFORD: No such state of things exists in America. The lines that go from the coast on one side to the coast on the other are all of one uniform gauge!

Mr. BAKER: I think the hon. member is mistaken, and if he has travelled on the Ohio to Denver

line, he must know that there are two different gauges, and that one of the burning questions of the day in America is the establishment of a uniform gauge. The question may not arise here at the present time; but it is very possible that it will arise in the not far distant future. It may be that for defence purposes a line of railway will be required to connect the capitals of the colonies; or it may be that a railway on which there is an enormous goods traffic passing through two states will require to be of a uniform gauge. I think it is advisable to give this power to the federal parliament. The expense of doing the work all at once may be too great, and therefore I put it in the form that they can establish a uniform gauge in any state or states, so that it may be done by degrees. I hope the amendment will be carried, because it is a power which we might safely trust the parliament of the commonwealth not to exercise unless it were necessary for the common good.

Amendment negatived.

Sub-clause 30. The exercise within the commonwealth, at the request or with the concurrence of the parliaments of all the states concerned, of any legislative powers with respect to the affairs of the territory of the commonwealth, or any part of it, which can at the date of the establishment of this constitution be exercised only by the Parliament of the United Kingdom or by the Federal Council of Australasia, but always subject to the provisions of this constitution.

Mr. BAKER: I desire to know whether it is intended by this clause to take from the Parliament of Great Britain the power to pass laws for this country?

Sir SAMUEL GRIFFITH: We do not take anything away from the Parliament of Great Britain. We say that the parliament of the commonwealth shall have the same powers as the Parliament of the United Kingdom in respect to certain matters.

Sub-clause agreed to.

Mr. THYNNE: I move:

That the following stand as sub-clause 3.—"The appropriation of any moneys raised by the commonwealth for any purpose authorised by the constitution."

The object of the provision is to limit the power of the commonwealth to borrow money, or to raise money strictly for the purposes with which it is authorised to deal under the constitution. It is a provision which I think is necessary for the protection of states.

Mr. CLARK: I thoroughly sympathise with the object which the hon. member has in view, namely, to confine the federal parliament strictly to the powers conferred upon it by the constitution, and not to let it in any indirect way, by the appropriation of money, exercise a power which is not directly conferred upon it. But I am of opinion that the constitution has already sufficiently protected the people, because, although the parliament might attempt to do what I have just described, I am very sure that the supreme court would very soon declare any such law invalid. Therefore, the only object which we could gain by inserting the provision would simply be to plainly and legibly place before the federal parliament this prohibition upon its powers. I do not think we need do that when we know that this prohibition upon an undue extension of powers does positively exist, and will be interpreted by the proper tribunal when the time comes. Surely we do not require to state the prohibition in so many words, to use an old expression, so that a child may understand it.

Mr. THYNNE: Where is the prohibition in the bill now?

Mr. CLARK: It is in the fact that only certain distinct powers are specifically delegated to the federal parliament, and that they cannot exercise any powers other than those which are specifically delegated to them. If the hon. member can show me any general words in any part of the bill which appear to go beyond the intention of delegating specific and limited powers to the federal parliament, I shall then feel compelled to support the hon. member's amendment, because I thoroughly sympathise with his object. But I do not want to burden the constitution with any unnecessary provisions. If the hon. member has discovered any general words of the nature I have indicated, I should feel pleased if he will direct my attention to them.

Mr. THYNNE: The general words are in sub-clause 4:

Borrowing money on the public credit of the commonwealth.

No restriction is placed upon the purposes for which the money may be borrowed. Although the hon. member has, in connection with sub-clause 1, shown very clearly and distinctly the way in which the powers of the Federal Government of the United States have been extended from time to time under the words "trade and commerce," I say that the extension of powers which might be made under that sub-clause are nothing as compared with the extension of powers which might take place if this uncontrolled power of borrowing money were given. I submit that there is nothing in the bill from end to end limiting the power of the commonwealth to appropriate money for any purpose it thinks desirable for the benefit of the community. In this way I say you give to the federal parliament a power which is a danger, and I wish to avoid that danger. The hon. member, Mr. Clark, evidently agrees with me that it is proper that a limit should be observed, and if that is so, it is better to express the limit, than to depend upon a judicial decision which we cannot foretell will be made in the direction we now desire. It is better that we should render reference to a court upon such a subject unnecessary. I trust, therefore, that the amendment will be adopted.

Mr. GILLIES: Do I understand the hon. member to contend that the federal parliament could appropriate £1,000,000 for Mr. Parnell, for instance?

Mr. THYNNE: Possibly it might appropriate the sum of £1,000 a year to remunerate Mr. Gillies for the services he is supposed to have rendered to the colonies of Australia. I think the power of the parliament should be limited, particularly in view of such a possibility, and that it should not have the power to go outside the strict limits of the constitution in any expenditure it may make. Otherwise we shall have no confidence in it.

Sir SAMUEL GRIFFITH: I entertain considerable doubt as to whether words of the kind suggested by the hon. member should not be inserted. The question was considered very fully in committee, and at the last moment it was agreed to leave the words out; but it does not follow that the committee were right, or that there is not a serious doubt upon the subject. I entertain great doubt still; but my doubt is occasioned only by sub-clause 4. While, on the one hand, the parliament is not empowered to appropriate money for any other purposes than those indicated, the appropriation of money is incidental to the borrowing of it, and to that there appears to be no limit.

Mr. PLAYFORD: The amendment will place no limit upon it!

Sir SAMUEL GRIFFITH: If we were to make the 4th sub-clause read, "Borrowing money on the public credit for the purposes of the commonwealth," it might meet the case.

Mr. KINGSTON: The hon. member will find a general provision as to appropriation in clause 3, page 16.

Mr. MUNRO: These are questions which legal gentlemen will have to interpret for us. We laymen naturally want to know what the words mean. What I should like to ask is whether, if this amendment is inserted, and parliament deals with the question of the consolidation of the loans of the various colonies,

it would be empowered to borrow money to deal with those loans? The borrowing in that case would not be for the purposes of the commonwealth, and I should like to know whether the limitation contained in the hon. member's amendment would interfere with such a course. I do not know whether it would or not.

Mr. CUTHBERT: Certainly not!

Mr. MUNRO: It must be borne in mind that the borrowing would not be for the purposes of the commonwealth, but for the benefit of various states. A clause we are going to deal with by-and-by provides that the federal government may consolidate the loans of the various states in order that money may be borrowed at a cheaper rate, and in order that the states may be put in a better position. But the states will still be liable for the amount, and as long as they are liable the borrowing must be held to be for the benefit of the states and not for the benefit of the commonwealth. That being so, I should like to know to what extent the limitation sought to be introduced by the hon. member would affect the question?

Mr. DEAKIN: The remarks of my hon. colleague are an illustration of the innumerable difficulties that will arise if you commit yourself to this proposition, which is on first presentation very taking and seems legitimate. Unfortunately, however, the result would be to bring into existence for those purposes a rigid constitution. You would have the appropriation acts of the federal parliament scanned through and through to ascertain if the parliament had not, to meet some pressing need, or in some unforeseen contingency, stepped outside the strict powers given to it. To provide against such a case it would be necessary for us to go through this measure from the first line to the last to see that every conceivable purpose legitimately belonging to the commonwealth was included within its four corners, so that every appropriation might be justified. Otherwise, in case of a sudden emergency, the federal parliament would find itself compelled to go back to the constitution to discover whether by good fortune the contingency could be brought within the scope of any particular section. Why should we not trust the federal parliament in the making of appropriations? Do hon. members suppose that the electors will not eagerly watch every expenditure of money raised by their taxation? Should we not trust the representatives, who will go to their constituents and receive a mandate at their hands? If you cannot trust them to make appropriations in what can you trust them? Why should you make your constitution in its financial aspect so rigid as to render the government liable to be frequently called upon to justify before the courts an appropriation which has been agreed to by both houses of parliament? The result must be that the discovery that the constitution has not been so drawn as to meet all possible cases of appropriation.

Mr. THYNNE: The speech just delivered by the hon. member is a strong argument in favour of having every provision in the bill so loose and elastic as to allow the federal parliament to do in all matters exactly as it chooses.

Sir HENRY PARKES: How can we prevent it?

Mr. THYNNE: By placing stringent limits on its powers in this constitution.

Sir HENRY PARKES: We cannot do that!

Mr. THYNNE: What is the use of our devoting days to the specification of the particular powers which are to be conferred upon the federal parliament if we, at the same time, admit words which will enable it to do anything it chooses?

Mr. MUNRO: Will the hon. member kindly answer my question?

Mr. THYNNE: With regard to the consolidation of the public debts, that would not be interfered with, because the appropriation of money received by the commonwealth for the consolidation of the debts of the states would be a purpose authorised by the constitution. Therefore, the operation of the section to which the hon. member, Mr. Munro, refers, would not be interfered with by the amendment which I propose. It appears that the question of the appropriation of money is becoming a vital part of the whole of this constitution. If it will be necessary, as the hon. member, Mr. Deakin, says, to go over the whole bill again to see that we have given the federal parliament all necessary powers, then let us do so; but I strongly object to any constitution which will give the federal parliament power to overshadow and crush out the operation of the local parliaments. The argument offered is not a good answer to the absolute necessity that exists for having the power of the federal parliament strictly limited on the important matter of finance.

Mr. CLARK: It is only fair to the hon. member, Mr. Thynne, to say that he has drawn my attention to a clause which has a much wider and more indefinite operation than I imagined it would have. With regard to that clause, I think his proposed amendment would be useful. I do not sympathise with the speech of the hon. member, Mr. Deakin. It is not an answer to the argument of the hon. member, Mr. Thynne, because the hon. member, Mr. Deakin's argument was in favour of absolute power being given to the federal parliament, to which this Convention says it will not commit itself.

Sir SAMUEL GRIFFITH: I would ask the hon. member, Mr. Thynne, to withdraw his amendment. He will see, on consideration, that it is not really a power, but a restriction of a power, which he proposes.

Mr. THYNNE: I intend it to be such!

Sir SAMUEL GRIFFITH: Then this is not the proper place for it. It was in the clause as the drafting committee prepared it; but I think it is in the wrong place—it should come in in clause 3, chapter IV.

Mr. THYNNE: I accept the suggestion of the hon. member, because I see that the words would come in much more appropriately in the clause he has referred to.

Amendment, by leave, withdrawn.

Clause, as amended, agreed to.

Clause 53. The parliament shall, also, subject to the provisions of this constitution, have exclusive legislative power to make all such laws as it thinks necessary for the peace, order, and good government of the commonwealth with respect to the following matters:—

(1.) The affairs of people of any race with respect to whom it is deemed necessary to make special laws not applicable to the general community; but so that this power shall not extend to authorise legislation with respect to the aboriginal native race in Australia and the Maori race in New Zealand;

(2.) The government of any territory which may by surrender of any state or states and the acceptance of the parliament become the seat of government of the commonwealth, and the exercise of like authority over all places acquired by the commonwealth, with the consent of the parliament of the state in which such places are situate, for the construction of forts, magazines, arsenals, dockyards, quarantine stations, or for any other purposes of general concern;

(3.) Matters relating to any department or departments of the public service the control of which is by this constitution transferred to the executive government of the commonwealth;

(4.) Such other matters as are by this constitution declared to be within the exclusive powers of the parliament.

Amendment (by Sir SAMUEL GRIFFITH) agreed to:

That the word "legislative," in line 2, be omitted.

Mr. THYNNE: I was unable to attend the committee when this clause was discussed. We purport here to give exclusive power to the federal parliament to make laws with respect to the affairs of people of any race with respect to whom it is deemed necessary

to make special laws not applicable to the general community. It seems to me that that will conflict with the powers reserved to each of the several states under clauses 25 and 26, chapter I, of this bill, where the states have reserved to them the power of excluding from the franchise any particular race or class of people whom they think it is undesirable should be intrusted with the franchise. We give the states power to make a special law, while in this clause we give that power exclusively to the federal parliament. I do not know whether the hon. member in charge of the measure has given this point full consideration.

Sir SAMUEL GRIFFITH: I do not think there is any inconsistency. Each state is allowed to prescribe who are to be its electors—it may say anything it pleases about that. I do not think that an electoral law saying that only British subjects shall vote can be said to be a special law applicable to the affairs of the people of any race for whom it is thought necessary to make special laws not applicable to the general community. I think that would be rather a far-fetched construction of the provision.

Mr. THYNNE: If a law were passed saying that the natives of the South Sea Islands would not be permitted to exercise the franchise, that would be a special law dealing with the affairs of that race, and not applicable to the general community. The state is given power to do that in one part of this bill, while in this part that power is reserved exclusively to the federal parliament. I think there is a conflict between the two provisions.

Mr. DEAKIN: There is another point I think the hon. member, Sir Samuel Griffith, should look into. That is, whether the exclusive power contained in the 1st sub-clause would not prohibit any individual colony from dealing with such a question in the interim until the commonwealth thought it necessary to take action in the matter? Would it not be as well to leave power to any state to deal with such questions until the commonwealth undertook to legislate, as in other cases?

Sir SAMUEL GRIFFITH: I think this should be an exclusive power on the part of the federal parliament.

Mr. DEAKIN: But only when the commonwealth exercises it.

Sir SAMUEL GRIFFITH: Then it would not be an exclusive power.

Mr. DEAKIN: It would become exclusive so soon as the commonwealth thought fit to exercise it!

Sir SAMUEL GRIFFITH: So it will be with every other power which the commonwealth takes into his hands. The intention of the clause is that if any state by any means gets a number of an alien race into its population, the matter shall not be dealt with by the state, but the commonwealth will take the matter into its own hands.

Mr. DEAKIN: There is great force in the hon. and learned member's argument as to that being the proper thing to do; but, until that is done, will the state have power to take action? Suppose the commonwealth does not interfere, will it be said that the states shall be prohibited from doing that which they can do at present? I agree with the hon. and learned member that the commonwealth should possess the exclusive power if it chooses to exercise it; but is it not undesirable in a bill for the constitution of the commonwealth to impose a disability on the states?

Sir SAMUEL GRIFFITH: What I have had more particularly in my own mind was the immigration of coolies from British India, or any eastern people subject to civilised powers. The Dutch and English governments in the east do not allow their people to emigrate to serve in any foreign country unless there is a special law made by the people of that country protecting them, and affording special facilities for their going and coming. I am not sure that that applies to Japan. It might apply to the Government of China, but I do not know whether it does. I maintain that no state should be allowed, because the federal parliament did not choose to make a law on the subject, to allow the state to be flooded by such people as I have referred to.

Mr. GILLIES: Would this clause prevent any state from making a law on the subject until the federal parliament did so?

Sir SAMUEL GRIFFITH: Yes; and I maintain that it ought to be so.

Mr. GILLIES: Who, except the federal parliament, is to determine to what race this applies?

Mr. ADYE DOUGLAS: It seems to me that in giving this exclusive power you are doing what you do not intend to do. Suppose that people of an alien race from India or China went to Queensland, and the commonwealth did not choose to pass a law dealing with the matter, not being interested in that particular question, is the state parliament not to make a law to exclude those aliens? It seems to me that by putting in the word "exclusively" you are doing what you do not intend to do, and you are giving no power to any state, when invaded by a foreign race, to protect itself. It cannot do so, because the exclusive right rests with the commonwealth.

Mr. WRIXON: I do not think that the point put by Mr. Deakin has been sufficiently met. He has no objection whatever to the federal parliament dealing with his subject. The point is whether, until the federal parliament touches the matter, the hands of the states are to be tied altogether.

Mr. GILLIES: I do not think they are!

Mr. WRIXON: Exclusive legislative power is given to the federal parliament. That would exclude the states.

Mr. GILLIES: The hon. member has not noted the point which I made. The clause says:

> The affairs of people of any race with respect to whom it is deemed necessary to make special laws not applicable to the general community.

I say that, until the federal parliament deals with that, and determines the race to whom it is applicable, you cannot tell what race it is. They have to make a special law to deal with the matter.

Mr. WRIXON: The practical result of that is, that the state can do nothing until the federal parliament acts. That ought to be met by giving the state power to act, the matter to be taken out of the hands of the state the moment the federal parliament takes it up.

Mr. CLARK: The argument is the other way. This exclusive power can only be exercised with regard to a race respecting whom it is deemed necessary to make special laws. Who is to deem it necessary? The federal parliament; and it must give evidence by legislation that it has deemed it necesssary, and until it does that the exclusive power does not exist. The states can proceed to legislate on the matter until the federal parliament gives evidence that it has considered the subject and come to a conclusion upon it.

Mr. FITZGERALD: Is that conclusion agreed to by the hon. and learned member in charge of the bill?

Sir SAMUEL GRIFFITH: I am disposed to think that that is right. I did not think so a few minutes ago, but I am impressed by the argument!

Mr. DEAKIN: It is at least open to contention. The words—

> The affairs of people of any race with respect to whom it is deemed necessary to make special laws not applicable to the general community —

might as well apply to the colony as to the federal parliament. The clause deals with the parliament of the commonwealth throughout, but in this particular part it uses the impersonal reference "to whom it is deemed necessary." If that is amended by saying "to whom the parliament of the commonwealth deem necessary," I shall be satisfied, as it will remove all doubt. We ought to make the intention clear.

Clause verbally amended by the insertion of the words "affairs of the" before the word "aboriginal" in the first sub-clause.

Clause, as amended, agreed to.

Clause 54. Laws appropriating any part of the public revenue, or imposing any tax or impost shall originate in the house of representatives.

Mr. WRIXON: I would suggest a trifling amendment in this clause. I think that the word "laws" is not a very happy expression as applied to measures appropriating public revenue. I think it better to keep to the old phraseology of "bill." It is quite true that a money bill is a law.

Mr. CLARK: It does not appropriate till it is a law!

Mr. WRIXON: There is a difference between money bills when they become laws and other bills, as we all may see by the preamble of an appropriation act and the preamble of different bills granting money. They are, in fact, grants of money by the taxpayers to the Government. There is an awkwardness in using the word "laws" instead of "bills." It may give a certain force to the contention that money bills are like other bills, and are to be dealt with in the same way; but except for that I do not think it is the best term to use, and I should prefer to have the word "bills" inserted instead of "laws." I move:

That the word "laws" be omitted, with the view to insert in lieu thereof the word "bills."

Mr. CLARK: The hon. member, Mr. Wrixon, will admit that this is only a verbal criticism even at the best, and as we have used the word "law" all through, I think it would be well to have the bill consistent with itself. It is only a matter of habit that we have used the word "bill" heretofore in our local legislatures, but the people of the commonwealth will soon acquire the habit of reading the word "law." I shall, however, have no objection to inserting the word "proposed," lower down.

Sir SAMUEL GRIFFITH: I hope the hon. member will not press the amendment. He does not propose to make the alteration throughout the bill.

Mr. WRIXON: Yes, I do. I would make it in clause 55!

Sir SAMUEL GRIFFITH: Would the hon. member go right through the measure and use the technical term "bill," which scarcely anyone but members of parliament understands, instead of a word with which everyone who reads it, whether layman or politician, is acquainted?

Mr. GILLIES: Why did not the hon. member use the word "laws" after the word "money" at the heading of the clause?

Amendment negatived.

Mr. BAKER: I beg to move:

That in line 1, after the word "appropriating," the words "any part of the public revenue" be omitted with a view to the insertion in lieu thereof of the words "the necessary supplies for the ordinary annual services of the government."

If hon. members turn to clause 55 they will see that the words which I propose to insert here are the words used there. I have moved this amendment for two reasons. The first, and perhaps the least important, is for the purpose of facilitating the conduct of public business. Every important bill, and nearly every bill, which is introduced, contains some small clause that appropriates part of the public revenue, and the consequence, at all events in the colony from which I came, and I believe in other colonies, has been that nearly every bill has to be introduced in the lower branch of the legislature, which takes up nearly the whole of the session in considering the bills, and towards the end of it they are rushed up to the other house, which must either reject them or consider them in a very imperfect manner. That has been the result of the law in South Australia, and the consequence has been that the Legislative Council there have felt compelled to summarily reject a great many bills—bills of hundreds of clauses—which they have been asked to pass in a few hours, because each of them appropriated a portion of the public revenue, and had therefore to be introduced in the lower branch of the legislature. This has not been at all beneficial to public legislation, and as the words used in the clause are exactly the same as those contained in the Constitution of South Australia, I presume that the same thing will occur in the federal parliament. My second and more important reason for moving the amendment is this: I am not going to fight over again the question of the relative powers of the federal senate and the house of representatives; but, as we know, the effect of the bill will be to render the powers of the federal senate very much less than those of the federal house of representatives, and I do not wish to unnecessarily curtail those powers as they are curtailed by these words. The words, "any part of the public revenue," contradict the provisions of clause 55, which says:

The senate shall have equal power with the house of representatives in respect of all proposed laws, except laws imposing taxation and laws appropriating the necessary supplies for the ordinary annual services of the government.

But if the same words were used in both clauses they would be consistent with one another. If, however, clause 54 stands as it is, clause 55 will contradict it, because it says that no bill may originate in the senate which does not impose taxation or appropriate the necessary supplies for the ordinary annual services of the government.

Mr. CLARK: The two clauses must be read together!

Mr. BAKER: Yes, but they are absolutely contradictory. One says one thing, and the other another. I do not know whether it was intended to put in these words in clause 54 for the express purpose of contradicting clause 55, but that is what they do, and I cannot help thinking that in dealing with this clause the Constitutional Committee followed the rules which apply to ordinary upper houses, and which have no application to the federal senate, and therefore put in these words; and when they came to consider the question dealt with in clause 55 they used words that had another significance. I am not going to discuss the matter over again; but I desire to place my opinion on record by moving this amendment.

Sir SAMUEL GRIFFITH: The intention of the clause as framed is that all laws for the expenditure of money, whether for the annual services of the government, or for the construction of railways, arsenals, ships of war, or anything else, shall originate in the house of representatives; and I think that is what the words mean.

Mr. BAKER: Why are different words used in clause 55?

Sir SAMUEL GRIFFITH: The hon. gentleman thinks that because all such laws must originate in the house of representatives the senate will not have equal power with the house of representatives with respect to all proposed laws excepting those in respect of which their power is limited. The restriction, however, does not apply until the proposed law has been introduced; so that there is no inconsistency.

Mr. BAKER: I understand that the hon. member, Sir Samuel Griffith, draws a distinction between a law and a proposed law. First of all he uses the word "law" when he really means something which is not a law but a bill, that is, a law in its incipient stage; and then he uses the words "proposed law" to refer to a bill after its introduction—that is, to mean a law in its second incipient stage. I should rather say that a bill was a proposed law before it was introduced than after it was introduced and had passed one stage. I confess I may be dense in understanding the two clauses, but I did not draw

y distinction whatever between the words "proposed law," in clause 55, and the word "law," in clause 54, nor do I think that anybody else would, unless he happened to have been a member of the Constitutional Committee, who may have considered the matter, and have drawn some subtle distinction. However, I am not going to argue the question over and over again. We have argued it all out, and I have no doubt we have made up our minds upon it.

Question—That the words proposed to be omitted stand part of the clause—put. The Committee divided:

Ayes, 24; noes, 7; majority, 17.

AYES.

Barton, Mr.	Jennings, Sir Patrick
Bird, Mr.	Kingston, Mr.
Burgess, Mr.	Loton, Mr.
Clark, Mr.	McMillan, Mr.
Cuthbert, Mr.	Moore, Mr.
Deakin, Mr.	Munro, Mr.
Dibbs, Mr.	Parkes, Sir Henry
Donaldson, Mr.	Playford, Mr.
Forrest, Mr. A.	Rutledge, Mr.
Fitzgerald, Mr.	Smith, Colonel
Gillies, Mr.	Suttor, Mr.
Griffith, Sir Samuel	Wrixon, Mr.

NOES.

Baker, Mr.	Gordon, Mr.
Cockburn, Dr.	Hackett, Mr.
Douglas, Mr. Adye	Thynne, Mr.
Forrest, Mr. J.	

Question so resolved in the affirmative.

Clause, as read, agreed to.

Clause 55. (1.) The senate shall have equal power with the house of representatives in respect of proposed laws, except laws imposing taxation and laws appropriating the necessary supplies for the ordinary annual services of the government, which the senate may affirm or reject, but may not amend. But the senate may not amend any proposed law in such a manner as to increase any proposed charge or burden on the people.

(2.) Laws imposing taxation shall deal with the imposition of taxation only.

(3.) Laws imposing taxation, except laws imposing duties of customs on imports, shall deal with one subject of taxation only.

(4.) The expenditure for services other than the ordinary annual services of the government shall not be authorised by the same law as that which appropriates the supplies for such ordinary annual services, but shall be authorised by separate law or laws.

(5.) In the case of a proposed law which the senate may not amend, the senate may at any stage return it to the house of representatives with a message requesting the omission or amendment of any items or provisions therein. And the house of representatives may, if it thinks fit, make such omissions or amendments, or any of them, with or without modifications.

Mr. WRIXON: I would now call the attention of hon. members to the new sub-clause which I propose to add to this clause, with some verbal amendments which the hon. member, Sir Samuel Griffith, has suggested, and which I am quite agreeable to accept. The new sub-clause which I propose to move would be numbered 6, and it would read as follows:

If the house of representatives decline to make any such omission or amendment, the senate may request a joint meeting of the members of the two houses, which shall thereupon be held, and the question shall be determined by a majority of the members present at such meeting.

Mr. BAKER: I desire to move an amendment before that is put. I move:

That all the words in paragraph 1, after "laws," line 3, be omitted.

That, I admit, is going straight to the point. This is the most important question in the bill, and it has already been often discussed. It is a question which will determine whether we are going to have a federation, or whether the bill will be one for the annexation of the smaller states by the large populations of Victoria and New South Wales. That is what it will resolve itself into, and that is what will be the effect of the bill. As I have already stated, I am not going to discuss the matter over again; but I think it is only right and fair that I and those who agree with me should have an opportunity of placing our views on record, so that, when we go back to the colonies that have sent us here, they may know what view we have taken of this matter.

Dr. COCKBURN: I support the amendment. I think the framers of this clause find themselves in a dilemma. The clause is one of two things. It either decides that the houses have not co-ordinate powers, that is to say, that the senate is, in the first place, placed in a position of distinct inferiority to the house of representatives; or if, in an indirect manner it gives those powers to the senate which it appears to have taken away from it, it is a flimsy texture of words, and a mass of ambiguity, which will form no proper foundation for a lasting constitution. If it really takes away the important powers of veto in detail from the senate, then it strikes at the very root of the principle of federation, because the principle of federation is that there should be houses with co-ordinate powers—one to represent the population, and the other to represent the states. We know the tendency is always towards the central authority, that the central authority constitutes a sort of vortex to which power gradually attaches itself. Therefore, all the buttresses and all the ties should be the other way, to assist those who uphold the rights of the states from being drawn into this central authority, and from having their powers finally destroyed. The whole history of federation in America, whether it be the United States or Canada, has proved this: that the tendency is towards centralisation, and away from that local government which is inseparable from freedom. I have heard it said that those who advocate state rights are taking a conservative view of the question. I would like to know since what time have centralisation and democracy been associated? Those who advocate state rights advocate local governments, under whose shadow alone democracy can exist. There is nothing in common between centralisation and democracy, and if you handicap a house, which is erected, to preserve state rights, what have you to prevent the establishment, in this huge island of Australia, of a strong central government which is local only to one portion of the continent, and as far as the rest of the continent is concerned is distant and central? I maintain that a central government, just inasmuch as it never can be associated with the power of the people, is inseparably associated with tyranny, arising either from ignorance or design—frequently from ignorance—because a central and distant government can never properly appreciate the local conditions for which it is to legislate. I am surprised that any one in this Convention should for one moment say that to strengthen in every way the rights of the states, as such—to protect in every way the local institutions—is the conservative mission. The whole history of federation has proved it is otherwise. It was in the name of state rights, when the question of the Constitution of America was being discussed, that the most fervent appeals to liberty that ever stirred the human breast were made, and all those opposed to state rights were the conservatives, the monarchists of that time. The strongest upholders of state rights from time to time have been those in favour of government by the people, and it is only when you have state rights properly guarded, and safeguard local government, that you can have government by the people. Government at a central and distant part is never government by the people, and may be just as crushing a tyranny under republican or commonwealth forms as under the most absolute monarchy. I do hope that hon. members will not allow themselves to be hoodwinked in this matter. It seems that the crushing majority in favour of the state rights that are essential to federation, which we had at the commencement of this discussion, has dwindled away. I maintain that unless the state rights are in every

way maintained—unless buttresses are placed to enable them to stand up against the constant drawing towards centralisation—no federation can ever take root in Australia. It will not be a federation at all. It will be from the very start a centralisation, a unification, which, instead of being a guardian of the liberty of the people, will be its most distinct tyrant, and eventually will overcome it. I do hope that we shall find that those who took a clear view at the commencement of our meetings have not been seduced from the views they then held, and that, as at the commencement of the debate, there will be a majority to vote with the hon. member, Mr. Baker.

Mr. DEAKIN: The hon. member, in his impassioned harangue, did not define state rights, nor define the difference that will exist between the bodies which will, in his opinion, guard state rights —that is, the local legislatures—and the legislative body that will represent the commonwealth. Surely the hon. member need not be reminded once more that the same body of people who will elect the state representatives on the one side will elect the representatives of the commonwealth on the other. The only difference is in the bundles in which these people are made up. The hon. member has chosen to base the whole of his argument on democracy and democratic rights. Will he proceed to show us how it is less democratic to intrust to the whole body of the people of Australia the control of their destinies than to intrust it to the same people, bound up in different bundles?

Dr. COCKBURN: One is central and the other local government!

Mr. DEAKIN: That is no answer as regards democracy. In almost every state the popular chamber represents manhood suffrage; but in no less than three states on the continent of Australia there are nominee upper houses. Is there to be any nominee upper house in the new legislature of the commonwealth? Where there are not nominee upper houses in Australia, there are upper houses elected on a limited franchise? Is a house in the commonwealth to be elected on a limited franchise? I maintain that the constitution of the commonwealth, as drawn in the bill, is more democratic than obtains in any state at the present time. We shall have the people's house elected by the whole body of the people, no nominee upper house, and no house elected on a limited franchise, except so far as the chambers with limited franchise may have votes in the different states in the election of senators. The legislature of the commonwealth will be more democratic than that of the states, and the constituents of the commonwealth will be exactly the same as those of the states. The hon. member said that in the course of history we should find one division of parties —the democratic ranged on the side of state rights, and the conservative ranged against them. Will he tell us then that, in the United States of America during the recent disastrous controversy which rent that nation from side to side, the representatives of the southern states, who claimed the state rights he claims to-day, were the democrats of America; and will he tell us that Abraham Lincoln, and the states of the north, who resisted disunion, and the extreme and extravagant doctrine of state rights, were the conservatives of America? Will he tell us that the democratic population of America was to be found ranked on the side of those who claimed the right of secession and absolute privileges of the states, or will he tell us, as he must, that it was the democracy of America which gave its verdict for union, and against any extravagant doctrine of state rights. In the history of Switzerland, to which he is so fond of referring, the hon. member can find precedents that might justify him in some of his suppositions were they not balanced by precedents in an opposite direction. Switzerland has tried both plans—has tried unification, and rejected it, and trying federation, which he considers democratic, has found it equally a failure.

Dr. COCKBURN: And has now what I am contending for!

Mr. DEAKIN: And has found at last that it was necessary to adopt some such happy medium as I shall show is adopted in this bill.

Dr. COCKBURN: Exactly what the hon. member, Mr. Baker's amendment is!

Mr. DEAKIN: I will come to that in a minute. One more argument. Cherishing, as I do, quite as warm a feeling towards local government, and quite as great a reverence for the powers of local government as the hon. member himself does, I give my next illustration with some reluctance; but it will at all events show what I am only at present concerned to show—that is the erroneousness of the hon. member's claim that history proves the democratic character of state rights as against the rights of centralisers. I ask the hon. gentleman to turn to the republic of France, and note what has been the policy of all its democratic leaders since Gambetta first laid his policy before its parliament. I do not say that the policy is a right one; but I do say that the hon. gentleman's history is all wrong if he neglects the centralising tendency of the policy which from the time of Gambetta until now has been handed on from leader to leader of the Left and been embodied as the first principle of the democratic policy of France. Without approving of that doctrine, I say that the hon. member's history is incomplete, and that there can be shown as much democratic precedent for centralisation as he can show for state rights. But the hon. member, returning to his former argument with great force, says that in Switzerland the two houses are co-ordinate, and therefore he desires the two houses in this new commonwealth to be co-ordinate. But what I wish to point out to the hon. member—although in that case, and in the case of the United States, I can only reply to his former illustration by my former arguments—is that there he is speaking of a government not responsible in our sense of the term—a government that is shaped upon entirely different lines. There are many like myself who would be perfectly prepared, if we were bound to change our present constitutions altogether, to adopt the Swiss system, with its co-ordinate houses, its elective ministry, and its referendum, by which the electors themselves were made masters of the situation; but while we would be prepared to consider a proposal of that kind, the Swiss relation of the two chambers has no analogy whatever to a constitution such as ours, in which it is proposed to retain responsible government, and in which the government must be responsible to the people's chamber. Responsible government, so far from being less democratic than Mr. Baker's proposal would make it is more democratic by far—not more democratic than the Swiss Constitution, if you take it as a whole, but certainly more democratic than this constitution would be with an upper house co-ordinate with the popular chamber. We have had the experience of several centuries on some points, and one century at least to warn us of the danger of endeavouring to establish anything like co-ordinate power between two houses when the responsible government has its chief seat and authority in one. To do so would be to shift the centre of gravity of our political constitution. It would be to alter the balance of power to such an extent as to render the constitution strange to us, something of which we have no knowledge, as to which precedents would offer us no guide, and as to which we could form no idea of the future.

Mr. BAKER: We have no knowledge in the present case!

Mr. DEAKIN: We have quite sufficient knowledge of the kind of federation we are about to establish. If you establish two co-ordinate houses

with equal powers as regards all legislation, and equal authority in the transaction of business, and place a responsible government in one of those two houses bound to answer to the demands of its constituents, the whole body of the people, and pit it against the house which draws its representation from the legislatures of the several states, you will simply provoke an internecine conflict on a more colossal scale than anything which has ever been witnessed in a constitutionally governed country. But I am not concerned in answering arguments which have gone to some length in this direction. I am only concerned at the present moment in following up the contention of the hon. member with reference to democracy. How can he justify his argument for intrusting co-ordinate rights to a house which is not directly elected by the people, which is elected in part by nominee chambers and by members elected with a limited franchise—how can he intrust to such a chamber an equal authority with a chamber elected by the whole body of the people? He says that his anxiety is democratic. How is it possible for any one with those words upon his lips to contend that a constitution which checks and limits the power of the people, as he would have it do, which places an absolute veto in its path—a veto not coming from the people directly, is a democratic constitution? Those who argue for constitutional government find themselves in a somewhat strange position when they see the extraordinary combination in the last division of reactionary radicals and iconoclastic conservatives sitting together on the same bench. To see men whose avowed object is to place all authority at once and unreservedly in the hands of the electors sitting cheek by jowl with gentlemen who will adopt any motion, no matter how circuitous, no matter how vague, how hampered, and how inconsistent so long as it defeats universal suffrage——

Mr. HACKETT: Name!

Mr. DEAKIN: I could name one or two if I desired to enter into a personal argument, and certainly the gentleman who has interjected would be one of the first.

Mr. HACKETT: As an iconoclast or a reactionary?

Mr. DEAKIN: I should say that the hon. gentleman is a combination of both. I will not enter into reminiscences as to the hon. gentleman's opinions; but I will say that a gentleman who in Australia, in the nineteenth century, deplores the loss of the personal power of the monarch, and the loss of the power of the English Lords, as compared with the power of the Commons, is to my mind an anachronism. I do not wish to be diverted by any of these pleasant passages with an old personal friend and associate of mine from the point, which was that of the constitutional bearings of democracy. I am not concerned at present with any other question. No other has been raised. I should like the hon. member, Dr. Cockburn, to ask himself how he would submit to the people of South Australia—shall I say the fierce democracy of South Australia—a proposition such as has been embodied in this clause —a proposition which would give them in the constitution of the commonwealth far less power than they now enjoy under their own constitution—a constitution which would embrace them, it is true, within a federation, but which would leave them in that federation less trusted than they are in their own colony? I would ask the hon. gentleman to recollect that we are not here for the mere exercise of our own opinion as to what might be absolutely the most perfect constitution that could be framed. If we were, there are certain important amendments which, for my own personal satisfaction, I should like to see introduced even into this bill. But they would be amendments in exactly the opposite direction to those which the hon. member desires to make; and the reason why I should wish to make them in an exactly opposite direction to those of the hon. member would be to commend this bill, even more than I believe it is already commended, to the democracy of Australia; because I believe that if we indulged in any scholastic exercises of the kind proposed in order to meet imaginary state rights we might as well consign the bill at once to that limbo of political forgetfulness which is bounded by the boards of a blue-book. We should place this bill in vain before the democracy of Australia if we presented it with a provision on its forefront for the establishment of two co-ordinate houses, one of which, though not elected by the people, would have power to negative all that was done by the house directly elected by the people. Of course, if this were a general argument, I should be pushing that point too far. I am perfectly prepared to accept this constitution as it stands in the bill. I believe it to be a good and workable constitution, and one which the people themselves can shape under its own provisions hereafter into any form they may desire it to take; and I believe important reforms will be carried in the early future under this constitution by means of the powers of amendment which it affords. I am only pressing the argument in an extreme form now, because I am replying to the still more extreme utterances of the hon. member, Dr. Cockburn. I shall be quite content to let the question between us be decided by the verdict of the masses of the people, given by their own vote, on this constitution as against the amendments which the hon. member has suggested. As far as I know the people of my own colony, at all events, I venture to say that they would accept a constitution of this kind, while for democratic reasons they would indignantly reject a constitution which contained a proposal for the extravagant embodiment of state rights, and the elevation of a co-ordinate senate as a rival to the chamber which they themselves created to express their will.

Dr. COCKBURN: First of all I would like to say that in using the word "democracy"—and I think it might be as well that we should come to an understanding as to what we mean by the term—I meant government by the people, the one form of government only under which freedom is possible. The hon. member who last spoke asked if I would trust such large powers to a senate not directly representative of the people. I use, in reply to that, the old argument which has been used over and over again—that there is no reason whatever why the senate should not be made just as representative of the people as the house of representatives. The hon. gentleman asks if I would intrust such powers to a house partly elected by nominee members? I protested also against that. But you must take the constitution as it is, if it is passed; and, as against the flaw which the hon. gentleman has detected in the senate, I set up the flaw which we have found in the house of representatives, and I would ask him, would he agree to intrust freedom to a house partly based on the exclusion of manhood suffrage, and elected by plurality of votes? Is not that as fatal a flaw in regard to the house of representatives as is the other in regard to the senate? It is far worse.

Mr. DEAKIN: The house of representatives will soon alter that!

Dr. COCKBURN: I am astonished to hear my hon. friend talk of centralisation as a system under which the government of the people can flourish. It is the first time I have ever heard any statesman of repute give utterance to such an extraordinary statement.

Mr. DEAKIN: Gambetta!

Dr. COCKBURN: I consider that the whole question was summed up at the conference at Melbourne last year by Sir John Hall, when he said that democracy, which is government by the people, demands that the government should be within sight and hearing of the people. Surely the hon. gentleman will not attempt—surely the English language

was never meant to be so twisted as to say that centralisation can in any way be compatible with democracy or with the power of the people?

Mr. DEAKIN: Gambetta!

Dr. COCKBURN: Local freedom and government by the people are inseparable.

Mr. DEAKIN: Hear, hear!

Dr. COCKBURN: Surely the hon. member does not mean for a moment to assert to the contrary! Now, a very ingenious argument—an argument which I foresaw at an early stage of the debate, and partly anticipated then—was raised by the hon. member in regard to the war of secession. I was speaking of the old parties—the party which was headed by centralisers such as Hamilton, and the party, headed by Jefferson, for local government or state rights. After a time, as I mentioned in a former debate, the party questions got confused, and by nothing so much as the war of secession, because then, very strangely, that party which had always made for liberty and state rights claimed, by a curious irony of fate, as a part of their right under their claim of state rights to establish and maintain slavery. The party of liberty became the party of slavery, and the party for centralisation became, by most curious historical irony, the party in favour of freedom. It was that confusion of thought that entirely abolished the old lines of parties in America, and, as a matter of fact, the parties in America no longer exist. They were destroyed; all the reason of their existence was destroyed by the war of secession. Liberty and slavery got so mixed up that no one knew where they were. The centralisers were for liberty, the people for local freedom were for slavery, and the result has been, as has been well stated by Mr. Goldwin Smith, that the issues are so confused that the two casks representing the old parties, the federalists and the democrats, no longer retain the odour of the liquor with which they were once filled. So that any argument taken from that source is very ingenious, but is entirely opposed to fact. The whole issue has been traversed and destroyed by that miserable war in which for once the states rights men happened to be wrong; and, although they were the exponents of freedom from the very commencement of the constitution, they set themselves against the very essence of freedom and personal liberty. I think the hon. gentleman will not attempt to press that.

Mr. CLARK: That version will stand correction yet!

Mr. MCMILLAN: There is another view!

Mr. DEAKIN: Quite another view!

Dr. COCKBURN: Well, history is capable of very different interpretations. However, I think nothing is clearer than that the parties destroyed themselves over that business, and nothing which has occurred since can be traced to the old parties. There is no doubt that this confusion of thought in America, this destruction of the states rights party by allowing themselves to be besmirched with the infamy of slavery, has been fraught with very disastrous results to the Government of America as a government by the people. What with the constantly eating power of the central government taking away from their powers on the one side, and what with the growth of municipal powers on the other, the area of action for the state governments has become extremely limited—has become so limited that we can no longer look to America as that great field in which the problems, social and industrial, of the future are to be worked out. Why, the local parliaments in America meet only once in two years as a rule. I maintain that the great function that Australia has to perform among nations is to work out the great social and industrial problems with which we find ourselves face to face. That can only be done with all the prestige that a government can secure. It can only be done—and I know my hon. friend agrees with me in this—with local governments. It cannot be done by central influence; it can only be done in experimental plots. That is the reason why I tremble at the thought of the prestige of state governments being sapped, because it is necessary that they should have all possible prestige in order to have an authority adequate to work out these problems. I am afraid if from the first you handicap the states rights, seeing that the tendency is all the other way,—if from the first you remove those buttresses which are necessary to maintain those states rights, it will be one declivity from the present local governments down to centralisation. I can see nothing to stand in the way but states rights, which, I maintain, all those who believe in government of the people by the people ought to the very utmost of their power to uphold.

Sir SAMUEL GRIFFITH: What are the buttresses?

Dr. COCKBURN: You take away co-ordinate powers as to everything.

Sir SAMUEL GRIFFITH: As to what?

Dr. COCKBURN: As to money bills. Except as to the introduction of measures the two houses have co-ordinate powers in the two great federations of the world. What is the central government to do? It is, first of all, to have the collection of £8,000,000 or £9,000,000 right away, and to have the right of imposing any other taxation. We all know that the tendency of all governments, and rightly so, is to augment their own importance and to act up to the full extent of their authority. We give the federal parliament all the money and we give them powers which are simply enormous. Under the heading of military and naval defence of the commonwealth, they can do almost everything. They can make roads; they can build railways; they can lay submarine cables; they can erect enormous public works. You give them the power under that one heading of spending nearly the whole of the money.

Sir SAMUEL GRIFFITH: What about the buttresses?

Dr. COCKBURN: I say that unless we give full power to the senate to veto appropriations in detail, and unless we give them that power without the slightest ambiguity, then we remove the only buttress which state rights have. I said at the commencement of my remarks that those who framed this clause were in a dilemma. In America the constitution was not based on ambiguity. The men there who earned credit for themselves for all time saw distinctly what they were aiming at, and then expressed their thoughts in the most nervous English possible, without the slightest trace of ambiguity. This clause is, I say, ambiguously expressed, and either really gives to the senate the power of veto in detail, or it takes away from the senate that power. It takes away the only safeguard which the state rights have to avoid this machinery, which is being started under the name of federation, from becoming a central government; a unification of the whole of Australia; a government so central and so distant from many parts of Australia, that I maintain it is inconsistent with the continuance of our local government, especially with the maintenance of our separate states as experimental plots in which we can work out the problems of the future, and in which the new world may be looked to to redress the wrongs of the old. I do hope that the state rights party have not shown themselves at the very commencement to be of such a character that after a few days they can be seduced from the views which they so rightly held at the commencement of our proceedings, and which they strengthened in every way by precedents gathered from every confederation which has stood the test of time.

Sir SAMUEL GRIFFITH: I believe I am one of the persons referred to by my hon. friend, Dr. Cockburn, as the state rights party. I expressed my opinion very plainly some weeks ago on this subject. I do not think the principles I then maintained are in the least degree departed from in this clause as it now stands; but I have always felt in dealing with

this matter that where there are two strongly opposed opinions in this Convention, unless we dealt with the subject in a spirit of compromise, there would be no chance of arriving at a conclusion.

Mr. DIBBS: The majority have sometimes given way to a small minority!

Sir SAMUEL GRIFFITH: I do not think so. I think a reasonable compromise has been effected. I do not intend to make a long speech; still less do I intend to indulge in any declamation. But I should like to answer one observation made by the hon. member, Dr. Cockburn. He tells us that this clause is ambiguous. It is not ambiguous; it expresses exactly what it means—exactly what is to happen in every case where there is a difference between the two houses. Where it fails in expression is this: it does not profess to prophesy what will be the result of its working under the constitution we propose to establish. In that sense there must necessarily be clauses in a constitution which are ambiguous. Who can say what will be the development in the course of some thirty or fifty years of some of the clauses we are now passing? Who can tell what will be the precise manner in which these provisions will work out? Who can tell what will be the practical operation of them? What we propose to do is perfectly plain. As to all laws, except two classes, the rights of the two houses are completely co-ordinate. As to the ordinary annual appropriation bill, the senators have to express their wishes in a manner different from that in which they express them in regard to other bills. The same with regard to taxation bills. And with these exceptions the powers of the two houses are co-ordinate. I think it is a very reasonable compromise, and that all those in this Convention who really desire to see a federation of Australia brought about might fairly accept it or something like it. Because, remembering the old maxim—I do not know who first used the words—"that those who want the end must want the means," it is of no use for hon. members to profess to want federation while they refuse to accept the means necessary to obtain it. I am quite certain that unless a compromise something like that proposed be accepted, federation cannot be brought about.

Mr. MUNRO: Hear, hear. It will be utterly impossible!

Dr. COCKBURN: That is to say, that those who want unification will not abandon their aim.

Sir SAMUEL GRIFFITH: I do not want unification. I strongly object to it. I am perfectly satisfied that under this constitution there will be no unification, because state rights will be perfectly preserved. That is my opinion, at any rate. I do not propose to make any further observations. I will merely repeat that if members of the Convention really desire a federation they will not vote against the only possible means of obtaining it.

Sir JOHN DOWNER: I do not think anyone can doubt that my desire is to see federation brought about. With me it is not at all a new-fangled notion. From the very initiation, within my parliamentary experience, of federation proposals I have been always found a strong supporter of them. Upon this question I scarcely think that those who take the view I take of this matter—because they sincerely entertain certain views as to the lines upon which a true federation can be permanently maintained—should be necessarily subject to the reflection that they are not sincere in the cause of federation. Sir, I think that if we are to have a federation of a permanent nature it must, on its initiation, be founded upon a perfect understanding, and on the most complete good faith. If there be any ambiguity in the language or in our intentions which is capable of being interpreted by one portion of the dominion in one direction and by another portion in another, the true basis of federation has not been arrived at, and instead of founding our arguments on mutual good-will and a perfect comprehension of each other's intentions, we are at the very outset sowing discord, and I am sure will not be able to appreciate the results which may follow. One reads the views which are expressed by newspapers upon this question from time to time, and one also hears the views expressed here on the subject by various delegates. We are told by one branch of the public press—which, if it does not always represent, does sometimes to a large extent direct public opinion—that the basis of this bill is the recognition of the inferiority of the upper house of the legislature proposed to be established—the recognition of certain lines, which, in my opinion, are absolutely inapplicable, although well known to the English people, and which have been here in effect faithfully preserved, the only variation in substance from old constitutional lines in the bill now before us being that the senate is authorised legislatively to do what it now does without legislative authority. The law of the constitution, as was well said by Bourinot in his essay on Canadian federation, consists, not merely of the letter of the law, but also of what he calls the convention of the law—understandings superadded to the law which in strictness he says are not the law at all; but which still have all the force and authority of law, because they are the basis on which the law is made. Our understandings superadded to the law have all the force of public opinion to back them up, and in this instance I say we ought to have a most complete and perfect understanding as to what we intend by this new departure in legislature. We ought not only to settle whether or not, if it comes to the bitter end, the senate representing the states will have the practical power of substantially expressing its voice in matters upon which the legislative councils of the different colonies are prohibited from expressing theirs; but whether, in addition to that, it is the general understanding of delegates here in the first instance, and beyond that altogether, whether it is the general understanding of the people of Australia, that that is to be the position of affairs. Now, if the hon. member, Mr. Wrixon, in the very able speech he delivered the other day, directly expressed what this law is intended to be, and in so speaking expressed the views of the delegates here and of the people of Australia, I have very little to say. If we were now for the first time making a constitution, if we had no precedents to guide us, no traditions to influence us, it would matter little whether we gave this power of amendment, if afterwards we gave a power to substantially bring about the same result, although in a different way. But if this constitution is to be interpreted by analogy and relation to constitutions that have preceded it, with those with which we are most familiar, and if this power of making a request is, after all, to be merely an *ad misericordiam* appeal from the senate to the house of representatives to oblige them by making this or that amendment, the senate telling them in effect in the same breath that if they will not make it they, the senate, will not insist upon it, then this provision, clear as it may be in the letter, is nevertheless a delusion and a sham, and will bring about in no way what the words would express. That is the ground which I take. I had some notions, which I have expressed in the course of the debates which we have had, as to the kind of executive that ought to exist. I am willing, on reflection, to leave those altogether out of consideration, provided that the two branches of the legislature are established in proper relation to each other. I am quite satisfied to leave it to what has been constantly termed the natural evolution of things to determine what shall be the test of the durability of the executive, so long as we have first settled the basis on which the two branches of the legislature are to co-exist. If in effect we have denied the senate the power of amendment, though we mean them to have it in substance;

then we are not ingenuous. If, on the contrary, we mean to make it appear that we are giving the power of amendment in effect, while in substance we do not intend it, then we are more disingenuous. My objection is simply this: That the foundation of all true federation should be in perfect sincerity and in perfect mutual understanding, and I object to the mode which has been adopted here, in which you either give the substance, assuming not to give it, or in which you adopt the converse of that proposition. That is practically all I wish to say about it. With the senate as it ought to be, and I believe will be, and as we have made every provision for making it, the only true aristocracy, to use the words of the hon. member, Sir Henry Parkes, an aristocracy of ability, of worth, and in the general estimation of the public—if that body, selected from the very best of the people, surrounded by safeguards to ensure the best selection is not fit to have power given to it co-ordinate with the power of the other branch, selected more indiscriminately and less carefully, I fail to see any logical reason for the difference in their authority. All the analogies which have been drawn, both with the House of Lords and the House of Commons, have no application whatever. The analogies with reference to the legislative councils and legislative assemblies have more relation, but still those bodies are by no means analogous. At all events, we have surrounded in our bill the election of the representatives in the upper branch of the legislature with every means to ensure their worthiness. We have insisted upon their being resident in the dominion for five years, whereas in the case of members of the house of representatives we have only insisted that they should have resided three years. We have insisted that the senators shall be above 30 years of age, whereas for the house of representatives manhood has been considered to be a sufficient qualification. We have insisted upon the senators being selected by the elected of the people, whereas the others are elected by the people themselves indiscriminately. We have taken every means following the analogy of the United States to ensure our senate being as eminent in its personnel as that remarkable body has always been eminent. For what could we have been surrounding this body with all these precautions if it were not with the object of recognising the states as entities with co-ordinate rights, acting together with the other branch of the legislature, and as a result taking care that those who represented them should be endowed with every qualification to fit them for so onerous a position? In this bill I think we are making a mistake. The powerful senate, as I believe the first senate will be, will no doubt prove that the statements of the hon. member, Mr. Wrixon, are absolutely accurate, and the result will be a conflict amongst the states immediately arising from misunderstanding, for which we, placed here to bring about mutual understanding, cannot say for a moment that we are not to some extent responsible. It is on these grounds that I support the amendment.

Mr. McMillan: I do not know whether it is the desire of the Committee to take a vote on this matter to-night. My own opinion is that we ought not, and, as I wish to move an amendment, which I should like to have put in perhaps better phraseology than I can command myself, I would much rather that the debate should be adjourned now.

Mr. Deakin: The hon. member, Mr. Munro, is prepared to speak!

Mr. McMillan: In that case, I will give way.

Mr. MUNRO: We have now arrived at the point where we have to decide whether or not our labours shall be in vain.

Mr. Adye Douglas: No!

Mr. MUNRO: Surely I have as much right to express my opinion to that effect as the hon. member has to say "no." I confess that if there were no other consideration than my personal view, I should at once reject the compromise we have arrived at, because I am entirely in favour of responsible government, and responsible government can only exist by the power of the government to control the finances. I say that the compromise submitted on the present occasion is one which, if I were only to consider my personal view, I would at once reject as utterly unworthy of a free people to accept. I have, however, to take into consideration the views of those opposed to me, and I have a right to respect those views. Seeing that those views go altogether contrary to mine, I am willing to yield largely in order to have those views given effect to. But I do know this, that if the clause is carried as now proposed it will take all the power that we possess, and all our influence, to get our people to accept it. I also know that if it be amended in the direction proposed, it will be absolutely impossible to get the people of Victoria to accept it. That being so, I feel the responsibility of the position which I occupy. I have come to the colony of New South Wales on the present occasion with the determination to do everything in my power to secure federation. I am not going to take up much time. I want to know exactly how we are placed. I say that I am prepared now to accept the compromise arrived at by the Constitutional Committee, because I wish to respect the views of others. But if we are to depart from that compromise, I am satisfied that it will be utterly impossible for me to ask the people of Victoria to accept it. I know what their views are; and I say that I should not be justified in asking those people, who have the absolute right now to make their own laws, to tax themselves as they think proper, to pay their debts as they think proper, and do whatever they can as a free people—to give up their rights and give up their privileges and to be put in a position in which a minority is to rule. The concession we are making in accepting this proposal from the Constitution Committee is a concession which, as I have said, it will be all we can do to justify. Being heart and soul in favour of federation, I am willing to accept a compromise; but I tell hon. members seriously that if they want to have federation, and want the larger colonies to be included, they will not accept the amendment, because if that amendment is accepted, it will be utterly impossible for us to agree to it. I do not think it will be of any use for me to go into the question as to what the effect of the amendment will be, or what the effect of the clause as it is will be; all I have to do at present is to deal with the matter from a practical point of view. I ask myself, and my brother delegates here, are we or are we not in favour of federation? If we are in favour of federation, we shall concede as much as we can. The utmost that I could possibly concede is what is contained in the clause as it stands.

Mr. Wrixon: With the amendment of which I gave notice!

Mr. MUNRO: I say most distinctly that the clause as it stands does not accord with my views at all. The clause as it stands is a restriction upon public liberty, upon the rights of the people to tax themselves. If I had my own way, I should have a totally different clause; but under the circumstances, and to give way as far as I can to the views of other people, I am willing to accept it. But I say in all earnestness, that if the amendment of the hon. member for South Australia is carried, as far as the colony of Victoria is concerned, it will be utterly impossible for us to attempt to federate.

Mr. McMILLAN: I think I had better make now the few remarks which I intended to make, and indicate the kind of amendment which may possibly be a compromise for both parties. We have had some language of a rather peculiar and drastic character during the last couple of hours, and it has been said that some of us have been perverted from

the faith with which we started in the Convention. I am no pervert from the faith with which I started, but, like other hon. members, I must accept the fact that compromise is necessary when such divergent interests appear to be concerned. I do not pretend to be a profound student of constitutional history, but I have had the honour of listening to many speeches in this Convention, and in a practical way, and with my own common sense, I have tried to dissect the views put forth by hon. members, and with all due deference to those high constitutional authorities —and I am particularly sorry to differ from my hon. colleague, Sir Henry Parkes, and that very able man, the ex-premier of Victoria, Mr. Gillies—men whose lead I can follow, I think, on almost all political matters—still in spite of their opinion I hold that it would be far better, and would work better in the future, if we allowed the senate, outside the appropriation bill for services of the year, to have power to amend money bills. I do not hold for one moment that that senate, attracting the best men of Australasia within its four walls, would be of that pettifogging character that it would interfere with every little jot and tittle connected with the expenditure sanctioned by the house of represensatives. I am reminded, and I only quote from memory of years ago, of the saying of a man from whom we glean a great deal of our political wisdom, that great and acknowledged power is not injured either in appearance or in fact by an unwillingness to exert it. The men who compose that assembly will deal very carefully with all matters connected with the people. They will know that the lower house will have an appeal to the people—an appeal which they cannot resist, and they are not likely to lower their dignity by continual jealousy of and wrangling with that assembly representing the whole of the country. I do not take up the position which some hon. members take with regard to the upper house as representing the different states of Australasia. I know that that is one of the prominent features connected with its functions, but at the same time we are trying to erect a kind of government on the basis of previous constitutions. We, for good or for evil, say that it is necessary to have two houses of parliament; and I want to know, if you have two houses of parliament, what is the good of the second house unless it has the power of review, the power of suggestion, and the power in every way of co-ordinately dealing with legislation? Now, let us look at the progress of events. When our new constitution comes into force, the first thing that will engage the federal parliament will be a tariff bill—a taxation bill for the whole of the colonies; and will anybody say that there will be any difficulty in a new departure like that, in the very first great act of the new legislature, with the upper chamber of that legislature, not a nominee chamber, not an upper chamber like the House of Lords, but an upper chamber, if not itself directly drawn from the people, at least elected by those who are drawn directly from the people? There is no doubt that between the divergent views of the two parties there must be some compromise; but it is possible to make a compromise without at the same time giving up every portion of the principle. I must say that I would sooner see this constitution not come into effect than see anything done that would, to any extent, lower or degrade that properly co-ordinate branch of the legislature. There are two ways of doing everything, and the proposed mode of sending suggestions from the properly co-ordinate chamber to the other chamber is, to my mind, the most clumsy, the most undignified, and the most humiliating procedure that could ever be enacted. Talk about following the lines of the British Constitution! Why, you introduce here a new principle which was never heard of before. It has been heard of in South Australia, but I do not believe it has ever been enacted.

Mr. PLAYFORD: It has worked for years!

Mr. McMILLAN: In South Australia.

Mr. PLAYFORD: Yes!

Mr. McMILLAN: But it has not been enacted.

Mr. PLAYFORD: No, but it has been in operation. It has been agreed to!

Mr. McMILLAN: I am speaking of an enacted constitution. As my hon. friend opposite said, the senate will not come to the lower house in the dignified position of a chamber offering advice, and giving suggestions by right of its legislative power.

Mr. PLAYFORD: They would if it were so enacted!

Mr. McMILLAN: They would come, as has been properly said, with an *ad misericordiam* appeal, asking the other chamber to be gracious and kind enough to take their suggestions into consideration.

Mr. PLAYFORD: No!

Mr. McMILLAN: We must remember that we are making what is called a paper constitution. It may be well enough for us, in the liberal spirit of our debate, to say that we do not intend this to be an undignified procedure; but once it is crystallised into an act of parliament you will have the lawyers throughout Australia dealing with it as a paper enactment, and would it not be a fair inference for any member of the house of representatives to say, "This upper chamber has no right to dictate to us; the constitution only gives them the right to make *ad misericordiam* representations; they are not in any way equal to us"? I use this very strong language to show that I am still of the opinion with which I entered the Convention with regard to the judiciousness on our part, with the view of carrying out federation, of giving both houses co-ordinate powers. Still, there must be some compromise, if we are to bring about federation at the present time. What I should propose would be this: Of course, it is allowed on all hands that it would be very inconvenient for the upper house to interfere with the different items in the appropriation bill, which simply appropriates revenue and carries out a settled policy involving no new departure; but no upper house would care to interfere with such a bill, because there is no doubt that the executive authority would be more or less represented in the lower house. However, we now come to deal with the question of a new policy, with the question of taxation, which must be one of the more radical questions in any federation of this kind. What I should propose—and it is not essentially different from the present proposition, but, to my mind, will maintain the dignity of the upper house—is that the upper house, when it receives these money bills, should have a right to discuss them, and to amend them in the same way as they do any other bills.

Sir HENRY PARKES: No!

Mr. McMILLAN: Then their amendments will go down to the lower house, not as suggestions, but in the ordinary constitutional way. Supposing the lower house accepts half of the amendments and rejects half of them, we can make it absolutely necessary when the bill is returned to the upper chamber for that body to either accept or reject it.

Mr. PLAYFORD: It is the same thing, only in different words!

Mr. McMILLAN: You get the same thing; but you do not introduce a miserable subterfuge, which degrades and lowers the dignity of the upper chamber.

Sir HENRY PARKES: It in no way degrades it!

Mr. McMILLAN: Let us look at the question a little further. Anybody would think that this power of veto was to be dormant; but surely if you give the power of veto, you give one of the strongest and most powerful motives for the rejection of the whole measure.

Colonel SMITH: A great deal too strong!

Mr. McMILLAN: The hon. gentleman would give the upper house nothing at all. The means which I propose would to a certain extent, bring about finality. There can be no finality between bodies of

this kind, except by compromise and mutual concession, or, in the case of the lower house, by ultimate appeal to the people. By adopting the proposal I suggest, you do not strain the constitution; you do not put within the four corners of this enactment something which, by inference, may be said to show clearly that the upper house is on a lower status than the lower house, with which it is to be co-ordinate. It seems to me that if my proposition is adopted, you allow the members of the upper house to go through the bill in the ordinary way upon the ordinary lines, and instead of their amendments going down as suggestions, they go down in the first place as amendments —as indications of what they require to be done, if they are to pass the bill. Of course at all times, as now in the case of every ordinary bill, they are quite open to agree to a compromise, even upon their own amendments. And when the bill comes back, I suggest that it should either be accepted or rejected, so as to bring about to a certain extent finality. This, I believe, would be a much more acceptable form of carrying out what I can only conceive is a very clumsy device, and it in no way derogates from the dignity of the upper house; but at the same time keeps together the ordinary form of our constitution, and will, I believe, in every way effect what is attempted to be effected by the clause. The reason I asked for an adjournment was because I would rather have my own views put into shape by a legal member of the Committee, and I shall then be very glad to see a vote upon the question. I cannot vote for the sweeping amendment of the hon. member, Mr. Baker, because I still think that the appropriation bill should be left entirely in the hands of the lower house for convenience more than for anything else. It deals with the appropriation of revenue to be raised on a policy to which the upper house has previously agreed, and it does not stand on any analagous footing whatever with the new policy adopted with regard to money bills. That is all I have to say, and I should like very much to be able on Monday to test the feeling of the Committee on the subject.

Sir HENRY PARKES: I only rise to say that if an amendment of the character which is suggested is moved, I shall feel it my duty to submit another amendment restricting the senate from amending or touching in any way bills appropriating revenue, or imposing new burdens upon the people.

Progress reported.

ADJOURNMENT.

Motion (by Mr. McMillan) proposed:

That the Convention do now adjourn.

Mr. BROWN: On the motion for the adjournment of the Convention, I take the opportunity of expressing my very great regret that urgent private business will compel me to leave Sydney to-morrow. I need not say that, having taken the interest I have taken in this important subject, it is a matter of great regret that I am compelled to leave before the work of the Convention is completed, as I hope it will be. I rise more for the purpose of expressing now—as I shall not have the opportunity of expressing it at a more fitting time hereafter—the obligation which I, in common with other members of the Convention, feel that we are under to the Government and people of New South Wales for the manner in which we have been received on this important occasion. I do most sincerely hope that the difference of opinion that has arisen amongst the various delegates will be arranged, so that when the work for which this Convention was called together is completed a measure will be placed before the citizens of Australia which will meet with their approval, and that we shall find that our work here has not only not been in vain, but that we have contributed to the building up to the great Australian union which we are all desirous of seeing established. I regret that I am compelled to leave. I have not taken any very active part in the debates of the Convention because I have found from time to time that the ideas I should have been inclined to express have been taken up by others. Therefore I did not think it necessary to trespass on the time of the Convention. I have, however, followed the debates very carefully, and I think those who estimate the work of the Convention by the mere number of the hours during which it has been sitting here formally would form a very inadequate idea of the work which has been accomplished. Very much work has been done by the committees, to whom we are very much indebted, and very much more work also, I am satisfied, has been done by the private consultations of hon. members with one another. I desire, as I have stated, to take this opportunity of returning my sincere thanks to the people and the Government of New South Wales for the manner in which we have been received here, and to congratulate you, sir, on the success so far achieved.

Question resolved in the affirmative.

Convention adjourned at 6.17 p.m.

MONDAY, 6 APRIL, 1891.

Address—Commonwealth of Australia Bill—Adjournment.

The PRESIDENT took the chair at 11 a.m.

ADDRESS.

The PRESIDENT: I have received a letter from Tuckurimba, which I request the secretary to read.

The secretary read the following letter:—

Tuckurimba, 27 March, 1891.

The Hon. Sir Henry Parkes,
President of the Federal Conference.

Sir,—As secretary of the Tuckurimba Progress Committee, I feel very much gratified to have to forward to you the following resolution, which was unanimously adopted at our meeting, very largely and representatively attended, on the 24th instant:—

That this committee desire to convey to the Federal Conference, through its president, the hope that its deliberations may result in the forming of a united Australian nation; and that this resolution be sent by our secretary to the President of the Federal Conference now sitting at Sydney.

I have, &c.,
HENRY M. MCCAUGHEY.

COMMONWEALTH OF AUSTRALIA BILL.

In Committee (consideration resumed from 3rd April):

CHAPTER 1.—THE LEGISLATURE.

Part V.—Powers of the Parliament.

Clause 55. (1.) The senate shall have equal power with the house of representatives in respect of all proposed laws, except laws imposing taxation and laws appropriating the necessary supplies for the ordinary annual services of the government, which the senate may affirm or reject, but may not amend. But the senate may not amend any proposed law in such a manner as to increase any proposed charge or burden on the people.

(2.) Laws imposing taxation shall deal with the imposition of taxation only.

(3.) Laws imposing taxation, except laws imposing duties of customs on imports shall deal with one subject of taxation only.

(4.) The expenditure for services other than the ordinary annual services of the government shall not be authorised by the same law as that which appropriates the supplies for such ordinary annual services, but shall be authorised by a separate law or laws.

(5.) In the case of a proposed law which the senate may not amend, the senate may at any stage return it to the house of representatives with a message requesting the omission or amendment of any items or provisions therein. And the house of representatives may, if it thinks fit, make such omissions or amendments, or any of them, with or without modifications.

Upon which Mr. Baker had moved, by way of amendment:

That all the words in sub-section 1, after the first word "laws," line 3, be omitted.

Mr. THYNNE: I think this question deserves a little more consideration than is proposed to be given to it by some hon. gentlemen who wish to see it disposed of immediately. We have now come to one of the clauses of the bill to which a great deal of importance is attached by, I think, every member of the Convention. It is a clause the effect of which may have such an influence in directing the operations of the commonwealth and its parliament in the future that I think it would be unwise for us to pass over this important matter without giving it the very fullest consideration we are capable of giving it. In dealing with this question I propose to occupy the time of the Convention for a few minutes, and to enter into a very careful consideration of some of the matters which have arisen in this debate. The line of thought which has urged me to get up and speak has been suggested by an observation which was made on our last meeting day by the hon. delegate, Mr. Deakin. He then, no doubt, introduced into the debates a new style of argument compared with what had been adopted in this Convention, in the manner in which he criticised the action of certain members of the Convention in taking their seats in a particular division that took place. The words which he used struck me very much at the time; first of all, because of the very forcible condemnation with which the hon. gentleman uttered them, and, in the next place, they struck me with surprise that of all the members of this Convention the hon. member, Mr. Deakin, should be found the one man in it who would venture to attack any members of the Convention for the position they took on that occasion. The words the hon. gentleman used were something to this effect, so far as I can recollect them. He said, "The extraordinary combination in the last division, reactionary radicals and iconoclastic conservatives sitting together on the same bench, was enough to startle any member in any house in a constitutionally governed country."

Colonel SMITH: That is quite right!

Mr. THYNNE: That the hon. member, Mr. Deakin, should have been the person in this Convention to make that attack upon any member of it, is a matter that struck me with great surprise, because, in the history of these colonies if there has ever been a union of "reactionary radicalism and iconoclastic conservatism," that hon. member and his colleagues in Victoria have proved it in history.

Mr. MUNRO: What has that to do with the business before us now?

Mr. THYNNE: It has a good deal to do with the business, and the hon. gentleman will, I think, see before I conclude that it has; at any rate, in some minds it has a very important bearing on the business before the Convention. In political matters one may see these violent conjunctions of opposing parties and these strange combinations. They are justifiable in the face of extraordinary crises. They are only justified when something arises which overshadows all the leading points of the party organisations of the country. Then, and only then, it is that statesmen are at liberty with credit to themselves to postpone the advocacy and the enforcement of their political principles when it amounts merely to a temporary withdrawal of them to allow the danger of the crisis to pass by. But we have seen these gentlemen who are so ready to attack the motives or the position of other delegates—we have seen for seven long years what I may call an extraordinary connection of radicalism and conservatism living and thriving under the powerful influence of my hon. friend, Mr. Deakin; thriving to an extent which I think is absolutely without precedent in any part of the British dominions. I do not refer to these matters for the sake of making a retort or an attack upon those hon. gentlemen; but the train of thought which was suggested by that hon. gentleman's remarks has led me to question what ought to be the influence which these delegates should have upon the members of the Convention in dealing with the important question of the relative position of the several states to the federal parliament. Now, any set of men advocating seriously and entertaining strong opinions upon political matters, and who for some unknown reason will abandon their views for such a long term as seven or eight years cannot but undergo some deterioration. They must suffer some deterioration in their political prestige and principles by what cannot I think under any circumstances be justified; and the people who have not been, as the hon. gentleman says, startled by the extraordinary sight of these two opposing elements sitting, not merely on the same bench in a casual division, but sitting in the same ministry, conducting the affairs of the colony for seven or eight years—a period, I think, almost without precedent in these colonies—the people whose sense of political propriety and of the correct conduct of political affairs has not been startled by that extraordinary combination, and have submitted to it, must also have suffered some of the deterioration which their leaders underwent. I think these extraordinary combinations of reactionary radicalism and iconoclastic conservatism—I like the sound of those words—really have an effect which is not good either for the members of the combinations or for the men who follow them in their political career. Another sentiment which has been expressed by hon. gentlemen has struck me with a great deal of suprise. The hon. gentleman professes to be a great leader of democracy, and yet he is incapable or professes himself to be incapable of accepting the position which the hon. member, Dr. Cockburn, so clearly laid down: that it is necessary to protect the real rights of the people, as far as possible, by having a strong local government. The hon. gentleman goes in for advocating complete centralisation. I must say that I am very much astonished to find that the democracy of Victoria, of which I take the hon. gentleman to be the leading representative, is of that description. And when I look back upon the history of popular thought in Victoria; when I look back upon the great victories which, in times gone by, democracy has won, I am afraid to say under other leaders, I cannot but think that they have for a moment forgotten the object for which they combined originally, and have now descended from being a democracy for the establishment of liberty to a democracy seeking some less worthy object. I would again for a moment, sir, ask to be permitted to refer to the working of this combination. I was very much interested some time ago in reading of a traveller in Russia being pursued by the fierce wolves that infest the steppes, and who in terror of his own destruction from their teeth sought to gain a short respite by throwing overboard one of his own children. I do not say that my hon. friend, Mr. Deakin, or any of his colleagues, have adopted the extreme course which the unfortunate traveller felt himself, in his terror, obliged to do; but I think that these combinations, these unholy associations, for a moment, have sustained their existence by casting behind them with a very profuse and liberal hand—not exactly the children who were coming after them, but certainly the means of sustenance, the life-blood of their existence, by those extraordinary expenditures of which the Victorian people are now so strongly complaining.

Mr. MUNRO: Question!

Mr. GILLIES: What has the hon. member to do with that?

Mr. THYNNE: I do not say that Victoria is the only colony in the group which has pursued this course; but I think I am justified in alluding specially

to that colony, because of the extraordinary position which its delegates take up in the Convention. The representatives of no other colony take up the position here which they do. The members of the Assembly from Victoria present one solid phalanx in this Convention. With two notable exceptions, which I will mention presently, I think there is practically no member of the Convention who advocates the extreme view which they do. I cannot but express, if the hon. member will allow me, my great sympathy with the Premier of Victoria in having to succeed in the management of its affairs.

The CHAIRMAN: Order. I have allowed the hon. member to go on now for some time; but I must call his attention to the question before the Convention, which is a proposal to omit all the words in the 1st sub-clause after the word "laws." It appears to me that the hon. gentleman is not discussing that question, but the policy of certain Victorian politicians, which, I think he must see is irrelevant.

Mr. THYNNE: I bow to your ruling, sir. My object was not to discuss Victorian politics, which I do not profess myself to be capable of doing with much effect; but I thought that on this clause I should be justified in arguing with my colleagues in this Convention against what seems to me to be the stand taken almost alone by the representatives of Victoria. I have endeavoured, in the remarks I have been making, to explain, as far as it is possible to do so, the reason why the representatives of Victoria have taken in this Convention an almost isolated course. This is the crucial clause of the bill. Upon the provision we make with respect to the legislation of the federation depends its very existence.

Dr. COCKBURN: The question is whether we are to have federation or unification!

Mr. THYNNE: Quite so—whether we are to have federation or unification. The whole case depends upon the course the Convention take with reference to this clause, and for that reason I am venturing to speak somewhat fully, and I will now add a few remarks which may, perhaps, be held to bear a little more directly upon the point at issue. I think I am within the rules of debate in referring to the attitude a certain section of the Victorian delegates have taken in this Convention. Was there any feature in our proceedings which struck members of this Convention at the commencement of our sittings so forcibly as the peculiarly selfish position we all thought the representatives of Victoria took up in what was called their claim for a guarantee? That claim was argued very strongly by the hon. member, Mr. Deakin, and that hon. member was supported by the hon. member, Mr. Munro.

Mr. MUNRO: No!

Mr. THYNNE: I understood so.

Mr. MUNRO: But I say no!

Colonel SMITH: That is passed and settled!

Mr. THYNNE: I think the delegates of Victoria, coming somewhat hastily to this Convention, mistook the real interests of the people of Victoria in taking up the position that they did, and having been once mistaken ——

Mr. MUNRO: Surely there is nothing of this in the clause!

Mr. THYNNE: I am sorry the hon. members from Victoria seem to feel so keenly the remarks I am making.

Mr. MUNRO: We feel that the hon. member is not talking upon the subject before the Committee; that is all!

Mr. THYNNE: I am sorry these gentlemen are so sensitive to a little criticism. I have surely not been unduly severe.

Colonel SMITH: Oh dear, no. We are quite enjoying it!

Mr. THYNNE: I would point out this: that if the Premier of Victoria felt it necessary to repudiate one portion of their claim, he might find it equally necessary, before the Convention is over, to withdraw from the position which he and his colleagues ought not to have taken up on the question of state rights.

Mr. MUNRO: We each express our own judgment!

Mr. THYNNE: I am afraid my hon. friend, Colonel Smith, feels a little sore at my remarks.

Colonel SMITH: Not at all. I am quite enjoying them!

Mr. THYNNE: I have, however, to make to the hon. gentleman something in the nature of an apology. I regret that the hon. and gallant gentleman, for whom I have a great deal of respect, and whom we are all very glad to see in this Convention, was so ready to talk of packing up his portmanteau and running away from us. I at first thought the hon. gentleman was not taking up a position which a gallant gentleman ought to occupy; but I have changed my views with regard to the hon. gentleman's object.

Colonel SMITH: I have also changed my mind!

Mr. THYNNE: I think the hon. gentleman has been playing the part of an able tactician, and that he has been making merely a feint to retire, that his feint has been nearly successful, and that even gentlemen from Victoria, and many other members of the Convention, are on the brink of being led into a trap which the hon. gentleman, in his able generalship, has laid for them. In other respects, if the hon. member has not converted very many members in the Convention to his own way of thinking he has certainly advocated the claims of Ballarat very extensively.

Colonel SMITH: A very fine place is Ballarat!

Mr. THYNNE: I have nothing more to say with reference to the hon. member. With regard to my hon. friend, Mr. Wrixon, another delegate from Victoria, we find that it has hitherto been almost the invariable rule in Australian politics that distinguished statesmen who have left the colonies for a short time, on business howsoever important, have found it necessary to undergo on their return some period of political quarantine before returning to political power. I do not hesitate to express my own feeling that the gentlemen comprised in this particular section of the Victorian delegation do not express here the better thought of the Victorian people. If they do express that better thought, if the Victorian people have really taken up in their hearts the position these gentlemen represent, the question arises in my mind as to whether, under those circumstances, they have yet risen to the federal atmosphere—to an atmosphere entitling them to come into this Convention. I should not feel very much aggrieved if they had not come in, because I feel that it will not be very long before they will be made to ask for admission to the federation, which I hope will be brought about sooner or later as the result of our discussions. Apart from the hon. gentlemen of whom I have already spoken, there are two prominent and able members of the Convention who, to a certain extent, support the views to which I have referred. One of these is our very highly respected and venerated President, Sir Henry Parkes. I have listened carefully to every word that has fallen from him; I have sought in his words for some guidance and assistance in coming to a conclusion on some of the most important questions with which we have had to deal; but I must say I have not heard fall from him any clear description of the form of government we shall have to adopt here, because at one time while the hon. member has spoken of a federal government in terms to which I cannot but give my hearty adherence, he has, at other times, spoken of following the example of the British Constitution as far as it is possible to do so. Up to a recent period I have been left in some doubt as to what would really be the hon. gentleman's definition of what our federal parliament should be. I have not heard in his many able speeches that clear definition,

that clear division of the points at issue, for which I had hoped, and which I still hope to receive at his hands. I speak, of course, with the very greatest respect for the hon. gentleman; and I will now pass on to another exception to the general rule in this convention. I refer to the hon. member, Mr. Playford. He has, I think, put forward in this Convention the most important objection to giving the senate and house of representatives coequal powers. His objection is that if we give the two houses coequal powers, we cannot have responsible government. I am not very much afraid of that, although it seems to me—and I have at the same time great respect for the opinions of a gentleman who has had such a large experience in the working of responsible government—that responsible government is one of those things that will adapt itself to almost any circumstances which may arise. It has evolved itself from a system of government in which there has been practically coequal powers between two houses at one time or other, and I think it may be trusted still to establish itself among English-speaking people in these colonies. It is a thing which it is extremely hard to define. You cannot lay down lines upon which it may or may not act; but I think, even under coequal houses, with a little forbearance and common-sense which we will expect to find in those two houses, a system of responsible government will not only exist, but it will exist in a better condition than it does at present. I would ask the hon. member, Mr. Playford, with his great practical experience and practical mind, whether he prefers to preserve responsible government for the federation at the risk of its destruction in the states, or whether he prefers to have responsible government preserved in the states at the risk of some slight modification of it in the federal parliament? In the scheme, as it stands at present, it is proposed that a very large and most important section of the revenue of each colony shall be handed over to the federal government. In looking over some figures last night I found that from Victoria something over £3,500,000 of their revenue will be taken away by the federation, and I dare say it will be the same in proportion in the other colonies. I would ask the hon. member, Mr. Playford, how he will explain the future working of responsible government, which, if it does anything, places upon the administration as its greatest duty the financial management of affairs in each colony. How can responsible government be maintained in these colonies when they have no means of ascertaining how much of their revenue is to come back to them, and when they have no means of influencing effectually the expenditure of the money taken into the federation? Next year, or the year after federation has been accomplished, how can the treasurer of any colony prepare with any confidence a financial statement? How can he tell how much money he is likely to get, or what his revenue is to be? It will be very difficult for the treasurers to do so for many years until, with our usual adaptability to circumstances, we get accustomed to the new current of affairs.

Dr. COCKBURN: They need not count on getting much back!

Mr. THYNNE: My small contribution to the discussion on this point is this: That unless the parliaments of the colonies have by their representatives in the senate an effective voice in preventing extravagance in the federal parliament, those parliaments will never be able to count upon their revenue, or as to what their means of sustenance will be. The federal parliament will be like the hunter sitting at his table with his hounds around him, waiting to have cast to them the bones which are left after he has had his meal. The states will indeed be in a subordinate, a degraded position; and they will never be able to maintain their influence or the power which I at least am desirous they should maintain.

Dr. COCKBURN: They will exist on charity!

Mr. THYNNE: On charity, or what may be worse, on favouritism, or, at any rate, on principles which will not be likely to conduce to the self-respect of the parliaments of the different states or of the people whose affairs they administer. With regard to the clause itself, I think that these words, "The ordinary annual services of the government," form one of those elastic terms which mean nothing at all, which will form no restriction. It is certainly a very poor sentence upon which to distinguish the lines according to which one house of parliament may act under certain circumstances and may not act under other circumstances. There are two distinct parties in this Convention upon this question. One party says, "With the clause as it stands now, we are practically getting all that we ask." The other party says, "We are making concessions, and we are, at any rate, preserving the power of one house somewhat at the expense of the other." If this clause is intended by one party to unduly curb the power of the senate, I think that the clause in its present form ought not to appear in a constitution act framed in Australia. If, on the other hand, it is intended to operate, as I am afraid it will, inimically to the interests of the states composing the federation, it is not one that ought to appear in our constitution. In any case, it is really only a form of regulation of parliamentary procedure between the two houses and one which I think we ought to leave entirely to the capacity and good sense of the two houses which we hope to see elected under this constitution. I am afraid I have trespassed on the feelings of some hon. gentlemen, but I have been obliged to do so in order to explain as well as I could the reason why I give my support to the amendment moved by the hon. member, Mr. Baker.

Mr. BIRD: I hope the members of the Convention generally have spent Sunday more profitably than, I think, the hon. member, Mr. Thynne, has done. I think that, instead of going to church, like a good Christian, and listening to a sermon from a minister, he has spent yesterday in preparing a sermon for Victoria in general and the representatives of Victoria and some other hon. members in particular. However pleasant that sermon may have been to deliver, I do not think it will produce more effect on those who listened to it than was produced by many of the sermons delivered yesterday on those who went to hear them. I performed the good Christian's part, and went to church twice; therefore, I have had no time to prepare such a sermon as that just delivered, which travelled over a field wider than that which the question before the Convention would permit. But I feel bound, in view of the vote I intend to give on this question, to say a few words in justification of that vote. In speaking on this question on a former occasion in this Convention, I expressed strongly my belief that the senate ought to have co-ordinate powers with the house of representatives. More particularly I then said it ought to have co-ordinate powers if it were elected, as it ought to be elected, directly by the people. Now, we have altered somewhat the constituency of the senate, or, rather, we have not adopted that constituency which I believe would have been the best. But, under the circumstances, with a senate constituted as it is to be constituted under the clause we have already agreed to, I still feel that there could be no harm whatever, but only the conferring of a right—and a proper right—upon the senate, if we gave to it those powers which we are asked to give to it by the amendment of the hon. member, Mr. Baker. I cannot understand why there is such a great fear expressed on the part of several members of the Convention as to giving the senate such powers as those. I think it must arise very largely on the part of those hon. members from their having had no such experience as some of us

have had in other colonies as to the working of similar powers when possessed by the upper houses. As is well known, in Tasmania the upper house has a considerable power in dealing with money bills; but, beyond the annoyance naturally felt by the lower house when their measures are seriously amended by the upper house, no great evil, if any, has resulted in the long run. And so in South Australia; I understand that a practice which runs very much on the lines proposed in this bill has been in operation there, and has worked fairly well. Therefore, with such experience as we have had in South Australia and Tasmania of partial or complete power in regard to money bills being possessed by the upper house, it seems to me exceedingly strange that there should be so much hesitation and unwillingness to give to the senate more power in regard to money bills than is possessed by several upper houses in the colonial legislatures. Considering that we shall have in the senate as good men certainly as we shall have in the house of representatives, men as well able to judge upon the various matters brought before them as any in the house of representatives, does it not strike hon. members as strange that they should not have the right even to express their opinion upon matters of expenditure or taxation in the way in which some hon. members would wish to prevent them from doing? If we acknowledge that those who are to be members of the senate are men of good standing, men of good judgment, men chosen by the elect of the people, together with some who are nominated by the governments of the various colonies, who are supposed to nominate those who are in many respects representative men—if we are going to have men of this class, why hesitate to give them the power claimed for them by some to deal with bills of all kinds? But whilst I hold strongly that the amendment ought to be carried, and that the senate ought to have this power, yet knowing, as I do, that Victoria and New South Wales are hardly likely to join the federation if any greater concession is made than is already in the bill in regard to the powers of the senate, and desiring, as I do, most strongly that we should not insist upon provisions which may possibly—or, I should say, probably—have the effect of excluding such colonies as Victoria and New South Wales from the federation, I feel that, however strong one's views are in regard to the powers which the senate ought to possess, we ought to have consideration for the interests of the federation as a whole, and not to push our principles so far as to exclude colonies like those.

Mr. DONALDSON: Rather sacrifice all the other colonies!

Mr. BIRD: No. I do not consider that by the proposal now before us all the other colonies are being sacrificed, but that there is a large concession made to them. The concession made in the bill is perhaps a larger concession than some hon. members appear to think it. I do not know really whether, if they had the power to amend money bills and send their amendments to the lower house embodied in a bill, the senate would have any more power than they will have under the concession now placed before us. There is just this difference: Instead of embodying their amendments in the bill and sending it down to the representative chamber, their amendments will be embodied in a message and sent down for the consideration of the house of representatives, the message accompanying the bill. Therefore, in the house of representatives there would be the same consideration given to the proposed amendments of the senate as if they were in the bill and sent back in the ordinary way.

Mr. ADYE DOUGLAS: If clause 5 is struck out, what then?

Mr. CUTHBERT: There is no danger of that!

Mr. BIRD: I am going to argue for the clause standing in the bill as it is, believing the concession made there to those who want to have co-ordinate powers given to the senate is one that gives more than some members appear to think. I feel that whatever the views of the senate are, they can be expressed in the shape provided for here, and will receive due consideration from the house of representatives when brought before it—as due and full consideration as if they were stated in the bill in the ordinary way. I am so anxious that without great sacrifice of principle we should secure the federation of the colonies—and by no means should we pass a provision that would exclude Victoria and New South Wales—that I am quite prepared to agree to the concession proposed in the bill, and not to press for a further amendment giving a larger concession, as is proposed by the hon. member for South Australia. I felt it right to say this in justification of the vote I shall give, as, having spoken as I did on a former occasion, I might have been for the sake of consistency compelled to vote for the amendment. But considering the expressions of opinion that we have had, and particularly the statement from the premiers of New South Wales and Victoria that neither of those colonies can join the federation if the senate is to have powers equal to those of the house of representatives, I am disposed to vote against Mr. Baker's amendment, and thus agree to a compromise for the sake of the federation of the whole of the colonies.

Mr. ADYE DOUGLAS: The speech which the hon. member has just made is one I might have expected from him, that is to say, that he would argue one day in one way and vote in the opposite direction the next day. Either the senate ought to maintain its position, or it ought to give it up at once without any condition whatever. Is the senate to have any powers at all, or is it to retain such powers as it was intended to give it? When we started it was proposed to give the states equal representation in the senate, because they had virtually no power in the house of representatives. Therefore, you say you will make it up by giving them power in the senate. The 5th portion of the clause gives a most extraordinary method of providing ways and means to do nothing, because any legislature at present has power within itself to do what that clause expresses, and hon. members must have been aware of it. When this clause was agreed to in committee, it was understood that it was merely put in the bill in order that it might be debated in the Convention. The amendment of Mr. Baker for striking out these exceptional matters puts the senate in its proper position—it gives it power to exercise a right which they possess in taxing their several provinces in the way in which they think they are justified in taxing them. How are we to get on in the smaller colonies simply because Victoria and New South Wales said something on the subject? On the last occasion we heard that those colonies were divided. It is not because the President and the Premier of Victoria have said that the colonies which they represent will not agree to this provision that we are to assume that those colonies will not accept it. And why should not the smaller colonies say, "We will not agree to the bill"? If they do so we shall have a very fine arrangement between Victoria and New South Wales, which, we know, cannot agree upon any subject whatever, and are therefore sure to come to grief in this matter. It is a well-known fact, and we had experience of it on Friday last, that these colonies cannot agree. Immediately any question arose between them it had to be set aside. They could not agree on river navigation, upon railway management, or upon any other subject.

Mr. MUNRO: They agreed upon everything!

Mr. ADYE DOUGLAS: They agreed upon everything! Yes, they agreed to carry a bill which will

not be satisfactory to the other colonies. The majority of the representatives of the smaller colonies have stated that the proposed arrangement is not suitable to them; but they are to be left out of consideration because some of the representatives of the two big colonies have said that they will not agree to the amendment. I say that a bill must be passed which will be accepted in all the colonies, not one by which one or two of the colonies will be able to domineer over the rest. The big colonies will have sufficient power without being permitted to domineer in that way. You might as well say that Victoria and New South Wales are to settle the laws of the whole of Australia as pass this clause as it is. That is the meaning of it.

Colonel SMITH: No!

Mr. ADYE DOUGLAS: Then what is the meaning of it, if Victoria and New South Wales are to have a representation of nine-tenths in the house of representatives, and the house of representatives is to control the senate?

Mr. MUNRO: They will pay nine-tenths of the taxes!

Mr. ADYE DOUGLAS: What has that to do with it? The individual citizens will not pay more taxes, though conjointly they may pay more.

Mr. MUNRO: Taxation and representation must go together!

Mr. ADYE DOUGLAS: Have we not taken the United States Constitution as our example in framing this bill; but what does it say? Does it not say that the smallest states shall have the same representation as the larger states, and did not many of the small states at first remain out of the union until it was arranged that they should have equal power?

Colonel SMITH: They were not offered the same conditions as are offered now!

Mr. MOORE: No!

Mr. ADYE DOUGLAS: Well, you can make a constitution between New South Wales and Victoria; but you will not have Tasmania, Queensland, and South Australia in it. We know what Victoria has done in the past. She has tried to cripple the smaller colonies, and has put her foot down upon us, and a big foot it is. But we are not to be dragged into this federation whether we like it or not. I am surprised that the hon. member who told us about the sermon he heard yesterday should turn round and go back upon himself and jump Jim Crow in this Convention. In Tasmania his conduct will be reprobated, and we shall know how to treat him when he gets back there. We understand these things there, and we are not to be domineered over, notwithstanding this talk about the big colonies. The hon. member, Mr. Munro, happens to be at the head of affairs in Victoria just now; but a few months ago the hon. gentleman opposite was in his place, and at the next election the hon. member will probably be moved out again. First, we say that the senate and the house of representatives shall be equal, and then we try to clip the wings of the senate, and prevent them from doing anything; but I hope the delegates from the smaller colonies will not yield to this oppression, to this domineering, to these threats of the packing up of carpet-bags and going away. Those who make them might as well go away, because the other colonies will not join them in the federation they propose. I trust that the delegates from the smaller colonies will not be deterred from doing their duty towards those colonies by anything which has taken place here, or by the attempt which has been made to put down argument by force and threats that "we will take off our traps, and remain no longer amongst you." I say that the smaller colonies have justice on their side. They ought to be represented in the senate as was agreed upon at the starting-point, and they should not be prevented from exercising the same rights and privileges there as the larger colonies exercise, without regard to their population.

Mr. J. FORREST: My object in rising is not to tell hon. members that I have changed my opinion, but to say that I intend to vote, as I said I would vote at first, for the amendment of the hon. member, Mr. Baker. It seems to me that this is the only clause in the bill which would give security to the colonies with small populations, and I feel certain that it would be very difficult indeed to induce those colonies to join the federation if we told them that both of the great colonies, Victoria and New South Wales, would have more representatives in the lower house than the whole of the other colonies put together, unless we could at the same time tell them that the various colonies would have equal representation in the senate, and that the powers of the senate, and of the house of representatives, would be co-equal and co-ordinate. It seems to me that the senate which will be chosen under this bill will be very different in its composition from our present upper houses, and will not be imbued with local politics and local disputes, but will be an august and experienced body, and I hope will be thoroughly representative. If they will not be thoroughly representative, all I can say is, that I hope that some other means will be devised by which they will become as thoroughly representative as the lower house, and that no occasion will be left to those who are opposed to having any upper house to taunt them with not representing any one but themselves. It seems to me that the proposal to make the lower house superior to the senate can only result in lowering its prestige, in making it appear to the people of Australia an inferior body—a body with a disability upon it. Can anyone say that the upper house, as it is proposed to create it under this bill, will be less experienced, less wise, less patriotic, and less able than the house of representatives? I believe that they will be, if anything, a superior body, thoroughly representative, wise, and patriotic, and I see no reason why we should be unwilling to give them full power to deal with all matters connected with the legislation of the continent in all classes of bills. We have heard a great deal, during our rather protracted deliberations, from the delegates representing the larger colonies which we have never heard from those representing the smaller colonies. We have heard no threats that they will pack up their carpet-bags, and that their colonies will not accept the bill, from those representing smaller populations. We heard one large colony say, through its premier: "Victoria will not have the bill," and a little later we heard that "New South Wales will not have it." I think it will be time enough to say that those colonies will not accept the measure after it has been referred to them in the proper manner, and surely before we separate some means will be devised for referring this matter to the people of the colonies. But can anyone at present say that the Colony which he represents is prepared to accept the bill when we pass it? I say that no one here has authority to make such a statement. Equally the rule applies that if they cannot say the colony will accept it they cannot say that the colony will reject it. We have been sent to the Convention to frame a constitution in the best way we can, and when we have arrived at our conclusions will be the time to say whether the bill is one which the people can accept or not. We have come to the Convention, I maintain, on perfectly equal terms, although some of us have come from colonies containing small populations. We do not come here to be threatened; we, who represent small populations, have our duty to perform equally with those who represent large populations. We heard harangues the other day as to what the democracy of Australia would receive, and as to what the democracy of Australia would not receive. I suppose these sentiments came from those who would be leaders of this great democracy. It seemed to me that a considerable amount of jealousy was imported

into the debates by the rival candidates—those who wish to be the sole leaders of what they call the democracy of Australia. I can only say that, as far as I am personally concerned, I have a duty to perform to the Parliament which sent me here, equally to that of the Premier of Victoria, and I shall have to answer for my vote when I return in the same way as he or any other member of the Convention will have to do. How can I, then, go back to the colony I represent, and tell the people that, by my vote, I left them to the complete mercy of the larger populations? They would naturally say, "Why you are going to annihilate us, and to leave us entirely at their mercy." I might reply, "They are magnanimous, generous people; they will not do anything that is wrong or harsh." The answer would be, "Remember that we are now an autonomous state, and we do not wish to be left at the mercy of any one." It would be no argument for me to say "You must trust to the magnanimity or generosity of the people of the larger colonies." It seems to me that if a union is to exist it must be on terms just to all the people of Australia.

Mr. MUNRO: Hear, hear!

Mr. J. FORREST: It would be ridiculous for any one of us, representing small colonies, to return to our homes and to tell the people that they would be represented in a house containing nearly 100 members by four members, and that they would have equal representation in the upper house; but that that representation would not possess coequal powers with the representation of other colonies. I think the best course to pursue is to pass the bill in the best way we can, and in accordance with the views of the majority of the members present. I hope, however, we shall have no more threats as to this or that colony not joining the federation.

Mr. MUNRO: That is what the hon. member has done!

Mr. J. FORREST: I have never said that the colony of Western Australia will not join, nor am I in a position to say so; neither am I in a position to say they will join. I am, I think, exactly in the same position as the hon. member for Victoria, Mr. Munro. Let us pass the bill in the best form we can, whether we gain our own ends or not, but let us have no more threatening, because I do not like it, besides, this is not the place for threatening.

Mr. PLAYFORD: I have been very much astonished in listening to the views put forward by some hon. members. We have been deliberately told that unless we give equal powers to the senate we go for unification, and that if we do give equal powers to the senate we go for federation. That is a most absurd statement. Hon. members well know that it depends upon the power which you give to parliament, whether you take power from the senate or not, and not as to the distribution of that power between the two branches of the legislature. It is not a question as to whether you distribute powers this way or that as regards state rights; but it is a question as to whether you take from the states certain powers and give them to the parliament. We are now discussing, not the taking of powers from the states, but as to how we intend to distribute the legislative powers of the commonwealth between the two houses—the senate on the one hand and the house of representatives on the other; and the question of unification or federation does not come in. It will be just as much a unification, even if the senate have very small powers compared with the other house, if you take away the powers from the states, and give them to the central parliament as a whole; and it will be as much a federation if they have large or small powers. The question of unification has nothing to do with the point at present under discussion. The hon. member, Mr. Thynne, asked me one question which I will attempt to answer. Responsible government, he asserted, could adapt itself to any circumstances. I will ask the hon. member does he know where responsible government has ever adapted itself to the circumstances of two coequal houses? Nowhere in the world. I suppose the hon. member has read history sufficiently to enable him to know that in England we never obtained responsible government until the coequal power was taken from the House of Lords. At one time, in fact, that House had greater power than the Commons; but we never obtained responsible government in the mother country until the power of the House of Lords was taken away and lodged in the House of Commons. I hold to the opinion I have previously expressed on this point, that I believe you cannot carry on responsible government satisfactorily with two absolutely coequal houses. That is an opinion which I have expressed from the first. I have also expressed myself to the effect that personally I have not the slightest objection to ask the people of this great continent to agree to a commonwealth in which the two houses shall be coequal, and in which the executive shall be elected by the two houses in the same way as is done in Switzerland. I find, however, in speaking to hon. members on this subject, that there are very few who agree with me. Even a number of those who are in favour of coequal powers being given to the senate will not go in for doing away with responsible government. Therefore, so far as this question is concerned, it seems hopeless to argue upon it. I hold to the opinion that responsible government cannot work satisfactorily with two houses coequal in power. Another point, upon which I wish to say one or two words, has reference to the statement which has been made to the effect that without equal power the small states will be ridden over rough-shod by the larger states; that, as the last speaker stated, the smaller states will be practically at the mercy of the larger states. Will any intelligent man take up this proposed constitution bill and examine the proposals contained in clause 55, and tell me that the smaller states will be at the mercy of the larger states? First, they have equal representation; secondly, they have equal powers on all matters, excepting money bills, relating to the ordinary annual expenditure on the ordinary service of the year, and dealing with taxation. They have the power of amendment in regard to all but two classes of money bills—the power of absolute amendment coequal with that of the other house. With regard to those two particular classes of bills, they have a right to suggest to the other house amendments in any clause or parts of a clause. The Constitutional Committee have adopted precisely the mode adopted in the Colony of South Australia, where it has been in force for between twenty or thirty years. We have worked under that system for between twenty or thirty years. The upper house have the right to make suggestions, and those suggestions—taking the case as showing how the system would work if it were adopted for the commonwealth—have been as respectfully treated and considered by the lower house as any amendment which has ever been made in connection with any bill. They have been quietly and intelligently debated in the lower house; they have been agreed to either with or without amendment, or disagreed to, as the case may be, and they have been sent back to the legislative council precisely in the same way as is proposed here. Ever since we made the compact in consequence of the claim of the Legislative Council in South Australia to coequal powers with the House of Assembly in dealing with money bills, except as regards initiation—ever since we entered into that compact, nearly thirty years ago, we have never had the slightest trouble with regard to the working of the compact. It has worked in the most harmonious manner, and, so far as the Legislative Council is concerned, I have never heard a single member of that body—and I have been in the Parliament since 1868—utter a

wish that the compact should be broken in any way, though in the Lower House a late treasurer brought forward a motion only a year or so ago to the effect that we should break the compact between the two houses because it gave the Legislative Council too much power. With the right on the part of the senate, in the first instance, to veto any measure brought before it; with equal powers in respect to all proposed laws, except those imposing taxation, and appropriating the necessary supplies for the year, which the senate may affirm or reject; with a right to insist that any bill dealing with new taxation shall be so subdivided that only one subject at a time can be dealt with—with the senate possessing all these powers, and with the immense preponderance of votes which the smaller colonies will have in the senate, how can any man in his senses say that the smaller colonies need have any fear whatever of being overridden in the legislation of the country if this proposal is adopted? I fail to see any such danger. I try to look at the matter with a dispassionate eye. I try to look at it from the standpoint of a smaller colony, being myself a representative of a small colony. I think I can foresee as well as any member here what the course of legislation is likely to be, and I have come to the honest conviction that if these clauses are carried the senate will have all the powers they ought to have, and that to give them any more power would be injurious to the interests of the commonwealth. The people of the community as a whole must rule. You cannot get away from that, and if you do not provide that this shall be to some degree, at all events, the effect of your legislation I fail to see how it will be possible to induce the larger colonies to come into the federation. I shall support the clause as it stands in preference to the amendment. I desire to say that I do not agree with the amendment of the hon. member, Mr. Wrixon. As to the bugbear that has been raised, that the smaller colonies are going to be overridden, and their influence destroyed by the larger colonies, if we do not give the senate equal power with the house of representatives, I contend that that is a mistake. It is a myth; it does not exist, and will not exist if the constitution is adopted in the form now proposed.

Mr. KINGSTON: I shall be found recording my vote against the amendment, and as the position which I now intend to take, may at first sight appear to be somewhat inconsistent with the sentiments I have previously expressed, I should like to give my reasons for the vote I intend to record. My reasons are shortly these: that the senate, as it will be constituted under the provisions of the bill which we have before us, will be entirely different from the senate as I hoped it would have been constituted under the measure which recommended itself to the adoption of the Convention. A good deal was made during the course of the initiatory debate of the resemblance which it was supposed might exist between the senate and the upper branches of legislature as we are generally accustomed to them; but emphasis was laid, and it appears to me most properly, on the probability that there would be little or no resemblance between the two chambers, but that the senate, as created by the constitution of the commonwealth, would be simply a body elected by the same electors voting in different constituencies. Now, I would venture to ask if this is the position under the bill? I hold that it is not; that it is altogether different. Instead of the senate representing the same body of electors as those who will return members to the house of representatives, it will represent a much more limited class. We have provided that the senate shall be chosen by the two houses of the various local parliaments. We have distinctly prohibited the people of the various states from the exercise of any power which they might desire to possess as regards the direct choice of their representatives in the senate. The sense of the Convention was taken on a direct motion affecting the question, and we now find it declared as the deliberate will and purpose of the Convention that the people as a whole shall be deprived of any direct vote in the choice of senators, and that the power of election shall be confided to the two branches of the local legislature. What does that amount to? It amounts to this: That an equal voice will be accorded in all cases which are most favourable to the exercise of popular rights to a limited class, representative not of the general body of the people, but of persons possessing a property qualification. That, I say, will be the case in the most favourably situated colonies. In all such colonies there is a provision requiring a property qualification in the electoral franchise for the upper house; but, further, there are cases in which it can hardly be said that the members of the upper house are in the slightest degree brought in touch with the main body of the electors by any system of representation. We have before us the case of the great colony in which we are at present assembled. Here the popular voice is in no sense or degree exercised in the election of members of the upper chamber. A similar rule obtains in Queensland and New Zealand, and also, I understand, for a limited time in Western Australia. Is it fair, I ask, under all these circumstances, when the senate, as it appears to me, is simply created for the protection of state rights and state interests, to say that we will permanently—or at least until an alteration is made in the constitution—deprive the electors of the different states of the opportunity of settling this matter for themselves as they think best? I would have been perfectly agreeable—and I have hitherto argued in favour of giving the senate large powers in the direction of the protection and preservation of state rights and state interests—if the senate were constituted by the direct voice of the people; but I am not prepared to advocate any such course when I find that instead of a senate of the character which I had hoped would be constituted under the constitution that we propose to adopt, we have altogether a different body—one in which there is no guarantee that the voice of the people will prevail—and that an equal vote in the decision of the election of senators is confided to sections of the community in some colonies, and in other colonies to those who may simply happen to be the nominees of the government that is in power. A great deal was previously made of the improbability of a deadlock, and, of course, if the electors were the same, though divided into different constituencies, as was well pointed out, there would not be much probability of any such lamentable occurrence; but we have had some experience of deadlocks in other colonies, and, although we need not fear them if the people to whom the senate were responsible were the same people as those to whom the house of representatives was responsible, yet when we notice, and must notice, that they are not the same, but altogether a different constituency, and there is no power given to the local legislatures, however much they desire to alter the provisions on this score, then it seems to me that there is great risk of a deadlock. I, for one, have no faith in a senate that is constituted without direct election by the people—over which the people have no control, or over which the people have only the control, to the most limited extent, which is provided here—and I will never give a vote either in this Convention or elsewhere for confiding larger powers to such a senate than are proposed within the four corners of the bill. Rather should I be found supporting any amendment which might have the effect of confining the attention of the senate to matters with which they are properly charged. I have always understood that the object of calling the senate into existence was the preservation of state rights and state interests. I thoroughly sympathise with the

suggestion which during another period of this debate was made, that within the four corners of the act which we propose to pass we should for the guidance of the senate lay down the principle which we hope and expect will direct them in the discharge of their senatorial duties. So far as I can understand that principle, it is that the will of the people as expressed in the house of representatives should prevail, and should not be interfered with by the senate in the slightest degree, except in cases where state rights and state interests are involved. Holding these views, if an opportunity were given me to vote on an amendment such as that which was indicated, by which the senate's power of amendment was to be confined to cases in which by their own deliberate resolution they affirmed that it was necessary for them for the protection of state rights and state interests to amend any particular measure which was sent up to them, I should be found voting in favour of it. But the way in which we have got it at present is that the senate—a body which appears to me to be constituted in a highly objectionable manner, out of touch with the people, removed by the express provisions of this constitution from the possibility of popular control—in a great many cases are given unlimited powers of amendment—a power of amendment which they could exercise whether state rights or state interests were or were not involved. I think it is a bad thing that they should have these powers, and, as regards the matters which we are now discussing, having no faith in a body so constituted, I shall do whatever I can to prevent their having the larger powers which it is sought to confer upon them, and I do hope that I shall have an opportunity to vote for a limitation of the authority which even this clause proposes to confer upon them.

Mr. SUTTOR: With regard to the senate, it is my intention to vote for the whole bill, and nothing but the bill. I desire to compliment the sub-committee who drafted the bill on the able manner in which they dealt with this important question—on the very able compromise which they have brought about. It appears to me that this compromise might be described as what is known in mechanics as the result of a balance of forces. We began this debate with extreme views on all sides. We had the hon. and learned member, Mr. Deakin, on the one side, and the hon. and learned member, Mr. Barton, on the other, whom I described, in the address which I had the honor to deliver to the Convention on the resolutions, as being the two poles of the discussion. I am convinced that the more we discuss the question the more we shall be satisfied that the sub-committee, which perhaps consisted of the most able members of the Convention, have, in their deliberations, made a happy compromise, which all the colonies should accept. I confess that I cannot but express my surprise at what was said by the hon. member for Western Australia, Mr. J. Forrest. He is one of the pets of this Convention. His colony has four representatives to commence with, when, so far as population is concerned, it is only entitled to one member and a half.

Mr. HACKETT: How does the hon. member make that out?

Mr. SUTTOR: There is to be a member for every 30,000,000 people; but Western Australia will start with four members, although it has a population of only 40,000.

Mr. HACKETT: The hon. member should wait for the census!

Mr. SUTTOR: The hon. member will not say that the population is 60,000, and if it were 60,000, Western Australia would be entitled to only two members, but it is to get double the number that it is entitled to. Western Australia will also have the same representation in the senate—eight members—as is given to the population of the larger colonies. Seeing the eminent gentlemen who were on the sub-committee, I am willing to put myself in their hands and to vote for the bill as brought down by them.

Mr. LOTON: The question before the Convention at the present time with regard to the powers that the senate shall have in the federal parliament, I think is worthy of a little more consideration. The hon. delegate from South Australia, Mr. Kingston, put before us the fact that we have given the senate equal powers with the house of representatives on a very great number of subjects—on all subjects, in fact, as was pointed out by the Premier of South Australia, with the exception of appropriation and taxation. I think that the hon. member, Mr. Kingston, also pointed out that the senate, as constituted, would not be worthy of the same amount of confidence, because of the manner of its election, as it might otherwise have been. At the same time, if he can afford to give the senate the same power as is assigned under about thirty clauses in this bill, how is it that the hon. member cannot go a little farther, and give them the same power under the other two clauses? Now, in considering the question of the power of the senate and of the house of representatives, it is very important to my mind to see exactly what powers it is proposed to confer on the federal parliament. What are the powers? The powers are contained in thirty-one clauses; but we have been told on several occasions that finance means government, and government is finance. Well, the very subject on which it is intended to limit the power of the senate is the very question of finance. One of the first subjects, I suppose, to engage the attention of the federal parliament would be the question of the tariff. What would be the relative proportions and powers of the different states when the question was considered? Take the four smallest populated colonies at the present time. Their representation in the house of representatives would not equal the representation of either Victoria or New South Wales at the present time. I leave out New Zealand, because I suppose they are too large at the present time to think of joining the confederation. But, taking the four smallest colonies, their power in the house of representatives would not equal the power of Victoria or New South Wales. And the same in regard to the amount which they would be taxed. The taxpayers will have to pay equally; the tariff is to be uniform.

Mr. MUNRO: The larger colonies will pay the larger amount!

Mr. LOTON: Not exactly. They are to have a uniform tariff, and Victoria, supposing New South Wales stands out, would be able to dominate the four smallest populated colonies, by imposing a tariff against the outside world. We are to have, I suppose, an extraordinary state of things when we enter the federation between Victoria and New South Wales. Victoria is quoted as a highly protectionist colony.

Mr. MUNRO: You could throw out the bill, could you not?

Mr. LOTON: New South Wales, on the other hand, boasts of being a free-trade colony.

Mr. DIBBS: What's that? There is no boasting about it!

Mr. LOTON: I have noticed for some time past, in looking down the customs tariff, that New South Wales imposes against an outside colony a duty of a penny in the pound on butter. That is not free-trade, at all events, for the working-men of New South Wales.

Mr. DIBBS: Our free-trade is a sham!

Colonel SMITH: A good deal of it is!

Mr. LOTON: However, I suppose we shall have an extraordinary state of things between Victoria and New South Wales; and if they join the federation, as no doubt they will, they can easily dominate the tariff of the commonwealth.

Mr. MUNRO: But the others can throw it out!

Mr. LOTON: What will be the important question that will arise in the first instance? It will be the question of imposing a protective tariff against the outside world, and Victoria, there is no doubt in the world, will say, "We want, we must have, and we shall have, if it is possible, a high protective tariff against the outside world"; and New South Wales possibly will follow her because she can afford to do so; but at the present time the other states are not, I say, in a position, and will not be in a position for a long time to go in for a policy of that kind. I shall not follow that argument further than to state it; but that is my opinion. Now, take the other side of the question. What can these four outside colonies with the smallest populations do, even if you give them co-ordinate powers on these particular questions, against New South Wales and Victoria combined?

Mr. BIRD: Veto them!

Mr. LOTON: Very little; they have not the power.

Sir JOHN BRAY: They can reject!

Colonel SMITH: The domination is all the other way!

Mr. LOTON: They can reject the whole of a bill, whatever power you give them, but not a portion. What would the voice of the thirty-five members for these outside colonies be in a senate of 130 members? What would be the use of their voice in the senate unless you give them some power? I maintain that unless you give equal power to the members of the senate on the questions of appropriation and taxation you may as well do away with the second house altogether. If they are simply to register the edicts of the house of representatives, we may as well do away with the senate.

Sir PATRICK JENNINGS: I feel bound to make an explanation. In discussing the constitution of the senate in the debate on the main question, I expressed the opinion that we ought to have a strong and powerful senate. I believe we ought to have a variety of distinct opinions as to what the measure of strength should be of that senate. I may plainly say that after reflection, and looking over the mode by which the committee to whom the task was given of endeavouring to reconcile these conflicting opinions, I am impressed with the conviction that they have decided in a wise and moderate manner. I shall not refer to any ebullition of feeling on the part of that remarkably stalwart stripling of a new colony in the shape of Western Australia, who comes forward and asserts itself with the most manly vigour. I feel that the exuberant patriotism of those who have come so far ought to be admired if we cannot all agree with them. But I think they have really inverted the proposition. I think this is not a case of the larger states domineering over and dominating the smaller states. I am very much inclined to think that the smaller states are in the position of lecturing and hectoring and domineering over the larger states. We know that the representation in the senate is perfectly equal in each case; and we know, moreover, that this idea that New South Wales and Victoria will be always united to oppress the other colonies, is about the most unlikely thing in the world. I think they are very likely to split; and if they disagree, then our friends from South Australia can form a corner on the one side, and our friends from Queensland can form a corner on the other, and they make common cause with whichever state they think is right. But I do not believe there will be a tendency to split up between colonies having all the same opinions. There will be parties in the senate, as there will be parties in the house of representatives, and that party feeling will be the solvent of the questions before them, and will prevent one mass vote being given by the senators. We cannot follow the model of the United States Constitution, because our constitution is totally different. We cannot, as a senate, perform executive functions when we have responsible government and a ministry responsible to the house of representatives. Therefore, I think any allusion to the constitution of the United States Senate would be altogether in vain; and believing, as I do, that a happy mean has been arrived at, I shall not be inclined to support any amendment of this clause.

Mr. HACKETT: I hope the Convention will allow me a few words in order to explain my position, as I find myself, I regret to say, differing from a majority of my hon. colleagues from the colony we represent. In fact, I find myself in the smallest minority possible—a minority, I think, of less than the number of representatives the hon. member, Mr. Suttor, would allow us, according to our population, in the senate. But perhaps hon. members will allow me, in the first instance, to say a word as to some indignant remonstrances that fell from the hon. member, Mr. Deakin, in debating this clause on our last day of meeting. I might explain that the vote I gave on that occasion was given in consequence of a comparison of language, and solely for that reason—not with any idea of altering the powers of the two bodies, but solely from a comparison of the language of clause 55 with that of clause 54. I was under the impression that the words in the 1st sub-section of clause 55 and the words in clause 54 were meant to cover the same subject, and from long experience we all know how highly disadvantageous it is, and how greatly it conduces to friction and trouble if the selfsame subject be referred to and defined in different language. If it were intended to attach to the words "appropriating any part of the public revenue," a meaning different from that attached to the words "appropriating the necessary supplies for the ordinary annual service of the government," it is not explained. I was left under the impression that they were meant to cover the same ground, and on that conclusion I voted to bring them into harmony and consistency. I must say that I remain, to a great extent, unconvinced by the many arguments used by advocates of what may be called the popular view—that is to say, I do not share the apprehensions of many hon. gentlemen that if you endow these two bodies with coequal powers, there is any fear of an absolute stoppage of government, as is, I suppose, meant by the use of the word "deadlock." There is almost certain to be a little friction at the commencement; but after a while each body will find that it is of no use attempting to coerce a body which stands on as strong ground as itself, and ultimately the order of the day will be concession and compromise. Still less am I moved by reference to the power of the people. The power of the people, it is said, will be lodged in the house of representatives. But go round the question as you may, put it into any shape or form you like, it remains the same thing—for many years to come the house of representatives will be the house of two states, while the senate will be the house of all the states. New South Wales and Victoria, as is well known, will outvote the other states in the house of representatives by at least three, and perhaps four, to one. Therefore, I should not accept this compromise if I believed the clause would take away any of the essential powers of the senate in asserting the manifest rights of the smaller states. But does it mean such an inroad upon their powers and privileges? Is it worth our while to accept an amendment rejecting this compromise—a course which, to put it in plain words, will have the effect of wrecking the whole scheme of federation?

Mr. J. FORREST: Who says so?

Mr. HACKETT: We are assured by gentlemen who speak in the name of a majority of the people of Australia that that will be so.

Sir JOHN DOWNER: We had better go without federation than have it on their principle!

Mr. HACKETT: For my part, I think it would be less cumbrous and more satisfactory if the right of amendment were given in the same form as that in which it is given in the South Australian Constitution, and in which it is given and exercised in Tasmania. This compromise goes as nearly as possible towards giving the senate the real power as anything that can possibly be produced in default of the American system.

Sir JOHN DOWNER: Does it give them the real power?

Mr. HACKETT: Above all, I protest against it being said that we are accepting a degrading compromise—that this compromise, if acted upon, would put the senate in a degraded and undignified position. How can that be so? What difference is there between the course proposed and things as they now stand in some of the colonies? In those colonies in which the upper house possesses the right of amendment if it desires to make an amendment it sends down the amendment in the bill. Under this compromise it would send down the amendment with the bill. If this Convention is to break up upon such a ground as that, upon such mere straw-splitting as the question whether bills shall be sent down with amendments in them or tacked on to them, the sooner we give up all ideas not only of federation, but of political self-government, the better, because we are unfitted for either. Sir, something of this kind has been and is in operation in at least two colonies in the group. The hon. member, Mr. McMillan, seemed to think that the arrangement by which an amendment in a money bill could be communicated by message to the lower house, though nominally in force in South Australia, was not operative. All I can say is, that in the first assembling of our two houses in Western Australia, when this very question came up, we carefully studied matters in South Australia, and we were convinced, from the frequent, the effective, and the conciliatory application of the system, that it was a course of procedure that deserved consideration. The result was that in the very first question that arose between our two houses we adopted the South Australian mode of procedure, and in consequence an amendment of a highly desirable character was made in legislation relating to finance. Therefore, I look upon the practice as the established practice of Western Australia as well as of South Australia. This power, so far from being degrading, is really a power which is lodged in another branch of the parliament. I refer to the governor representing the Queen. Under most of our constitutions, he can communicate—I do not say as to money bills, but as to other legislation—by message any amendment he thinks it desirable to make in a bill after it has passed both houses. And the same procedure would be adopted as to dealings between the senate and the house of representatives in regard to financial legislation. I am prepared to vote for this compromise, and mainly on these two grounds. We have already decided that bills dealing with money questions—bills imposing a tax or appropriating any part of the revenue—shall originate in the house of representatives. That clause was carried unanimously. What is now proposed? Not only that bills dealing with money questions shall originate in the house of representatives, but that all amendments dealing with money bills shall also originate in that house. I say that the advocates of this compromise are entitled to press that parity of reasoning to its utmost and most stringent logical consequences. In fact, the relationship that will exist between the senate and the house of representatives as to amendments will be almost the same as that which exists between the governor and the house of representatives as to money bills—that is to say, the governor may and does suggest a money bill for the consideration of the house of representatives. The senate is to do almost precisely the same thing. It is to send amendments in money bills to the house of representatives for its consideration. Therefore, if we look to mere logical consistency, the proposal to allow the amendment of money bills to originate in the lower house as well as the bills themselves, recommends itself to the most favourable consideration of the Committee. The second reason why I shall vote for this compromise is that it leaves the door open for evolution. It is quite possible that in years to come the senate may prove itself to be the more trusted, the more able, and the more patriotic body. If so, it will be the most popular body, and no number of constitutional shackles which you can devise will take away from it its power, or reduce it one scintilla. On the contrary, however you may bind and fetter it, it will discover means to make its wishes known and to enforce them; and the people also will find ways to support them. This compromise rather indicates than determines the balance of political forces in the constitution. It leaves their ultimate adjustment and readjustment to time. Time, and time alone, can show us where the political equilibrium will lie; and it is no small credit to the framers of this compromise that they have borne that so clearly in mind and have allowed within certain limits the senate to exert the power which its own conduct will make apparent and effective. For this reason I shall have great pleasure in supporting the clause as it stands.

Mr. BAKER: At the request of the hon. member, Mr. McMillan, I ask leave to withdraw my amendment in order to propose another. If my amendment, as I first proposed it, is negatived, the amendment which the hon. member, Mr. McMillan, wishes to move will not be admissible. I would like to say a few words in reply to what has been said on this question. We have heard a great many arguments which were used before on this subject; but we have had the matter put in a somewhat new form by two of my colleagues from South Australia. The hon. members, Mr. Playford and Mr. Kingston, both put it that they are prepared to make sacrifices.

Mr. PLAYFORD: I never used the word!

Mr. KINGSTON: I did not!

Mr. BAKER: The hon. member, Mr. Playford, did not use that word, but he said he was prepared to make a compromise; he did not advocate that which he himself thought absolutely the best, but he was prepared to give way in order to bring the matter to a conclusion.

Mr. KINGSTON: I did not say anything of the sort!

Mr. PLAYFORD: Nor did I!

Mr. BAKER: I understood the hon. member, Mr. Playford, to put it that responsible government must exist; and, in order that this fetish of responsible government should exist and be carried out, he was prepared to sacrifice the interests of South Australia.

Mr. PLAYFORD: No!

Mr. BAKER: I have heard of people who were prepared to sacrifice themselves on the altar of their country; but I never before heard people talking of sacrificing their country on the altar of responsible government.

Mr. PLAYFORD: That is unfair!

Mr. BAKER: I do not think it is at all unfair. The hon. gentleman has a right to his own opinion.

Mr. PLAYFORD: The hon. member has no right to put words in my mouth which I never used!

Mr. BAKER: The hon. member did not use those very words; but that was, as I understood him, the effect of his arguments. The hon. member, Mr. Playford, has told us that this system of suggestion which is proposed in this bill has been in force in South Australia for twenty years, and it has always worked well; that all the suggestions made by the Legislative Council have been respectfully treated. As a matter of fact, the Legislative Council never does make any suggestions at all with respect to tariff or appropriation bills. They never

think of making a suggestion with regard to an appropriation bill. They never make any suggestion in the case of a tariff bill.

Mr. PLAYFORD: Yes; they have done so!

Mr. KINGSTON: And also in the case of loan bills!

Mr. BAKER: I do not remember any suggestion having been made. If the hon. member says that ignoring suggestions is treating them respectfully, he is quite right. That is the usual treatment they meet with.

Mr. PLAYFORD: No!

Mr. BAKER: When a bill comes to us which is technically a money bill, but which is really a bill dealing with a question of general policy; and containing a few money clauses in it, when we make suggestions that do not deal with the money clauses, they are generally respectfully treated; but if we venture to make suggestions on money matters, they are ignored.

Mr. PLAYFORD: Nothing of the sort!

Mr. BAKER: I assert that they are. I and those who think with me are afraid that the same practice will be carried into effect with reference to any suggestions made by the senate if the clause is passed as it now stands.

Amendment, by leave, withdrawn.

Amendment (by Mr. BAKER) proposed:

That the word "except," line 3, be omitted.

Sir JOHN BRAY: I do not think I should have troubled the Convention with any remarks on this subject, but for the fact that an hon. member from South Australia, Mr. Baker, has displayed such lamentable ignorance of what is going on in the Parliament of that colony. The hon. member, to my knowledge, has been a member of the Legislative Council for a great number of years, yet he tells us to-day, us who know more about it than he does himself, that this power of suggestion, exercised by the Legislative Council of South Australia, is in fact a myth,—that when suggestions are made, they are, generally speaking, ignored.

Mr. BAKER: I did not say so.

Sir JOHN BRAY: The hon. member said that suggestions were made, and, generally speaking, were not respectfully considered.

Mr. BAKER: I did not!

Sir JOHN BRAY: And the hon. member took the hon. member, Mr. Playford, to task for having said that the suggestions of the Council were always respectfully considered. He cannot deny that.

Mr. BAKER: I do not deny that!

Sir JOHN BRAY: I say it is a mistake. I am sorry that the hon. member said that. If we are going to question what each member likes to think, and to put our own interpretation on any explanation that he chooses to give, that is not the way to forward the business of this Convention. Our business is to determine what we shall do to meet an undoubtedly very difficult question. I will point out to hon. members as a recent instance of what took place in South Australia, that, in 1887, a tariff bill was passed by the Legislative Assembly. I have here a copy of the proceedings of the Parliament of South Australia. The Legislative Council made certain suggestions with respect to that tariff bill——

Mr. PLAYFORD: Twenty-five altogether!

Sir JOHN BRAY: I will not trouble the House by reading them all; but they suggested that men's boots and shoes, No. 6 and upwards, should be charged 33s. per dozen pairs, glass bottles at certain rates, bags, sacks, and so on; that between twenty and thirty different items should be included in the tariff. A message was sent to the Assembly, and a day or two afterwards it was resolved that the suggestions of the Legislative Council should be accepted.

Mr. PLAYFORD: Every one of them!

Sir JOHN BRAY: That is as clear proof as possible that this practice of the Legislative Council making suggestions has worked well in South Australia, and the Legislative Council have not hesitated to exercise their power to make suggestions.

Mr. PLAYFORD: And they were always respectfully considered!

Sir JOHN BRAY: Nor has the Assembly, on the other hand, hesitated to consider their suggestions fairly and respectfully, and, where possible, to agree to them. I must say, as one who tries to take a fair and impartial view of this question, that I believe both sides are making too much of this particular matter. I do not think this is the crucial question in the bill. I have sufficient confidence, not only in the parliaments of the different colonies, but also in the people of Australia generally, to believe that they have no desire to do a wrong. Even if it were possible, and I do not think it possible, that the governments of New South Wales and Victoria were both anxious to do wrong to the people of the other colonies, I do not believe that the people of Victoria and New South Wales would follow their governments in attempting such a course. I say, speaking as an Australian, that I believe the Australians desire federation. I believe they have confidence in each other, and I believe that the 1,000,000 of people—speaking in round numbers—in the other colonies have perfect confidence in the 2,000,000 people in New South Wales and Victoria having the same objects, the same interests, and the same desire to maintain the prosperity and advancement of the whole of the colonies. I say, on the other hand, that I shall be quite satisfied to give the senate full power with respect to everything except the ordinary appropriation bills. I think it would be a lamentable thing to give the senate power to interfere with the ordinary annual supplies of the government. It would possibly clog the whole of the work of the government, and the senate would not be directly responsible to the people. I do not want to go into the question of what is federation, or unification, or anything else; but I take it that it is the desire of every Australian who wishes to see free government in Australia to have the government of the people by the people, and not by the states; and whether I represent a small state or a large state I will be no party to giving any authority or any government for the time being the right of nominating persons who shall exercise a power superior to that exercised by the people themselves. The question now before us as to the mode of adjusting the differences between the two houses will settle itself in the course of time as the two houses proceed with their work, and I, for one, would deprecate the tying down too tightly in a bill, and saying too definitely what the powers of each house are to be. I am not going to pronounce a definite decision on the matter, however, until I hear clearly what the amendment of the hon. member, Mr. McMillan, really is; but whatever form the government may take, I, as one of those elected by the people, claim that the people of Australia must in the end make their will prevail. It is impossible for any of us, whatever the colony from which we came, to suppose that the 2,000,000 people in New South Wales and Victoria would consent to be dictated to by the senate as to the amount of taxation that they are to endure, or as to anything more than the disposal of that taxation for the purposes of the federal government. It appears to me that the really important part of the bill, that relating to finance, has to be decided later. I do not propose to go into this matter now, although to a certain extent it is connected with this clause, because it really provides how taxation measures are to be dealt with; but I ask hon. members on either side not to attach too much importance to this question. I say that anybody who talks about one colony making a sacrifice for the sake of another does not understand it, and will have to begin at the beginning before he can know anything about it. There is no

sacrifice whatever. The senate is composed of an equal number of representatives from each colony, and the people have the right to elect a certain number of members to the house of representatives, and I have the fullest confidence that those who are elected to the house of representatives will deal justly with the whole of the people of Australia. I think we ought to ridicule the idea that the people of New South Wales and Victoria would be so utterly wrongheaded as to combine together merely for the purpose of doing an injustice to the other colonies. I do not believe that it is possible that the governments of these colonies could combine for this purpose, and I ridicule the notion that they could get any considerable portion of the people to follow them if they adopted such a course. I ask hon. members to consider the question reasonably. I should like representatives from the smaller colonies to consider whether the people of Australia are to have a full voice in the disposal of taxation. No form of government should deprive them of the full opportunity of exercising proper influence in the raising and disposal of taxation. It appears to me that the most important provisions in the bill are those relating to the disposal of the revenues of the federal executive council, and I trust that we shall make up our minds not to leave them as they are now. The surplus revenue will probably be returned to the people; but I quite agree with the hon. member, Mr. Thynne, that the uncertainty as to the amount to be returned, or as to the time at which it will be returned, must embarrass the treasurer and the government of each particular colony, if there is any doubt whatever about it. If we make up our minds to place in the hands of the federal government a considerable revenue, we should also make up our minds that they shall have full use for that revenue. I shall listen with care to the amendment of the hon. member, Mr. McMillan, but in the meantime I ask hon. members not to insist on anything so unreasonable as that the senate which represents the states shall have the power of over-riding the representatives of the people in the taxation of the people, and the mode of disposing that taxation when raised.

Mr. BAKER: I am glad that the hon. member, Sir John Bray, has called the attention of the Committee to the particular suggestions made by the South Australian Legislative Council to the House of Representatives in 1887, because they entirely prove the statement which I advanced, that suggestions when made on matters of detail, and unsubstantial, were considered and agreed to; but that they would not be considered at all if they materially affected the provisions of a money bill.

Sir JOHN BRAY: Show it by the records!

Mr. BAKER: I shall show it by the record of a motion moved by the hon. member, Sir John Bray, in the very case which he brought before the Committee this afternoon. First of all, the ruling of the Speaker was called as to whether it was in the power of the Legislative Council to make the small suggestion which they had made. The Speaker ruled that it was in their power, and the hon. member, Sir John Bray, then moved:

> That the ruling of the Deputy-Speaker be printed and taken into consideration on some future day, and that in the meantime the suggestions of the Legislative Council *re* the Tariff Revision Bill, not being such as materially affect the policy of the bill ——

That is to say, being trivial amendments.

> be considered in Committee.

Does not that prove that in substance I was right, although I admit that my memory was at fault, and I apologise, for saying that the Legislative Council never made any suggestions in a tariff bill?

Sir HENRY PARKES: It does not much matter whether they did or not!

Mr. BAKER: No. However, these suggestions were agreed to because they did not affect the policy of the bill.

Mr. PLAYFORD: The policy of the bill was protection—they would have thrown the measure out if they did not believe in its policy.

Mr. BAKER: The House of Assembly said it does not matter at all in these small questions, inasmuch as they do not materially affect the policy of the bill.

Mr. McMILLAN: I think at this stage I had better let the Committee know the character of my amendment.

The CHAIRMAN: This amendment must be dealt with first.

Sir JOHN BRAY: The hon. member, Mr. Baker, has withdrawn his amendment, and only proposes to strike out the word "except." We want to know how that would fit in with the amendment of the hon. member, Mr. McMillan?

Mr. McMILLAN: I shall not refer to my amendment if it is not in order. I simply wish to say that when the amendment of the hon. member, Mr. Baker, is disposed of—I hope in the negative—I shall propose my amendment.

Mr. MUNRO: The hon. member had better go on with it at the right time!

Mr. McMILLAN: I understand that although we are working under the rules of the House of Commons, some amount of latitude is allowed us.

Mr. MUNRO: We shall not be allowed to speak on the hon. member's amendment now!

The CHAIRMAN: I would point out to the Committee that if I allow the hon. member, Mr. McMillan, to do what he proposes, I shall have to allow every hon. member a similar privilege, and I think that would lead to a great deal of irregularity, which is undesirable.

Mr. McMILLAN: I understand that the hon. member desires to omit the word "except," in order that a sweeping amendment may be brought forward, giving the upper house the right to interfere with the ordinary appropriation bill. From that I absolutely dissent. As I said before, there is a very great difference between the two cases. In an appropriation bill we simply appropriate money on a policy which has been previously agreed to; and it is with regard to the appropriation, and not with regard to the details of the bill, that I desire to give the privilege to the upper house of dealing with it; consequently, I wish to say that, notwithstanding the amendment which I intend to move, I am utterly opposed to the upper house amending an appropriation bill.

Sir JOHN DOWNER: If the views of the hon. member, Sir John Bray, were adopted and met with general acceptance, I think it would be absolutely unnecessary for us to bother about a senate at all. I understood the hon. gentleman to say, with great emphasis—certainly he was speaking in a manner in which he did not speak previously—that, so far as federation was concerned, the voice of the people of Australia—that is, of the individual units—must be predominant; and for that reason, and, as I understood the hon. gentleman to say, for that reason alone it would be impossible to think of giving the senate powers co-ordinate and coequal with those of the house which directly represented the people. I can only say that if those are the views of the hon. gentleman, let him carry them out to their legitimate issue, and the colonies will cease to exist as entities; the unification of the empire, so far as it relates to the colonies, will be complete, and our individuality as colonies will be absolutely destroyed. It is quite impossible to talk of the voice of the people being absolutely predominant, and in the same breath to state that there shall be a senate which is to have authority which may not necessarily work in the same direction as the general voice of the people. I

agree with the hon. gentleman that the voice of the people must prevail, but with those safeguards in respect of each colony which are absolutely necessary to preserve them in their present independence; and it is from that point of view that, throughout, I have maintained that, to make this exception in respect of money bills, or in respect of taxation bills, was, at the very start, to indicate the inferiority of the senate, whilst all the provisions of the bill go to show what a superior body we intend to create. The hon. gentleman says no constitution could possibly exist with coequal authority in the senate and the house of representatives; and at the very same time he has before him the only enduring democracy that the world has ever known, in which for upwards of 100 years that authority has existed, at least co-ordinate, or, where they were not co-ordinate ——

Mr. GILLIES: Not nearly co-ordinate!

Sir HENRY PARKES: Where is that?

Sir JOHN DOWNER: America.

Mr. PLAYFORD: There is no responsible government there!

Sir JOHN DOWNER: I will say a word about responsible government in a minute; but I take it, the government is for the people, and not the people for the government. So far as America is concerned, the power of the senate is not merely co-ordinate with that of the house of representatives, but in some particulars it is absolutely supreme; and yet no one will admit that the senate has lost repute or has been lessened in the opinion of the people. On the contrary, we know perfectly well that the very humblest of the people look with veneration to the senate, whilst they are extremely critical about the body which, if this argument were followed out, would more completely represent their own voice. I come now to the remark of the hon. member, Mr. Playford, that they have no responsible government there.

Colonel SMITH: They have a revolution there every four years!

Sir JOHN DOWNER: That is no argument either way. If their government is a perfect government without a responsible ministry, so much the worse for the responsible ministry argument, because it shows that a responsible government may well exist without a responsible ministry. To follow the argument of the hon. member, Mr. Playford, to its legitimate end, there should be no second house at all. The argument of the hon. gentleman is, "You cannot have a responsible ministry if you have two houses with equal authority." I contend that the argument of the hon. gentleman is no argument at all, because the question is not whether we are to have a responsible ministry, but whether or not we are to form a government which shall preserve the entities of the states, and yet, at the same time, bring about federation on proper terms in respect of matters which the states choose to hand over to them. Supposing responsible government will not coexist with this it is a matter which I in no way care about. What I am certain of is that if this be a good thing the government will be equally good, and will adjust itself to the exigencies of its circumstances. But, as a matter of fact, in some countries of Europe two co-ordinate chambers exist, and yet responsible government exists. The government always must be responsible; the only question is as to whom the government is responsible. The government, says the hon. member, Sir John Bray, must be responsible to the people. Whom does he mean by the people? He means the people represented in the popular house.

Sir JOHN BRAY: Not necessarily!

Sir JOHN DOWNER: He means the people in the popular house, either as it exists at the time when some question arises, or as it exists after a general election. The hon. gentleman means that; and what he is endeavouring to do in connection with this attempt which we are making, not at all to give up our own local government, not at all to sacrifice the liberties of our colonies which have worked so excellently for all of us—at the very time that he asserts that there will be no federation unless we very carefully safeguard the liberties which we as colonies individually possess, he, in almost every matter of vital moment, proposes to hand over each colony to a general body in which, so far as the smaller colonies are concerned, they will have no practical representation at all; and whilst he wants to preserve the figment of a body which will seem to treat the states as states, and give them equal representation he wants to absolutely take away the substance which we are seeking for, and to divest the senate of all substantial authority. I say now, as I said at an early stage of our debates, that if one house can make and unmake governments alone, that house will, as a necessary corollary, absolutely rule the country. That body which governs the executive must necessarily govern that which the executive have to execute.

Mr. GILLIES: This amendment does not touch that question!

Sir JOHN DOWNER: This amendment deals with the whole question, or is intended to do so. Of course, it all depends whether these money bills are of any importance at all. If the money bills have the importance in legislation which the hon. member, Mr. Gillies, attributes to them; if legislation is finance and finance is legislation, which I do not believe; if this matter is of such super-eminent importance, that it will be absolutely impossible to legislate without taking very great care about it; if these views are true, then I say it is absolutely absurd that we can preserve the rights of every colony at the same time that we hand over to the general population of Australia the whole government. If on the other hand, it means very little, if other questions in which their rights are preserved are of so much more importance, why make so much fuss about the matter? I care not which way you take it. If money is everything, and everything is money, then the senate ought to have as great a voice as any other body. If it is a matter of secondary importance, then why do the larger colonies make so much trouble about it?

Colonel SMITH: It is not the larger but the smaller colonies that make all the trouble!

Sir JOHN DOWNER: Of course, they are making all the trouble. They are taking the trouble which the humblest of us would take to preserve that which is his own, and to resist the aggression of an invader.

Mr. MUNRO: You are the invaders. You want to take away our privileges!

Sir JOHN DOWNER: We wish to take away no privileges whatever. On the contrary, we say we are going into rather a speculative venture ——

Mr. MUNRO: And you want to get the plunder from us!

Sir JOHN DOWNER: It is unworthy of the hon. gentleman to say that. We are all anxious to enter upon a new venture. The only question is as to the terms on which we should initiate the agreement, and with regard to that we have two instances which have not worked well and only one instance which has worked well, and all the arguments about the government of the majority by the minority, and about the larger states being made subordinate to the smaller, and the more exaggerated language which demeans itself to such a word as "plunder"—all these arguments, I say, are dragged in when the light of experience shows that no such result follows. I agree with Sir John Bray that in the end the people must rule.

Mr. GILLIES: Who are the people?

Sir JOHN DOWNER: Why, the senate and the house of representatives. The hon. member, Mr. Kingston, holds the view that had the senate

been elected in the way he desired, it should have co-equal authority with the other branch of the legislature; but because the majority here have come to the conclusion that it will be better to have some different mode of election by the people in the first instance from the ordinary mode of election, my hon. friend says that he would rather see the powers of the senate curtailed than extended, and that no great authority should be given to persons so elected. In putting forward that argument, the hon. gentleman has given us proof of the strength of his own views, which, when worked out, come to this: that rather than take care that his colony and other colonies should have an adequate representation in the senate and an adequate voice in national concerns, unless the senate is constituted in the precise method of which he approves he would rather sacrifice the liberty of his colony than forego his own individual views. Whether the senate is elected by the local legislatures or by the people, whom do the members from a particular state in that body represent?

Mr. KINGSTON: It depends upon how they are elected!

Sir JOHN DOWNER: They represent their own colony, and they are a power in their own colony.

Mr. DEAKIN: They represent classes—that is all!

Mr. KINGSTON: The class that return them!

Sir JOHN DOWNER: They represent all classes, whereas the hon. member, Mr. Kingston, only wants one class represented. Every portion of the community is thoroughly represented.

Colonel SMITH: They only represent the money bags!

Sir JOHN DOWNER: Even as far as the election of the senate is concerned the local legislative assembly would have much larger power than the legislative council. Who can question that? And how can anybody say that a body so elected will represent the classes, and not the community generally.

Mr. KINGSTON: What was our experience in South Australia last year in regard to the Federal Council Bill?

Sir JOHN DOWNER: I am not talking about the Federal Council, which I always held in high estimation.

Mr. KINGSTON: Did not the Legislative Council wreck that last year?

Sir JOHN DOWNER: As a matter of fact the Legislative Council never cared very much for the Federal Council at any time.

Mr. KINGSTON: They wrecked it last year on class representation!

Mr. PLAYFORD: They wanted the propertied classes to have as much voice as the masses of the people!

Sir JOHN DOWNER: If that matter wants adjustment, let it be adjusted; but do not let a man who comes from any particular colony say that because the election of the senators is not in the precise mode that he would like, he will sacrifice the rights of his colony in regard to representation rather than not carry out his own views.

Mr. KINGSTON: I did not say anything of the sort!

Sir JOHN DOWNER: I have taken the same position in this matter ever since the question was first initiated. I can understand no federation that would bring success or be lasting—and in this I am sure Sir Henry Parkes will agree with me—unless founded on what is just and right; and I cannot understand anything being founded on justice and righteousness which will put the minor colonies in the position of being liable to be entirely overwhelmed by the larger populations of certain colonies.

HON. MEMBERS: Question! Question!

Sir GEORGE GREY: Hon. gentlemen seem to be very anxious to prevent the voices of members being heard. I think the whole of this debate has been a great mistake. Hon. gentlemen have been talking of preserving the liberties of the people, the liberties of the house of representatives, the liberties of the senate. They have been talking of imaginary things. There are no liberties at all. Let us follow out the question. How is the house of representatives to be created? By fair voting? No voice can answer yes. All know in their hearts that no fair voting is to be allowed. What of the plural voting? I am told that in one colony of Australia so far does plural voting go that it is exercised by paper votes being sent; that is, one man, if there were twenty-five electorates, would have twenty-five votes. He would vote in as many districts as he could personally, and vote by proxy in the others. Is that fair voting?

Mr. MACDONALD-PATERSON: There is no voting by proxy!

Mr. PLAYFORD: That is not the question!

Sir GEORGE GREY: I believe it is the case in Western Australia.

Mr. MUNRO: Unhappy Western Australia!

Sir GEORGE GREY: Unhappy Western Australia, yes; but, in truth, unhappy Australia altogether under that system. I say that the house of representatives would in no way represent the people, but would represent simply the landowners of the colonies. That is the usual way, except in South Australia and in New Zealand. If New Zealand becomes a member of the confederacy, except in those two places anything like fair voting would be absolutely unknown, and the house of representatives would not represent the people but would represent capital. The state legislatures are not allowed to represent the people, but are forced by the present laws to represent capital, and, that being so, hon. members say that the state legislatures shall elect the senate—that is, a constituency unfairly and unjustly created is to return the senate—and then hon. members debate as if it were a matter of the greatest consequence to the liberties of the people of this country whether the senate or the house of representatives shall have the greater power. What care we for their power? It is the power of capital alone, and squabbles between two parties of capitalists little interest the people at large. That is how the question stands. I say, therefore, that the debate is really useless, and what will follow from this? I fear that what will follow is that, when the question comes of this constitution being accepted by the people, it will be said that it is the state legislatures who are to vote as to whether it shall or shall not be accepted—that is, that upon that great all-absorbing question the people of Australasia and New Zealand shall have no power to determine what their fate is to be.

Mr. MUNRO: We will take care of that!

Sir GEORGE GREY: How can it be taken care of?

Mr. MUNRO: We will send it to them!

Sir GEORGE GREY: But, then, how will the people vote?

Mr. PLAYFORD: Yea or nay!

Sir GEORGE GREY: How will the people vote with plural votes against them? You refused to let them have the power of voting man by man.

Mr. MUNRO: I voted with the hon. member!

Sir GEORGE GREY: Yes, the hon. gentleman did; but I am speaking of the House. I was grateful to the hon. member for the vote that he gave, and I believe that his name will stand high in Australia for having given it. We may be few in number, but the time will come when it will be thought the more honorable that we, as few in number, should have fought this great question, and at last brought it to a successful issue; for if fair voting is not given to the people, I feel certain that from one end of Australia to the other the people will resolve upon petitions to the parliament in England, and expose

the true state of things, and be saved from a constitution being imposed on them which is merely a sham constitution, as is the proposed constitution that we are calling into existence. It is not worth our while further to debate this subject, and I shall say no more upon it; but I simply reaffirm absolutely—and I know that I am speaking the truth, which cannot fairly be contradicted—that under this constitution there is no fair voting whatever allowed to the people of Australia, in any part of it, and that the only persons who do exercise it are those who have obtained it in former days, by struggles in some cases protracted through years, and that if this constitution is imposed upon them it will ultimately lead to such contests amongst the people themselves that I feel certain that disorder, distress, and discomfort will exist yet for many years in Australia, which would be totally avoided if this Convention would at once do that justice to their fellow citizens to which they are entitled. When we are told, as I heard an hon. gentleman say just now, that we are taking an example from America as to what we should do about the senate, I say that that has no relation whatever to us, because in America there is the system of every man having one vote. Their institutions are based upon that, and if ours is based on this system of plural voting, in which one man may exercise, perhaps, more than twenty votes against one of his fellow citizen's, then I say there is no justice in this country, that it matters not to us what the constitution is, that we are simply governed by a few persons, who will naturally look to their own interests. My hon. friend opposite said it absolutely was, and should be, kept a government of the people, for the people, and by the people; but I say that it is not a government of the people, it is not for the people, and it is not by the people. In not one of those respects does such a government exist here, and in not one of those respects will a government exist which is established under the absolute resolutions which we have adopted in the act which we are about to try and force on the country. I think we might drop all consultation on the subject. To us it is indifferent whether it is the senate that has this power, or whether it is the house of representatives that has the power. The one thing that we have to do with is that the people of Australasia have not the power, and yet they are the persons in whose hands it should exist.

Mr. DIBBS: When the debate on the main question took place in the early days of this Convention, had a vote been taken I think the question would have been decided in favour of the principle laid down in the amendment of the hon. member, Mr. Baker, in the proportion of something like 10 to 3. One naturally asks, what has the Convention done; what mysterious influence has been at work in the star chamber of the select committee to cause thirty men to come round to the views of ten? When we first started, this question would have been so settled as to create a senate that would have been worthy of the federation. The hon. member, Sir Henry Parkes, who held certain views before the sub-committee was appointed, seems to have talked the select committee round to what the hon. member, Mr. McMillan, calls a wretched compromise. It is an absolute compromise, as wretched as wretched can be, for it is laying the axe to the root of an independent senate upon which, as in the case of America, the people, the democracy, would look with confidence, and upon which they would rely for the good of the country. So far there has been no speech which answered that made since lunch by the hon. member, Sir John Downer, who, I think, put the matter very clearly. As he says, there is the experience of America for more than 100 years, with a powerful senate, and democratic America to-day believes in the senate as therein constituted. What we are asked to do by this clause, as it is printed in the bill, is not to follow the lines of the British Constitution; but the framers of the bill, and those who sat in the sub-committee upon it, have followed the lines of the American Constitution. When it is proposed to give the senate the power of the American Senate, hon. members go back to the worn-out theory of the British Constitution as regards the House of Lords, or any nominee chamber. I for a long time have believed in the existence of a nominee upper house. To-day I do not. To-day I believe in an elective upper house, and looking at our colony—for that one's own colony is the place where we get the most experience—and seeing the appointments made from time to time by ministers in power of men utterly unfit to be senators or legislators, I think the time has arrived when that power should be taken out of the hands of ministers, and in some form left in the hands of the people. From what is proposed here one would imagine that the people would have no voice in the election of the senate. The people will elect their representatives, and the house of representatives will elect the members of the senate. Surely that is election through the people by the mouths of their representatives, who are responsible to their constituents for their election to the senate. I do not know a more refined process by which you could make a more perfect, and independent, and probably intelligent senate than that. It is for that reason that I hold that the senate to be of any power at all must be framed on the direct lines of the American Senate, and have coequal powers with the house of representatives. All the arguments which can be used in regard to responsible government and the house of representatives have been fairly stated by the hon. member, Sir John Downer, and I have heard nothing yet in reply to them. The house of representatives will decide the fate of a ministry, and, after all, there will be responsible government by the action of the house of representatives. Now we know perfectly well that the feeling has arisen in England, and that even some of the most distinguished statesmen in England are endeavouring to reform the constitution of the House of Lords, and I hope they may succeed. We know perfectly well that there has been no attempt on the part of the democracy of America to lessen the influence or power of the senate; but that as time rolls by, with the experience of 100 years, the senate still holds the affections of the people. Why we should attempt—and I borrow the words from my hon. friend, Mr. McMillan, again—to degrade the senate of federal Australia is a matter beyond my conception. That is the second point where I cannot realise my position. I was led away by the speech of the hon. member, Sir Samuel Griffith, and those who spoke with him on the main debate. My mind was then made perfectly clear that when the time arrived for me to record my vote it would be in favour of creating a powerful senate. But what is the mysterious influence that has been at work with hon. members that thirty should bow the knee to ten? I should like to hear the history of that secret conclave, that select committee, where thirty men gave way to ten. Who has jibbed on the business? Who has turned traitor on the principles which they advocated here in eloquent speeches, and which misled young men like myself to permit my mind to believe that a strong senate was good for the country? But now we have this maudling proposition put forward for the senate to make suggestions to the house of representatives. We know perfectly well in nine cases out of ten in what manner the suggestions would be received. Our great desire for the future good of this country should be to create a powerful senate. Remember we have no property qualification for the senate. The qualification in the bill for a senator is that he shall have reached a certain advanced age, and shall have resided a certain time in the country. Beyond that, money

or capital is in no way represented in the senate, and the humblest man who may be fit for the position may be elected through one of the various state legislatures to the highest position in the land—to the senate. As you have made the qualification so slight for the position of senator, there are men in the democratic classes who will aspire, and who will undoubtedly reach, by reason of their talents and character, the highest position which the country can confer on any citizen—a senatorship. Why should we ask the senate to be a mere recording house; why should we give the senate absolutely less power than a nominee house—less power than the nominee house of New South Wales possesses to-day, and less than other nominee houses possess? We know that from time to time—and we shall hear of it when our Parliament meets—some very curious appointments are made, even in our own colony within the last few weeks—appointments which clearly convince those who have given the slightest thought to the question that a nominee house is not good for the interests of either the states or the federal parliament.

Mr. PLAYFORD: That is nothing to do with us!

Mr. MUNRO: They will take a part in the election!

Mr. DIBBS: They will; but you have your senate elected by the states, and give them co-equal power, as I would, then you would find that in the states, where the nominee chamber exists, and where it has been used so disgracefully as it has been in times past, if not lately, the people would insist upon changing the state constitution and introducing the elective principle. For my part, I am beginning seriously to change my mind upon the old nominee system, and I am coming gradually round, and with very good reason, to believe that an elective upper chamber is necessary for the states, even if we adopt the proposal in this bill, even if the hon. member, Mr. Baker's, amendment be carried, of having the members of the senate elected by the various states through the state parliament. Now, what we are trying to provide for is how to get over the possibility of a deadlock, constituted as the senate will be. An idea has got into the minds of hon. members that the smaller states will rule the larger, or that the larger will rule the smaller. A way to get over the difficulty is to adopt to a large extent the Norwegian system, which, in its working, prevents the possibility of a deadlock in the carrying out of the functions of the two houses. Under the Norwegian system, as hon. members know, in the event of a deadlock occurring and a bill being sent back from the house of representatives to the senate, and refusing to acknowledge the senate's amendments, both houses meet as one house, and the question is there threshed out and settled on one vote. If that system be adopted without any referendum to the people, or without anything of the kind, the whole question of a deadlock falls to the ground. That is the form of parliament which it appears to me hon. members are trying to bring about.

Mr. PLAYFORD: That settles the senate straight!

Mr. DIBBS: Never mind if it did. It would bring a finality to the question, for, after all, we must assume that the members of the senate will be as intelligent as the members of the house of representatives. If we were proposing to put the inmates of the various lunatic asylums in the senate, then you might wish to create the senate in the way you are seeking to do under the bill. But if we wish to fill the senate with the nominees of some corrupt government, then fence their powers round in every possible form in order to safeguard the liberties of the people. But where the senate is elected from the house of representatives, which may be just fresh from the hustings, and where the house of representatives is responsible to the constituencies, I say that by the adoption of that refined process you will have a chance of getting a more intelligent, and better educated, and a senate of such a character as may with safety be trusted with co-equal powers with the lower house, provided that there is, however, some mode such as is contained in the Norwegian Constitution of settling a deadlock which may occasionally occur by one united vote. For my part, I shall give my vote in favour of the amendment of the hon. member, Mr. Baker. I shall then give my vote in favour of the principle to which a majority agreed three weeks ago. I shall give my vote in the direction in which my mind was influenced by the speeches which I heard three weeks ago, for nothing has been said since the committee reported to the Convention to change my mind or the minds of hon. members. If the hon. member, Mr. Baker, fails in carrying his amendment, then the next best course open is the proposal of my hon. friend, Mr. McMillan, which we shall have to take as a sort of *via media* between the extreme view of the hon. member, Mr. Baker, and the constitution as proposed in the bill. But at the present time I shall give my vote to make the senate worthy of what Australia shall become, not a degraded institution, not a senate whose members may be the most inferior, instead of the best men the country can produce, but a body of men whose weight, whose experience, and whose intelligence will be felt throughout the country; a senate which, as in the case of America, will command the full confidence and respect of the people.

Question—That the word proposed to be omitted stand part of the clause—put. The Committee divided:

Ayes, 22; noes, 16; majority, 6.

AYES.

Bird, Mr.	Kingston, Mr.
Bray, Sir John	Macdonald-Paterson, Mr.
Clark, Mr.	McIlwraith, Sir Thomas
Cuthbert, Mr.	McMillan, Mr.
Deakin, Mr.	Munro, Mr.
FitzGerald, Mr.	Parkes, Sir Henry
Fysh, Mr.	Playford, Mr.
Gillies, Mr.	Rutledge, Mr.
Griffith, Sir Samuel	Smith, Colonel
Hackett, Mr.	Suttor, Mr.
Jennings, Sir Patrick	Wrixon, Mr.

NOES.

Baker, Mr.	Forrest, Mr. J.
Burgess, Mr.	Gordon, Mr.
Cockburn, Dr.	Grey, Sir George
Dibbs, Mr.	Loton, Mr.
Donaldson, Mr.	Marmion, Mr.
Douglas, Mr. Adye	Moore, Mr.
Downer, Sir John	Russell, Captain
Forrest, Mr. A.	Thynne, Mr.

Question so resolved in the affirmative.

Amendment negatived.

Mr. McMILLAN: I shall say very little in placing my amendment before the Committee. I propose to retain sub-clause 1 down to the word "government." It will be necessary to propose the amendment in a certain way, because I do not want the excision of sub-clause 4. I shall propose an amendment to follow on after the word "government," and then, if my amendment be carried, I shall propose the excision of sub-clauses 2 and 3, allowing sub-clause 4 to stand, and moving afterwards the excision of sub-clause 5. The clause, as amended, would read as follows:—

(1.) The senate shall have equal power with the house of representatives in respect of all proposed laws, except laws imposing taxation and laws appropriating the necessary supplies for the ordinary annual services of the government.

(2.) In respect of laws appropriating the necessary supplies for the ordinary annual services of the government, the senate shall have the power to affirm or reject, but not to amend.

(3.) In respect of laws imposing taxation, the senate shall have the power to amend; but if any proposed law imposing taxation is amended by the senate, and is afterwards returned to the senate by the house of representatives, the senate shall not have the power to send the proposed law again to the house of representatives with any amendment in it to which the house of representatives has not agreed, but shall either affirm or reject it.

The only matters to which I intend to refer in putting this amendment before the house are: first, the question with regard to the bearing of the senate on state rights; and, secondly, its bearing with regard to responsible government. Now, as far as the question of state rights is concerned, I do not argue that the upper chamber is absolutely and essentially intended to conserve those rights. If I have any feeling at all in the matter, I think that, personally, I tend more towards the principle of unification than of federation, and the action I take now I would take if we were assembled here to declare the unification of Australia under one political government. I stand up for the rights and liberties of the upper chamber, which, I believe, would be a solid bulwark of the liberties of the people of this country, and when that chamber is elected, if not directly, at any rate indirectly by the people—that is, elected by those who are directly elected by the people—I hold that any analogy sought to be drawn between that chamber and the House of Lords or a nominee chamber is utterly out of place. Furthermore, with regard to responsible government, I do not hold that the question of responsible government is touched at all in this matter. It has been said here that the most important matters coming under the view of the legislature are not connected with finance at all; and we know that most of the questions upon which governments stand or fall have nothing whatever to do with finance. If the upper house has the power not only to veto but to amend bills involving great questions of public policy, affecting the whole social interest of the people—surely if constitutional and responsible government can exist under such a state of affairs in regard to these subjects, it is absurd to fear that constitutional and responsible government are going by the board because we allow the upper house the power of amendment. I simply reiterate these views in order—as I am taking upon myself a heavy responsibility—that I may be free from misapprehension. I do not consider the question of an appropriation bill is at all analogous to a bill creating a new policy. The appropriation bill simply covers the expenditure based upon a policy previously agreed to, and upon which the upper house, according to my amendment, would have a perfect right to record its decision by way of amendment. I believe that this is a fair and reasonable compromise. I believe it is an improvement on the mode suggested for exactly the same purpose, and to bring about the same results, by hon. gentlemen of the Constitutional Committee, and it is with the full confidence that it will be accepted as a compromise that I now submit it to the Convention. I move:

> That the words "which the senate may affirm or reject, but may not amend. But the senate may not amend any proposed law in such a manner as to increase any proposed charge or burden on the people," be omitted.

Sir SAMUEL GRIFFITH: My hon. friend, Mr. McMillan, is quite right when he says that he assumes a very serious responsibility in proposing this amendment, because this subject after several days' debate in the Convention, received the anxious attention of the committee for several days and from every point of view; and they did not adopt this form of words without carefully choosing every word, and considering how the proposed scheme would work out in practice. I shall be able to show in a very few minutes that whatever merits there may be in this amendment of the hon. member's, he has not only not given it half the consideration which the committee gave their proposal; but, also that, while I believe he brings it forward with a view to strengthening the power of the senate, he is distinctly weakening the power of that body, and taking away the most beneficial powers proposed to be given to it under the suggested compromise. I will deal, first of all, with the case of appropriation bills. The hon. member does not propose to leave out the 4th paragraph of the clause, which provides:

> The expenditure for services other than the ordinary annual services of the government shall not be authorised by the same law as that which appropriates the supplies for such ordinary annual services, but shall be authorised by a separate law or laws.

Supposing the senate were of opinion that there was a violation of that provision, that there was something in an ordinary appropriation bill violating that rule, and which, no doubt, the house of representatives would take out if its attention were called to it by the senate. The amendment of the hon. member would prevent the senate from doing so. In fact, while the 2nd, 3rd, and 4th paragraphs of this clause carefully guard against tacking, the hon. member would actually facilitate tacking, while at the same time he shuts the mouth of the senate, compelling them either to swallow the whole bill or to throw the public service into confusion by rejecting it. Does the hon. member mean to do that? Surely he has not thought out the subject, or he would have drawn up the amendment in a better form. These objections with regard to appropriation bills occur to me at the moment. On the other hand, the hon. member proposes to give the senate the power of increasing taxation, which was not proposed before. Then there is this extraordinary proposal: Instead of the senate making a request that an item in a bill which they regard as objectionable should be omitted, which request would be considered by the house of representatives, no doubt in conference with the senate, so that they might come to an amicable conclusion, the hon. member absolutely prohibits a conference. He says that if once an alteration is made in a taxation bill it must be made in the form of an amendment, when it is to go direct to the house of representatives, and unless they instantly adopt it the thing is at an end.

Mr. McMILLAN: My amendment does not provide necessarily that there shall not be a conference!

Sir SAMUEL GRIFFITH: Yes; because if the house of representatives say they will not agree to the amendment there is an end of it. All the facilities that are offered by this compromise, which was carefully thought out, for allowing the two houses to come to an understanding, are swept away. They are at once to be placed at arm's length. The senate is really to have no alternative but to reject the whole measure, or accept items which they consider objectionable, and which the other house might be willing to omit.

Mr. McMILLAN: The clause, as it stands, does not provide for a conference any more than my amendment does!

Sir SAMUEL GRIFFITH: The amendment prohibits a conference, because, if once an amendment goes back to the house of representatives, there is no chance offered for a conference.

Mr. McMILLAN: Nothing of the kind!

Sir SAMUEL GRIFFITH: That may not be what the hon. member means, because the proposal is so preposterous that I do not believe that the hon. member would deliberately make it. I am, however, criticising the amendment as it is placed before hon. members. As soon as an amendment is made—and it must take that form—it is sent back to the house of representatives, and if it is not acceptable to the house of representatives, all compromise is at an end, except by dropping the bill. Surely that is not an improvement on the proposal contained in the bill. I entreat hon. members in considering this subject to bear in mind what was pointed out by the President at the beginning of the Convention. We shall never arrive at a satisfactory conclusion unless we meet in a spirit of compromise. Some hon. members seem to have disregarded that spirit altogether. I do not think the clause in the bill is by any means in the best possible form, but I believe it is in the best

attainable form, which is a different thing. It may be that being in the best attainable form, it is really in its best form, because we are here to do the best we can for Australia, and if this is the best thing that can be done with a chance of securing the assent of the people of Australia, we ought to adopt it, although our own individual opinions would have led us to cast the clause in a different form. I hope sincerely that hon. members will regard the question from that point of view, and that the hon. member, Mr. McMillan, will not press his amendment.

Mr. FITZGERALD: I think that it was incumbent upon the hon. member, Mr. McMillan, to explain in what way this amendment of his could be more in accordance with the dignity of the senate, and, therefore, more in accordance with the immediate object he had in view, than the clause he wishes to expunge. Judging from a long experience in the upper branch of a parliament in not one of the smallest of the colonies, it appears to me that if the upper house had the power to amend in the first place, and return the bill with an amendment to the house of representatives, the house of representatives fully knowing that if they refused to accept the amendment, and sent the measure back to the senate, they could force the senate to reject or to accept the measure, the house of representatives would regard it as tantamount to an invitation not to consider any amendments made by the senate, so placing the senate in the position in which they would have been if they had had no power to alter the measure in the first instance. I do not see how it enhances the dignity of any branch of the parliament to give it power to amend a bill, while at the same time you place it in the power of the other branch of the legislature to send back a measure to the senate a second time, and force that branch to say "aye" or "no" without the power of amendment. I say that, in the spirit of compromise, which is the *raison d'être* of this Convention, it is far more dignified and more in accordance with the value which the upper chamber should have in the legislature of the proposed commonwealth, that the senate should not make an amendment in a measure, but should signify their desire to meet in a friendly spirit with the house of representatives. If they could give a manifestation of their desire as to the direction in which an amendment should be made, surely that would place them in a more dignified position than to do as the hon. member, Mr. McMillan, proposes. I think the hon. member has entirely mistaken the effect his amendment would have. It would tend to lower the dignity of the senate, it would be practically suggestive of altercations between the two houses, and it is at variance with the spirit which has led so many of us to yield our sincerely held opinions as to the importance of giving the senate power over all legislation. I do not think that this Convention, after affirming that principle in a spirit of compromise, will be led away from that spirit and adopt a course which, instead of increasing, would lower the dignity of the senate, which would be suggestive of altercation and dispute, and would invariably, in case of a dispute, lead to the senate taking a lower place in the respect, not only of the world, but of the people of these colonies.

Mr. PLAYFORD: It is astonishing to me that a gentleman should get up and say that he is fighting for the rights and privileges of the senate, and at the same time propose to take away the rights and privileges which we in committee agreed that they should exercise. The principle of tacking, of including in one bill two separate subjects, will be allowed if the amendment is adopted. The hon. member proposes to strike out paragraphs 2 and 3, which distinctly prevent the tacking on to a taxation bill of any other subject than the one subject of taxation. It prevents two subjects of taxation from being mixed up together, so as to give the senate power to throw out any bill without interfering with any other subject whatever. The hon. member, Mr. McMillan, appears to have altogether misunderstood the position. I have no doubt he believed that in proposing his amendment he was conserving the rights of the senate, but he is not conserving the rights of the senate in any sense; and so far as the matter of form is concerned, the difference between sending down amendments from the senate, and sending suggestions is the difference between tweedledum and tweedledee. The practical result will be the same whether amendments or suggestions are sent from the senate to the house of representatives. The hon. member proposes that the amendments shall not be dealt with by the senate in the ordinary way; but if the house of representatives disagree with the amendments made by the senate in the bill, then there shall be no option for the senate but to accept or reject the bill *in toto*. If we make a difference in substance, why not have a different form to mark that difference in substance? It would be a great deal better to say to the senate: "Send down your suggestions, and we will agree with them or disagree with them," than to say, "Send them down in the form of amendments," because in dealing with them in the form of amendments you alter the substance of the amendment altogether, and insist that they shall deal with the question in a totally different manner. I would ask the Committee to agree to the clause as it stands. It was most carefully considered by the members of the Constitution Committee. Time after time the question came up, and it was considered from the standpoint of conserving the rights and privileges and giving as much power as we consistently could to the senate. I contend that the amendment will have precisely the opposite effect.

Mr. THYNNE: As a member of the Constitution Committee, I did not approve of this clause as proposed, because I believe that the senate should have coequal powers in all these matters with the house of representatives; but that principle has not been adopted by the Convention. I will, therefore, support the clause which has been brought up by the Constitution Committee as being, as I think, the next best provision that can be made.

Amendment negatived.

Mr. WRIXON: I wish to ask the attention of the Committee for a moment whilst I propose a new sub-clause to stand as sub-clause 6. I will not detain the Convention long, but hon. members will see the position in which the question now is. We have arranged to give the senate the right to send down proposed amendments to the house of representatives. Those amendments the house of representatives may or may not accept as they think proper. This proposed power extends to the appropriation bill as well as to every other bill, and I am afraid that in working it will be found to be productive of confusion and conflict. I am convinced that a similar power, if exercised with regard to the appropriation bill in any of our provinces, would lead to such confusion that the government could not be carried on unless you had some means of securing finality, and I am afraid that in passing this now and postponing any means of settling a difference if it arises—a difference on such a critical measure as an appropriation bill—we are only postponing the difficulty from this Convention to the future dominion parliament. We are not agreed as to how it will work; as to whether the house of representatives will be compelled under moral pressure to accept the suggestions of the senate, or whether the house of representatives would be just as free as any lower house now is to disregard any proposal made by the upper house to interfere with its appropriation act. Some think the clause will give the senate some new powers; others think it will not. Whatever we think, we leave the matter entirely without any

provision for settling the difficulty when it arises. It may be asked, why settle things? The reason is because you provide new machinery; you recognise the right of the senate to scrutinise the appropriation bill, and in giving that right you inferentially make it their duty to scrutinise the items in that bill, and not to pass the bill if it contains items of which they disapprove. I feel that there will be that difficulty; and there is no means of settling it if it arises. I will, therefore, propose the new sub-clause as it is printed, with one or two amendments which the hon. and learned member, Sir Samuel Griffith, has suggested. I move:

That the following stand as sub-clause (6):—"If the house of representatives decline to make any such omission or amendment, the senate may request a joint meeting of the members of the two houses, which shall thereupon be held, and the question shall be determined by a majority of the members present at such meeting."

Under that there can be no deadlocks; finality is reached; the machine will work. If you have no such arrangement, I do not know how you will deal with the ordinary finances of the year. If there is any considerable division in the house of representatives, the senate, in voting with them, would be able to carry their point. On the other hand, if the senate is pretty unanimous, and the house of representatives is divided, then the senate by joining the minority in the house of representatives would have its way. I admit that if a large proportion of the members of the house of representatives were determined on any view, they would be able to carry their view, and I think it is only reasonable that it should be so. I do not think there should be anything to enable the wish of the majority of the people, as expressed in the house of representatives, to be overridden. I submit my amendment for the consideration of the Convention, as I think it desirable that we should not overlook a difficulty, which certainly will arise hereafter.

Sir SAMUEL GRIFFITH: I would ask the hon. member, Mr. Wrixon, if he has considered the matter from this point of view? The senate need not ask for a joint meeting unless it likes, and it would not ask for it unless it counted heads and saw that it would have a majority; so that by his proposal the senate would be able to coerce the house of representatives.

Mr. WRIXON: And rightly so whenever they had a majority, but whenever they had not a majority, of course, they would not!

Sir SAMUEL GRIFFITH: Whenever they had an opportunity they would enforce their views as against the house of representatives.

Mr. FITZGERALD: Take the other view!

Sir SAMUEL GRIFFITH: Then I do not think that the senate would call a meeting.

Mr. DONALDSON: They would be taunted for not doing so!

Mr. FITZGERALD: Take the other view, that the house of representatives would not agree to the meeting if they thought they had a majority!

Sir SAMUEL GRIFFITH: From every point of view I think the amendment is a dangerous one, and I confess that I have no love for these artificial means of settling differences between the two houses.

Mr. FITZGERALD: It appears to me that if the senate had this power it would close the door to their having the power which we desire to give them, of sending down suggestions with regard to amendments which they wanted to see adopted. If the house of representatives were aware that the senate had still a reserve, they would say, "Oh, we will not have a meeting"—in other words, the action of the house of representatives would depend upon the number of heads which they could count in their favour, and the meeting would not be held. Moreover, has it not for many years been brought before the notice of members of parliament in these colonies that these mechanical means of settling disputes are worse than useless? If we already place reliance upon the spirit of moderation and justice, and the high, honorable feeling of the men who enter the parliaments of these colonies, and believe that they are governed by high motives, and not actuated by the desire for paltry victories over their opponents, how much more can we place reliance in the great parliament which we hope to create. Can we have the great national life which we all say we shall call into existence by federation without an enhanced sense of national honor? Must not the two go together; and, if we have both, cannot we rely upon the proper spirit and motives which will actuate the members of both houses, and believe that questions of difference will not lead to confusion, and that the members of the federal parliament will not be governed by the consideration of party or personal politics, but by the interests of the country at large? I hope that we shall trust the parliament, and not leave the provisions of the bill as they are.

Mr. DEAKIN: For my own part, I wish to enter my dissent from the views of the last speaker, and the hon. member, Sir Samuel Griffith. As I understand them, they are opposed to what they term a "mechanical" method of settling differences between the two houses. But unless we are to be frightened by a word, we should welcome every means that are just for settling the disputes which may arise between two bodies clothed with co-ordinate, or at least large powers, and charged with the highest duties. I should be in favour of any means shown to be just to the electors of the country of settling disputes when they arise, and I think my hon. colleague is to be commended for having submitted this amendment to the Committee. Not that it appears sufficiently perfect in its details to encourage us in making any strong effort for its adoption, because, having already tested the feeling of the Constitutional Committee myself, I have discovered that, so far as it was a reflex of the Convention, it was opposed to the employment of any such means; but I am convinced that in the future the electors under this constitution will be compelled to take advantage of its provisions to amend it in such a way as to provide for the settlement of deadlocks when they arise.

Mr. MUNRO: They will never arise!

Mr. DEAKIN: I am convinced that what the hon. member, Mr. Wrixon, proposes for the joint settling of differences between the houses will be an excellent arrangement so soon as those houses are equally responsible to the electors. During this debate it was endeavoured to be argued that the upper house represented the masses and not the classes, to which the obvious reply is that the classes are represented in the house of representatives, and then in the upper house, which is based on a limited franchise, they are given a second representation. The chief objection to my hon. friend's proposition is that it would increase the power of the class houses by means of this joint sitting. The justice and moderation to which the hon. member, Mr. FitzGerald, alluded, are not always to be found in houses indirectly elected by the people. So, for the opposite reason to that which actuated my hon. friend, it appears to me that it is not desirable to accept this proposal at the present time. I rise, however, for the purpose of saying that the proposition of the hon. member, Mr. Wrixon, is an attempt to improve upon a clause which certainly needs great improvement. For my own part, I believe that the powers intrusted to the senate under this clause—the new powers—are of the largest and most serious character.

An HON. MEMBER: Too large!

Mr. DEAKIN: I believe that the day will come when the electors of this country will demand that the powers granted by this clause shall be considerably restricted. It may be, however, if the development

of the country is to lead, as some hon. members suppose, to the election in each case of upper houses, which will be directly responsible to the people themselves, that the demand may take another direction. But certainly so long as the upper chambers are maintained on their present narrow basis, so long will the electors of the commonwealth of Australia object to the exceptional powers given to the senate by this clause. They will certainly lead to conflict, and I, for one, would be no party to setting my seal to these provisions which are forced upon us under existing circumstances were I not convinced that with a responsible government answerable only to one chamber, and that chamber responsible to the whole people, victory is assured to the popular party. But it will be victory after strife, and after strife that we shall regret.

Amendment negatived; clause, as read agreed to.

Clause 56. It shall not be lawful for the house of representatives to pass any vote, resolution, or law for the appropriation of any part of the public revenue, or of the produce of any tax or impost, to any purpose that has not been first recommended to that house by message of the governor-general in the session in which the vote, resolution, or law, is proposed.

Sir JOHN BRAY: I would ask the hon. member, Sir Samuel Griffith, what is the difference between "any part of the public revenue" and "the produce of any tax or impost"? I should imagine that the produce of any tax or impost would become part of the public revenue, and I think that if these words are inserted they will give rise to a good deal of confusion by-and-bye. It has been determined that the imposition of a fine or penalty is a tax, and supposing part of such a fine were to go to the informer, would the bill containing that provision have to be introduced by a message from the governor? I do not think we ought to require any message from the governor for any bill except an appropriation bill. Before moving any amendment, however, I would like to know from the hon. member whether it is intended that these words shall mean anything more than the appropriation of the public revenue.

Sir SAMUEL GRIFFITH: The phrase is a familiar one in most of the constitutions.

Sir JOHN BRAY: No!

Sir SAMUEL GRIFFITH: It occurs in all the constitutions that I have seen, and applies particularly to cases of which many occur in Queensland, and some occur no doubt in the other colonies, where a fund is raised under a particular law for a particular purpose. The money is not paid into the general revenue, but forms a special fund administered for the benefit of the people who raise it. Take, for instance, the stock assessment fund, or the brands fund, which are raised by contributions from owners of stock, and the money collected is appropriated entirely for their benefit. It would not be convenient to mix such matters up with the ordinary revenue.

Sir JOHN BRAY: I move:

That in lines 3 and 4, the words "or of the produce of any tax or impost" be struck out.

It seems to me that if the object were to raise a stock-tax and appropriate it in a certain way, the measure dealing with it could very properly be introduced by a private member who had a knowledge of the subject. That would not in any way interfere with the appropriation of public revenue, or prevent the government from carrying on its ordinary duties of administration. If this clause stands as it is printed nobody but a member of the government could introduce a bill having such an object, because you must get a message from the governor, and a private member could not get one. It seems to me that the words are entirely unnecessary.

Mr. GILLIES: I am afraid the hon. member has not altogether thought out this clause. It may come to this: that a bill may be introduced into parliament which imposes a tax. If that tax is there and then proposed to be appropriated to some purpose it will, and it ought to, require a message.

Sir JOHN BRAY: Not unless it is part of the public revenue!

Mr. GILLIES: These are parts of the public revenue.

Sir JOHN BRAY: Then the words are not necessary.

Mr. GILLIES: I am pointing out to the hon. member that if, in the same bill, it is proposed to make an appropriation, it is usual to have a message from the governor. If an ordinary tax is proposed the money naturally goes into the public revenue; but if it is proposed to be appropriated to some other purpose a message will be required. I do not think there is any doubt about that. This is the same form as is used in the Constitution Act of New South Wales, which states:

It shall not be lawful for the Legislative Assembly to originate or pass any vote, resolution, or bill for the appropriation of any part of the said consolidated revenue fund, or of any other tax or impost, to any purpose which shall not have been recommended by a message.

Amendment negatived; clause agreed to.

Clause 57 (Royal assent to bills).

Mr. DIBBS: The second portion of this clause seems to me to be a novelty in responsible government. Is the governor-general to be the governor-general and executive? The latter portion of the clause seems to me to be perfectly useless.

Mr. MUNRO: Some verbal amendments may be required to be made in a bill!

Clause agreed to.

Clause 58. When the governor-general assents to a law in the Queen's name he shall by the first convenient opportunity send an authentic copy to the Queen, and if the Queen-in-Council within two years after receipt thereof thinks fit to disallow the law, such disallowance being made known by the governor-general, by speech or message, to each of the houses of the parliament, or by proclamation, shall annul the law from and after the day when the disallowance is so made known.

Dr. COCKBURN: I think the period of disallowance is larger than is necessary. It was all very well many years ago, when the communication with England was long and tedious; but now we have such rapid means of communication that I think two years is too long. I think it might very well be reduced by one-half or one-fourth. Six months or a year would be quite sufficient. There is nothing more vexatious than uncertainty in these matters. I think we should also lay down upon what subjects the power of veto is to be exercised. We shall all agree that in questions of domestic legislation——

Mr. GILLIES: We are not all agreed on the question of the establishment of a republic!

Dr. COCKBURN: There is no question of that. We want to establish such a commonwealth as will exist with the least strained relations with the mother country. Nothing gives rise to such vexation as a veto upon questions of domestic legislation. Take the case of Canada.

Mr. MUNRO: Two years is the period fixed under their Constitution!

Dr. COCKBURN: I know; but it was fixed many years ago. There is nothing more irritating than vetoing of domestic legislation. In the case of Canada, one of the first acts of the federal government was to reduce, by act of parliament, the salary of the governor-general from £10,000 to £6,500 a year, and this act, which was purely one of domestic legislation, was vetoed by the Imperial Government. I think the more we confine and define the limit of veto, the less risk there is of inharmonious relations with the mother country. I therefore move:

That the word "two," line 4, be omitted with a view to the insertion of the word "one."

I also intend to move:

That the following words be added to the clause:—"Provided such disallowance shall be exercised on such subjects only as affect imperial interests, and are specified in schedule B."

Sir GEORGE GREY: The Committee have received this proposal rather with ridicule. Members are probably not aware that this formed part of the laws of New Zealand for many years, and worked admirably, and was approved of at home. It saved a great deal of trouble, and was really a very great privilege, and, in point of fact, the clause which enacted this was repealed, as I might say accidentally, that is, an amending law was passed in which no provision was made for the continuance of the system. I am certain it was an entire oversight. It was generally admitted in Great Britain that by narrowing the number of acts sent to the Crown we very much reduced the probability of any dispute taking place between the Crown and the colony. The arrangement was made in this way: The law did not state the number of subjects upon which acts need be sent home; but it stated the actual subjects upon which laws made must be transmitted for the Queen's allowance or disallowance. The system worked admirably, and never presented the slightest inconvenience, and was thought a wise provision; and I cannot myself see any objection to its insertion here. I think it would be best, perhaps, to postpone the subject, and to have a clause carefully drawn, which would make members more clearly and fully understand how much advantage was gained in point of clerical work, independent of delay of time, and independent of any possible rupture between Great Britain and the colony on the subject of the allowance or disallowance of laws.

Sir SAMUEL GRIFFITH: I think, so long as the Queen is an integral part of the parliament, it certainly follows that, theoretically, she has the power of disagreeing with a proposed law; otherwise we merely make two branches of the legislature for dealing with those laws. With respect to the time, the period of two years was probably fixed a long time ago, and the question arises, are two years too long? The object is, of course, to allow full communication between her Majesty's Government in England and her Majesty's Government in Australia, before the extreme power of disallowance is exercised. The term may not be too long. I remember the case of a law passed by the Federal Council just two years ago affecting the fisheries in Western Australia. It was very much objected to by the people there. It is only in respect to cases of that kind—the fisheries at Western Australia, North-western Australia, and Torres Straits—that there is likely to be any trouble. The people specially concerned are entitled to be heard. When their views have been placed before her Majesty's Government in England the imperial authorities will want to know the views of the Australian government; and it does not follow that the first communication on either side will say all that is to be said on the subject; and if you insist upon the time being limited to one year, you may be insisting upon a very important thing being done hurriedly. In the particular case to which I refer the question was finally decided by telegram.

Mr. GILLIES: If you do not give them time, the chances are that they will disallow!

Sir SAMUEL GRIFFITH: Yes. In the case referred to the time allowed was twelve months, and the communications were carried on hurriedly. The twelve months were on the point of expiring, and the measure had to be disallowed or assented to. In that case the time was found to be too short in which to do the work satisfactorily. That was a comparatively small matter, but the matters in respect to which any question would be likely to arise under this constitution would be of much greater importance. I would suggest that the words should be allowed to stand.

Mr. MARMION: The hon. member, Dr. Cockburn, said that in questions of domestic legislation it was not advisable that the Queen should have the power of disallowance, and the hon. gentleman instanced a case which he considered to be one of domestic legislation. But it struck me that a difficulty might arise as to what were questions of domestic legislation; and I do not think the hon. gentleman was particularly happy in quoting the case of the salary of the governor-general being cut down by the local legislature. So long as we give to the Queen the power of appointing the governor-general, we ought to allow her some exercise of discretion as to the salary her appointee shall receive. Under this bill the connection between the British Crown and Australia generally is so very slight that we ought not to do anything calculated to weaken it. The time will possibly arrive quite soon enough for the connecting link to be cut altogether, and we should at any rate do nothing in this Convention to hasten that time.

Amendment negatived.

Amendment (by Dr. COCKBURN) negatived:

That the following words be added to the clause:—"Provided that such disallowance shall be exercised on such subjects only as affect imperial interests and are specified in schedule B."

CHAPTER II.—THE EXECUTIVE GOVERNMENT.

Clause 4. For the administration of the executive government of the commonwealth, the governor-general may, from time to time, appoint officers to administer such departments of state of the commonwealth as the governor-general in council may from time to time establish, and such officers shall hold office during the pleasure of the governor-general, and shall be capable of being chosen and of sitting as members of either house of the parliament.

Such officers shall be members of the federal executive council.

Sir JOHN BRAY: It seems to me that if we want to preserve the power of the senate this is where we should do it. I therefore propose:

That after the word "governor-general," line 6, the following words be inserted:—"and not less than two of such officers shall be members of the senate."

I think we ought to provide that some of the executive officers of the government should sit in the senate, and not leave the matter entirely open, as it is at present. I think we should provide that they should be all members of parliament, and not merely that they should be capable of being members of parliament. As a matter of practice, we know that they will all be members of parliament. I do not think there is any doubt about that. But if the senate is to exercise a proper influence in the management of the executive affairs of the country, we ought to provide that at least some of the executive officers of the government shall hold seats in that branch of the legislature. I shall propose also that the words, "capable of being chosen and of sitting as members of either house of the parliament," be struck out, so as to provide that the remainder shall be members of the house of representatives.

Mr. GILLIES: I would suggest that the hon. member ought not to press his amendment. We have not said in this bill that any member of the government shall sit in parliament; but we know it will be necessary that they should do so. We have said it is not necessary, though recognising that the practice has been for members of the executive government to sit in parliament. I will tell the hon. member a circumstance that arose in Victoria. There was an occasion on which a government was formed for the time being, and that government could not obtain a representative in the Legislative Council. If a provision such as he suggests had been in force, the government would have been obliged to retire from office. Although I was a political opponent of that ministry, I have no hesitation in saying that at that time it unquestionably possessed the confidence of a majority of the people, and had a large majority in

the assembly. I ask the hon. member whether, because it could not just for the time being obtain a representative in the upper house, a government should be compelled to retire from office? The government to which I refer did afterwards succeed in getting a gentleman to represent them in the Council. While we do not insist that members of the government shall sit in the assembly, I think it would be a mistake to provide that they shall hold seats in the senate.

Mr. MARMION: I should like to ask the last speaker whether there is anything in the Constitution of Victoria which requires that there shall be a member of the Legislative Council in the ministry?

Mr. GILLIES: No; but four of the ministers must be members of parliament!

Mr. MARMION: The case is not quite analogous; because, if we inserted the provision proposed, the government would take care to have some one in the senate to represent them.

Mr. FITZGERALD: I think the amendment is hardly required. Any minister wishing to conduct the business of parliament satisfactorily would find the senate quite capable of guarding its own honor, and he would not be so ill-advised as to put a marked slight upon the council by having no member of the government with a seat in that chamber. I think we may safely leave these things to adjust themselves. The good sense of the parliament is the best protection we have that they will work without friction.

Amendment negatived.

Mr. WRIXON: There is one point with regard to this clause to which I wish to call the attention of the hon. member in charge of the bill, and with regard to which I propose to add a few words at the end of the clause. This clause may be said to constitute responsible government in the dominion. It provides that the governor-general may appoint officers to administer departments of state, and it declares that such officers shall be members of the federal executive council. I have no doubt that the effect and operation of that will be to constitute a system of responsible government in the dominion; but the question which I think requires some consideration, and some slight addition to the clause, is whether it will clothe them with all the vast constitutional powers which, under the system of the English government, belong to responsible ministers of the Crown. I myself do not believe that it will. The greatness of these powers, and how vast is the authority which any responsible minister of the Crown exercises in binding the Crown and the Sovereign, is well known, of course, to all my legal friends, and was well illustrated in the old case which I mentioned to the Convention before, namely, the case of Buron and Denman. The Supreme Court of Victoria has held that similar words in our Constitution Act do not carry with them any such implied authority to the minister who holds any such office, on the ground that the statute that created the office and defined his duties is not held to carry with it the larger powers to which I have adverted.

Sir SAMUEL GRIFFITH: There are no words like those in your constitution!

Sir JOHN DOWNER! Nor in any constitution!

Mr. WRIXON: The words, "Such officers shall be members of the executive council"?

Mr. CLARK: All that the hon. member wants is in that!

Mr. WRIXON: Of course that is the matter which I am mooting. In my opinion it is not; but it is a matter for consideration; and, whatever opinion may be taken of it, I myself think that the matter should be put beyond doubt; for, unquestionably, in carrying out responsible, every-day government, it is highly important that the ministers of the Crown here should, in regard to all Australian matters, be invested with exactly the same presumptions of authority and ratification from the Crown as apply to the English minister with regard to all English matters.

Sir JOHN DOWNER: That does not arise out of responsibility.

Mr. WRIXON: I think it does, or, at any rate, it is a question of how we should express the idea. I myself would propose that we add to the last sub-clause "and responsible ministers of the Crown"; and I believe that then the court would interpret that with reference to ordinary constitutional usage, of which they would take judicial notice, and it is well known, of course, in England what a responsible minister is. It is known as a matter of fact and constitutional law. The courts recognise that, and if we declared that these officers were responsible ministers of the Crown, I believe the court would impart to that definition the knowledge which they would get from reading in the light of ordinary constitutional law. I point out this difficulty, and to meet it would propose, as an amendment:

> That the following words be added to the clause:—"and responsible ministers of the Crown."

Sir SAMUEL GRIFFITH: It seems to me that what the hon. gentleman wants to arrive at is already very clearly laid down in the bill. "Responsible ministers of the Crown" is a term which is used in common conversation to describe the form of government that we have. It is really an epithet, but a bill is not the place for an epithet. What we should put into the bill is a definition of the powers and functions of the officers—not call them by names. We might as well say that they shall be called "Honorable." The executive government is vested in the Queen. The Queen cannot act in person. She, therefore, by her governor-general, appoints officers to administer departments of state. Is not that exactly expressing the real theory of government—the head of the state, through her officers, administering departments of state? The common name by which they are called is "ministers of the Crown," and because they hold office during pleasure, which pleasure is exercised nominally by the head of the state, but in reality by parliament, they are called responsible, because, if their conduct is such as not to give satisfaction, they have to answer for it by going out of office. The whole theory of responsibility is contained in clauses 1 and 4. To say that they shall be called ministers of the Crown would not make them so more than they are already. The powers of officers are not vested in them because they are called responsible ministers, but because they are ministers, and the decision of the Supreme Court of Victoria, as I understood it, was that the Constitution of Victoria did not confer upon the colonial ministers of state the same powers as are held under the English Constitution by the English ministers.

Mr. GILLIES: Nor do any of the other Australian constitutions!

Sir SAMUEL GRIFFITH: No.

Mr. DEAKIN: Does this, in the hon. member's opinion, convey it?

Sir SAMUEL GRIFFITH: I do not know any other form of words that would convey it more clearly. The Queen is the head; she appoints different ministers of state, and they are responsible, and we define the extent of the executive power which they are to administer. What more could there be? I think it is absolutely complete.

Sir JOHN BRAY: I think that there is a good deal in the suggestion thrown out by the hon. and learned member, Mr. Wrixon. The officers are meant to be called "ministers of the Crown," and no doubt the hon. and learned member, Sir Samuel Griffith, intended to provide for it; but I do not think that the clause does provide for it. "For the administration of the executive government of the commonwealth"—that is what they are appointed for.

Mr. WRIXON: They are heads of departments!

Sir JOHN BRAY: Not to administer the government as provided by this constitution; but they are appointed to administer certain departments of state, and the question might arise whether they were really responsible ministers or simply officers administering such departments of the state as the governor-in-council may from time to time establish. It is true that the clause goes on to say that they shall be members of the executive council, and I think it is as right to assume that as to assume that they are responsible ministers of the Crown. I am quite willing in any way to assist the hon. member to carry out the idea that prompted the drafting of the bill, so as to make it read properly; but I do say that we ought to provide that they shall be something more than officers administering departments of state. They will be officers administering the entire government of Australia.

Sir SAMUEL GRIFFITH: Clause 4 begins with those very words!

Sir JOHN BRAY:

> For the administration of the executive government of the commonwealth the governor-general may from time to time appoint

officers, not to administer the executive government, but to administer certain departments of state. Each minister when appointed is responsible for the administration of a certain department; but there is nothing in the clause to indicate that ministers are to administer the entire government of the commonwealth. I think that in order to make the meaning clear we ought to insert the words proposed by the hon. member, Mr. Wrixon.

Mr. CLARK: I think that both the hon. members, Sir John Bray and Mr. Wrixon, have been officers of state in their respective colonies, and have been in the position of responsible officers of the Crown. I would ask them to consider, when they held office, what made them responsible ministers? Was it the fact that in one case the hon. member was administering the Treasury department, and in the other case the Attorney-General's department; or was it not the fact that in addition to being officers of state they were also members of the executive council? That is what made them responsible ministers. If the officers under the commonwealth are both officers appointed to administer departments of state and also members of the executive council they will be in the exact position that both hon. members have been in in their respective colonies when they have been called responsible ministers, and nothing else which can be put in the bill can make them more so.

Mr. DEAKIN: I wish to point out to the hon. member, Mr. Clark, that he has not, in my opinion, exhausted the situation by the definition he has given. He has brought to his aid all that part of the clause which would render these ministers the heads of departments, and the other part which makes them also members of the executive council. But there are two points to be considered in that connection. First of all, in Victoria a man remains an executive councillor after he has ceased to be a minister, after he has ceased to be the head of a department of state.

Mr. CLARK: And in Tasmania, too!

Mr. DEAKIN: There is no distinction here between those who are executive councillors and not ministers, and those who are executive councillors and ministers. And then, in the second place, it might be contended that the authority here given to the federal executive councillors is an authority which is vested in them as a whole, sitting in council. It is a body which advises the governor, and on whose advice the governor acts; but it does not clothe the ministers individually with that power and authority which ministers in Great Britain possess as responsible ministers of the Crown.

Sir SAMUEL GRIFFITH: They act as the Queen's ministers, and in the Queen's name!

Mr. DEAKIN: But there are numerous acts in the administration of departments every day, and occasionally important acts, which are undertaken on the authority of a single minister, which do not necessarily come before the executive council as a whole.

Mr. CLARK: What words in the Victorian Constitution give that power?

Mr. DEAKIN: We have not the words in our Constitution.

Mr. CLARK: Nor in any other constitution!

Mr. DEAKIN: Nor in any other constitution. As my hon. colleague, Mr. Wrixon, interjects, it was held that we were acting illegally because we exercised, and claimed to exercise, such a power.

Mr. CLARK: We are all alike!

Mr. DEAKIN: Certainly; but it is not our desire that ministers under the commonwealth shall be in the same position as ministers under colonial constitutions. If there is a doubt as to the authority of a state minister, there should be no doubt as to the authority of a minister under this constitution. Surely it is a reasonable thing to claim. The hon. member, Sir Samuel Griffith, for instance, in his statement, which was perfectly clear, proceeded to construe the words of this clause by very considerable implications by a knowledge of the system of government as we have it, and of its working; and with that knowledge in his mind, by means of this clause, he certainly made a consistent statement. But it is exceedingly dangerous to trust to these implications which have been challenged in the past, and which may be challenged in the future on so vital a point as this. In fact, I do not know any point in the bill which is more vital than the question whether those whom the governor calls to his councils to undertake the administration of the state are really responsible ministers of the Crown in every sense of the term. In the first instance, the power of the Crown itself is nowhere defined, and cannot be defined under this constitution. It is vast and vague; but all the power which the Crown exercises, ministers must be able to exercise when the need arises, and it can scarcely be possible even in this constitution, excellent as it is in most respects, to embody all possible contingencies. It is quite open for ministers of the commonwealth in the discharge of their duties to undertake actions which it would be impossible to define within the four corners of the bill—to undertake actions which it may be were not departmental actions, which were outside any department which had been constituted up to that time; and which, therefore, they had received no authority from the governor-general to deal with, and then we should have ministers referred to this limited and rigid constitution for the title-deeds of their authority; whereas it would be indisputable in the same cases in Great Britain that the Crown had power to meet such contingencies, and that having such power, the responsible ministers of the Crown were able to exercise the authority of the Crown in this very respect. Let the hon. member choose what words he will—and I am sure my colleague is no stickler for a particular phrase—but surely he will admit that just as the powers of the Crown are vast, vague, and undefined, so are the powers which responsible ministers are at times required to exercise. Let him use any form of words he pleases which will convey to the ministers of the commonwealth the same power of acting with that vast and vague authority, under any and every circumstance, which is possessed by ministers of the Crown in Great Britain. Let the hon. member do that, and he will meet the wishes of my colleague. I am perfectly certain that if we accept anything less than this for the ministers of the commonwealth we shall be failing in our duty, and we shall in a sense even limit the power of the Crown itself, since we shall provide no machinery by which it can work out its will in any particular emergency. Why should we

limit the power of the Crown; why should we limit the power of the people; why should we diminish the authority of ministers of the Crown, who act for the Crown, and in the name of the people? Why should we not put in the clause any phrase the hon. member prefers, so long as it conveys without a scintilla of doubt to the ministers of the commonwealth all the powers which are possessed by ministers of the Crown in Great Britain?

Sir SAMUEL GRIFFITH: I am trying to get at the ideas which are underlying the argument of hon. gentlemen. I confess I have not got at them yet. The hon. member, Mr. Deakin, talks about the powers exercised by the ministers of the Crown in Great Britain. They do not differ in any respect from the powers exercised by ministers of the Crown in any other country.

Dr. COCKBURN: They are much superior to the powers of ministers here!

Sir SAMUEL GRIFFITH: Not in the least.

Mr. DEAKIN: The powers of our ministers are limited, and theirs are unlimited!

Sir SAMUEL GRIFFITH: What is the power to be exercised? The sovereign power of the state. The head of the state, being one person, cannot do everything himself. He, therefore, has ministers, servants nominally of himself, but really of the people, to do that work for him. They are called ministers, but it is the power of the head of the state which is being exercised all the time. What more words can you use for the purpose of saying that? He shall appoint proper officers to do it.

Mr. DEAKIN: Hear, hear!

Sir SAMUEL GRIFFITH: That is what we have said. The power is vested in the Queen. For the administration of that power, officers shall be appointed. What more can you say? Can you go on and say that when they are appointed they shall have power to do their duty, or say that they shall exercise such functions as are usually exercised by officers of state? It is all reasoning in a circle. The officers of state will exercise the functions of officers of state, and the officers of state are the same in England as anywhere else. The more you reason about the matter, the more you will find yourself getting into a circle, and coming back to your starting point. What additional power is there? If the hon. member will point out any power which can be exercised by the sovereign authority which is not expressed by the words, I shall not only be willing, but anxious to supply the defect. But I cannot see the defect he is pointing to. He assumes that English ministers have peculiar and extra powers. I should like to know what they are? They exercise the prerogative powers, of course, and the hon. gentleman, I think, has confused the argument used in Victoria as to whether colonial ministers have power to exercise the prerogatives of the Queen with the question whether they have power to exercise the functions conferred upon them by the constitution. The argument in the Victorian court was whether a certain royal prerogative could be exercised by a colonial government. We cannot propose by a sweeping provision to say that all the royal prerogatives shall be exercised by the governor-general-in-council. That seems to me to be the nearest to what the hon. member is driving at. If that is what he means, then it is a question for fair consideration whether we ought to put such a provision in the bill. But nothing short of that will cover all that he has been arguing for.

Mr. DEAKIN: I would say briefly, in answer to the hon. gentleman, that in the very case to which he has referred, the Supreme Court of Victoria held that the words "responsible minister of the Crown" appeared in certain statutes passed by the Victorian Parliament since the passing of the Constitution; but that they did not appear in the Constitution Act, and a majority of the bench declared that if they had been inserted there they would have made a very great difference in the way in which they would have regarded ministerial authority in the colony.

Sir SAMUEL GRIFFITH: But the Privy Council said that was wrong!

Mr. DEAKIN: As far as I am acquainted with their judgment, the Privy Council did not enter upon that particular issue at all. They have not even considered the point, to say nothing of giving an opinion upon it. The judgment, therefore, remains for what it is worth as a judgment of the Supreme Court. If the words my hon. colleague desires to introduce had been inserted in the Victorian Constitution Act, the ministers of Victoria would have had greater power than they now possess. The words the hon. gentleman has just suggested, conveying sovereign power to ministers, would be amply sufficient. Those words should be embodied in this constitution.

Sir SAMUEL GRIFFITH: That is to say, that all the royal prerogatives should be exercised by the governor-in-council!

Mr. DEAKIN: Exercised by him through his ministers. Unless that claim be put forward in our constitution, we shall have taken and be taken to have accepted something less, and we shall be always liable to be challenged with having exceeded the authority of the constitution with which her Majesty has been pleased to endow us. Why should we leave the matter open to doubt? Why should we leave the ministers of the commonwealth liable to be challenged in the exercise of their duties to the people they represent? Why should we not now put forward the claim of ministers of the commonwealth to act for her Majesty and for the people of the commonwealth as if they were her Majesty's imperial ministers, excepting, of course, in cases where imperial interests are concerned, which would necessarily attach to the British Government and the Imperial Parliament? The hon. member, Sir Samuel Griffith, seems to have considered a phrase that would be acceptable, and if, especially after this debate, we were to fail to adopt some such words, we shall be taken to have admitted and accepted at the outset a limited authority which, I am sure, the commonwealth would never willingly accept.

Mr. FITZGERALD: I should like to ask Sir Samuel Griffith whether, in his opinion, the effect of the insertion of these words would be to enlarge the scope of either the duties or prerogatives of responsible ministers?

Sir SAMUEL GRIFFITH: In my opinion, they would not; and I think, at the same time, that they are extraordinary words to put in an act of parliament. No other words I know of would cover that for which the hon. member is asking, and it is rather a singular thing to ask the Imperial Parliament to do for Australia a thing which it has never done for itself.

Mr. DEAKIN: Of course not. They have no need; they have a vast reserve of power. Theirs is an unwritten constitution!

Sir SAMUEL GRIFFITH: To ask the Crown in one short sentence to surrender, in respect to Australia, all its prerogatives is rather an extraordinary thing to do. At this moment I believe no one knows what they all are. No one could at once enumerate them all; and hon. members may rely upon this, that the enumeration would be carefully gone through, and that if there were one prerogative concerning which there was the slightest doubt—that is, with regard to its inclusion—parliament would not pass it, and it would be quite right, too. We might ask for it; but would it not be a pity to lose the constitution because one point could not be granted? For instance, one of the royal prerogatives is to declare war. What about that?

Mr. FITZGERALD: That is what the hon. member, Mr. Deakin, would like!

Mr. DEAKIN: No, I would declare peace!

Sir SAMUEL GRIFFITH: The mere mention of that one instance is sufficient to show that such sweeping words cannot be inserted.

Mr. DEAKIN: We can make an exception in favour of imperial interests. We have no desire to interfere with the imperial prerogative in matters of war and peace!

Sir SAMUEL GRIFFITH: I take it that the proper place for such a clause would be the enacting part of the bill.

Mr. DEAKIN: No; when we are dealing with the executive government. The governor-general has power for everything, and delegates it!

Sir SAMUEL GRIFFITH: No; in this case there would be a surrender by the Queen, which would have to be in the enacting part of the bill, which applies to all the Queen's dominions

Mr. FITZGERALD: Canada did not ask for it!

Sir SAMUEL GRIFFITH: At all events, I would ask hon. members to pause before they determine upon asking the Queen to surrender all her prerogatives in Australia. For my part, I believe that all the prerogatives of the Crown exist in the governor-general as far as they relate to Australia. I never entertained any doubt upon the subject at all—that is so far as they can be exercised in the commonwealth. Certainly the putting in of such a phrase as has been suggested ought not to be done without very grave consideration.

Mr. THYNNE: I think the two contending parties might be reconciled without any material addition to the clause, but with only a slight rearrangement of it. I would ask the hon. member, Sir Samuel Griffith, to follow me while I read the clause as I propose to leave it:

> The governor-general may, from time to time, appoint such officers as may be necessary for the administration of the executive government of the commonwealth. Such officers shall hold office during the pleasure of the governor-general, and shall be capable of being chosen and sitting as members of either house of parliament. Such officers shall be members of the federal executive council, and shall administer such departments of state of the commonwealth as the governor-general-in-council may from time to time establish.

Sir THOMAS MCLLWRAITH: That would not do!

Mr. THYNNE: As the clause stands it encourages the idea that ministers are dissociated from the combination to which we are accustomed, and that they would be appointed to administer certain departments, but not to generally advise the governor.

Mr. DEAKIN: I trust the question will not be allowed to pass before the Convention has fully considered it. The objection of the hon. member, Sir Samuel Griffith, to the amendment of my hon. colleague is really an objection to the phrase "responsible minister of the Crown." The hon. member says it is an "epithet," but nevertheless it points in two very valuable directions. It points, in the first instance, to the exercise by ministers of all powers in the Crown, and, in the second instance, to the responsibility of those ministers to parliament for every action they take in their ministerial capacity. In both of these respects the phrase, although it may be called an epithet, is an extremely valuable one. Why not meet the case by striking out the word "officers," and make the clause read:

> The governor-general may from time to time appoint responsible ministers of the Crown.

Sir HENRY PARKES: The hon. member would not find such a phrase in any English law!

Mr. DEAKIN: It is used in a number of our acts.

Sir SAMUEL GRIFFITH: It has been used by inadvertence in Victoria!

Sir JOHN DOWNER: Is the hon. member sure the words are in the Victorian act?

Mr. DEAKIN: They are not in the Constitution Act, but they are in several other Victorian acts. They are not required to be used in Great Britain, where the constitution is unwritten; but since we are trying to reduce a constitution to words, since we are setting down in black and white what the executive relations of the government are, I think we should be definite. Complete as is the skeleton of constitutional government which the hon. member, Sir Samuel Griffith, has given us in these clauses, I maintain that it is, after all, only a skeleton, and that the life which is implied by its being administered by responsible ministers has yet to be imparted to it. We do not desire to introduce words which might seem to claim for Australia royal prerogatives; but we do wish to introduce words claiming all the prerogatives of the Crown directly relating to Australia. What we say is that these clauses, as they stand, do not with sufficient distinctness make that claim, and that we should seize every opportunity of placing points of this importance beyond all dispute, that we should embody in these clauses the claim of ministers of the commonwealth to exercise all the prerogatives of the Crown which may be necessary in the interests of the commonwealth. I would ask the hon. member, Sir Samuel Griffith, to himself suggest a phrase, and in default of that to accept my hon. colleague's amendment. I would suggest words claiming that as regards the interests of the commonwealth, ministers of the Crown here should have the same powers as have ministers of the Crown in Great Britain, distinguishing Great Britain of course from the empire at large.

Sir SAMUEL GRIFFITH: No more than the ministers of France, Germany, or the United States!

Mr. DEAKIN: In Great Britain there is the peculiarity that, living under an unwritten constitution, it is never known what new departures may be taken.

Sir SAMUEL GRIFFITH: It is absolute power to administer the sovereignty of the state!

Mr. DEAKIN: Exactly; surely all the limits that we want of that absolute power in the commonwealth is, so far as it relates to the commonwealth, to exclude all prerogatives relating to the empire outside the commonwealth. There is no pretence to claiming the power of proclaiming peace or war, or of exercising power outside our own boundaries; but let us have it stated plainly in the constitution that the officers here, called heads of departments, shall be absolutely ministers of the Crown. We know what that means.

Sir HENRY PARKES: That is exactly what we do not know.

Mr. DEAKIN: And there is this great advantage: we do not know what the royal prerogative is. We have not exhausted its meaning. Had we not better take words which are used in common speech, the meaning of which we have not exhausted, when we are all at one in making the claim for the people of the commonwealth that their parliament and ministers shall have all the powers necessary to administer the affairs of the commonwealth? No one has argued for this more strongly than the hon. member, Sir Samuel Griffith. If he is convinced that the clause gives that power, while other members of the Committee are convinced that it does not, would it not be better to carry out the principle which we have followed throughout, and let us have no doubt on the point? Let us make the most explicit, indisputable, unmistakable claim to this power.

Sir JOHN BRAY: The hon. member's suggestion will not do that!

Mr. DEAKIN: By calling these officers responsible ministers of the Crown, they will be empowered to meet all unanticipated contingencies.

Sir SAMUEL GRIFFITH: The words do not convey that meaning to my mind!

Mr. DEAKIN: They did to the Supreme Court of Victoria. We had a number of judges stating that if these words were contained in the Constitution Act of Victoria they would adopt a different attitude, and hold that ministers had greater power than they now have, those words not being in our Constitution Act. Why not employ those words in this constitution, and place our meaning beyond doubt?

Sir SAMUEL GRIFFITH: It is difficult to know what is our meaning which it is desired to put beyond doubt. I agree that in this bill our meaning should be placed beyond doubt, but we must first find out what is our meaning. The hon. member uses the word "responsible," which simply means this: that ministers take the brunt of the advice which they give in the exercise of sovereign power of any kind. That does not give them any additional power. The word "responsible" only means in that case that the ministers take the blame. It is not a question of giving authority, it is a question as to who is to be punished for the improper exercise of authority. The word "ministers" means no more than "officers of state." It is only another epithet. Ministers of the Crown means officers of the Crown where there is a Crown.

Mr. DEAKIN: The words mean something more than that!

Sir SAMUEL GRIFFITH: The argument is becoming so refined that it is impossible to distinguish the differences.

Sir JOHN BRAY: You do not call them officers of state!

Sir SAMUEL GRIFFITH: Clause 4 says that, for the administration of the executive government, there shall be officers to administer such departments of state as the governor may prescribe, and he is to act on their advice. These are expressions that have been used so often that they have become stereotyped; but I think the only authority for using in an act the words "responsible ministers of the Crown" is an error on the part of a draftsman in Victoria. It has not been followed by any of the other colonies. In some customs act somebody or other used the words "responsible minister," and the Victorian judges thought that, having been so used, there was something defective in the Constitution Act. I do not draw that inference; I think that the defect was in the subsequent Act.

Mr. WRIXON: I am convinced that the Convention is making a serious mistake. We are asked to pass this clause in exactly the same terms that would suit a Crown colony. Every word in this clause would apply equally to ministers and officers in a Crown colony which was about to be founded. I would be happy if any better phrase could be obtained than I have suggested. I think these amendments should be drawn up by the gentleman in charge of the bill. The words "responsible ministers of the Crown" were used in Victoria, not as the hon. member, Sir Samuel Griffith, thinks, by mistake, but are used repeatedly, and I think most justly, because no principle is better understood than that the courts take judicial notice of all things—mercantile, political, and so on. And the political meaning, under the Constitution of England, of "responsible minister of the Crown," is perfectly well known. What is desired is this: that a minister in Australia shall have the same position with regard to the Crown in all matters Australian, as a minister in England has with regard to all matters English. We desire to have that object carried out. I am sorry the Convention does not attend to it, because I am sure we are making a mistake.

Mr. KINGSTON: We are very much indebted to the hon. member, Mr. Wrixon, for calling attention to this matter. There is no hon. member who has had more practical experience, in view of recent events, of the necessity for making some provision of this kind. His attention has been drawn to the matter by the litigation which has lately taken place on a very nice constitutional question. A decision was pronounced by some, at least, of the Victorian judges which forms the position for which the hon. member contends, namely, that it is necessary to make an amendment in the bill in order to give ministers of the Crown in Australia certain prerogative rights which are exercised by ministers in England for the benefit of the community. When we are legislating for the creation of a constitution for the commonwealth which we hope to establish here, we should at least profit by the experience of past years in order to clothe the officers of the commonwealth with all the powers which may happen to be necessary for the preservation of the rights of the community. There is no more important power than the one which was in issue in the litigation to which I have referred; that is, the right of the representatives of the executive ministers to act without recourse to parliamentary authority in order to prevent aliens from effecting a landing on our shores. We should render ourselves liable to be accused of negligence if we did not make every effort to see that this question was perfectly clear, so that in future we should have the power which was questioned in connection with the late litigation, and which at present there is some doubt whether the colonial governments possess. We have the decision of some at least of the Victorian judges that the power is not possessed by Victorian ministers; but that if certain phraseology had been employed, they would possess the power. We do not know to what extent that decision may have been qualified by the judgment of the Privy Council; but it seems from the telegrams that it is doubtful as to whether or not that decision has in any respect been qualified. There is some room for objection to the employment of the word "responsible." We know what we wish to do. We desire to confer on the executive ministers the right to exercise this prerogative as far as the commonwealth is concerned; but I do not think we desire to expressly perpetuate the system of responsible government. I am certainly an advocate for the continuance of that system; but in view of the discussion which took place at a previous stage, I think we have done well hitherto in avoiding the use of the term "responsible," in avoiding the use of any expression which it might be urged would have the effect of preventing us from altering our practice with reference to responsible government in future as occasion may require. I hope the hon. member who has moved the amendment will leave out the word to which I have referred, and to which it seems that objection can fairly be taken. At the same time, I will promise him that I will do all I can to assist him in achieving the object which he has in view in a manner which will not be open to the objections which I have urged. It occurs to me that something of the sort might be done if we amended section 1 on page 17, which vests the executive power and authority of the commonwealth in the Queen, to be exercised by the governor-general. Possibly some words might be inserted to show that that executive power and authority which would be exercised by her Majesty's representative under the advice of a responsible ministry would extend to the exercise of the prerogative which it is now desired to confer; but at the same time I sympathise with the remark made by various hon. members that it is a very delicate question. We should look very closely at the way in which we make any amendment on the subject. The object in view is one which I am convinced we ought to strain every nerve to achieve, and I shall be glad, indeed, if the hon. member who moved the amendment can arrange with the hon. and learned member, Sir Samuel Griffith, for some satisfactory mode of effecting what I believe to be a purpose which will commend itself to all.

Sir SAMUEL GRIFFITH: I have been all along trying to meet my hon. friends for the purpose of removing any doubt. A form of words has occurred to me since I spoke last, which I believe would relieve the minds of hon. members, and does not appear open to any objection. I would propose to add to the clause the words "and shall be the Queen's ministers of state for the commonwealth." I would suggest that the hon. and learned member should withdraw his amendment.

Mr. WRIXON: I shall be happy to withdraw my amendment, as I think that the addition to the clause of the words suggested by the hon. and learned member will adequately carry out what I desire.

Amendment, by leave, withdrawn.

Amendment (by Sir SAMUEL GRIFFITH) agreed to:

That the words "and shall be the Queen's ministers of state for the commonwealth" be added to the clause.

Clause, as amended, agreed to.

Clause 6. There shall be payable to the Queen out of the consolidated revenue fund of the commonwealth for the salaries of such officers a sum not less than fifteen thousand pounds per annum.

Mr. ADYE DOUGLAS: I would ask the hon. and learned member, Sir Samuel Griffith, whether it was intended that the £15,000 should be divided among the Ministers of the Crown, however few they might be? There might be only three.

Mr. MUNRO: If they do the work, why should they not get the money?

Sir SAMUEL GRIFFITH: I think there ought to be power to control that. We contemplate seven ministers being required at the start, but the parliament will settle how many ministers there shall be. I think it would be better if this were not made a rigid provision of the constitution.

Sir JOHN BRAY: The clause says, "not less than £15,000."

Sir SAMUEL GRIFFITH: Why should the parliament not have power to reduce the amount? I think it would be better if the operation of this clause were limited in the same manner as the next one. It is clearly a matter for the parliament, the provision being an initial one.

Amendment (by Sir SAMUEL GRIFFITH) agreed to:

That the following words be inserted before the word "There," line 1:—"Until other provision is made by the parliament.

Mr. J. FORREST: I should like to ask the hon. member whether he proposes that the salaries of ministers of the Crown should be altered by parliament at any time it chooses, that is, that during any session any member shall be at liberty to move a reduction in the ministers' salaries? That would be a provision not usual in the constitutions with which I have had anything to do. It should only be done by an alteration of the constitution. If there is a civil list it can only be altered in the way provided for amending the constitution. If ministers' salaries are to be altered at any time great power will be placed in the hands of members, and they may annoy ministers by having a great controversy every time the ministerial salaries come under review. The clause says that the amount for ministers' salaries shall not be less than £15,000. Personally, I do not care what the amount is; but it seems to me that ministers of the Crown should not be subjected to the indignity, every time an appropriation act is before parliament, of having their salaries discussed in the assembly. In the colony which I represent, it is as difficult to touch the civil list as it is to alter any other part of the constitution.

Mr. MARMION: I have not had experience of the voting of large sums of money, but I have some idea in regard to the credit that should attach to a minister of the Crown; and when we are building up a fabric which is intended to be a lasting structure, and of which the foundations shall be strong and durable, we ought to be careful how we deal with this matter. I agree with my colleague in saying that it would be a pity if parliament should have the power, without considerable trouble, to alter the salaries of ministers, and could bring them under discussion every year. It seems to me to be rather discreditable, and, to a certain extent, to take away from the dignity which surrounds the position. I dare say the committee, after considerable attention to the matter, arrived at the conclusion that £15,000 per annum was little enough to enable the ministers to maintain their high positions; and after the amount has been arrived at, it seems to me that there should be a great deal of difficulty surrounding its reduction, though there should still be the power to increase it.

Mr. A. FORREST: No doubt.

Mr. MARMION: I am afraid the hon. member is rather inclined to regard these things from a narrow-minded point of view, but I have been accustomed to look at them from a higher standpoint, and to think of the future as well as of the present. Remembering that in the future the responsibility and power of these ministers may be largely increased, and that instead of ruling over 2,000,000 or 3,000,000 people, they may rule over 20,000,000, I say that the difficulties surrounding the alteration of their salaries should be made as great as possible, and I agree with my hon. colleague that it would be a pity if any amendment should be made in the clause.

Amendment (by Sir SAMUEL GRIFFITH) agreed to:

That the words "a sum not less than" be omitted with a view to the insertion in lieu thereof of the words "the sum of."

Clause, as amended, agreed to.

Clause 8. The executive power and authority of the commonwealth shall extend to all matters with respect to which the legislative powers of the parliament may be exercised, excepting only matters, being within the legislative powers of a state, with respect to which the parliament of that state for the time-being exercises such powers.

Sir SAMUEL GRIFFITH: This afternoon I have had circulated an amendment which I propose to make in this clause. It does not alter its intention, though it certainly makes it shorter. As the clause stands, it contains a negative limitation upon the powers of the executive; but the amendment will give a positive statement as to what they are to be. I move:

That in line 2 all the words after the words "extend to" be omitted with a view to the insertion in lieu thereof of the words "the execution of the provisions of this constitution, and the laws of the commonwealth."

That amendment covers all that is meant by the clause, and is quite free from ambiguity.

Amendment agreed to; clause, as amended, agreed to.

Clause 10. The control of the following departments of the public service shall be at once assigned to and assumed and taken over by the executive government of the commonwealth, and the commonwealth shall assume the obligations of all or any state or states with respect to such matters, that is to say—

Customs and excise,
Posts and telegraphs,
Military and naval defence,
Ocean beacons and buoys, and ocean lighthouses and lightships,
Quarantine.

Mr. WRIXON: I have been favoured with certain suggestions with regard to the bill by my learned friend, the Attorney-General of Victoria. These have been laid before the hon. member, Sir Samuel Griffith. One of them deals with this clause, and I wish to ask the hon. member if he has considered the point raised, and whether he is of opinion that the clause sufficiently meets the objection of my hon. friend?

Sir SAMUEL GRIFFITH: Will the hon. member state the objection to the Committee?

Mr. WRIXON: I shall be very happy. This clause hands over to the federal government a number of departments—customs and excise, post and

telegraphs, military and naval defence, and others. The Attorney-General of Victoria has pointed out that our Customs Department includes a great many other things, as, for example, the Immigration Office, the Mercantile Marine Office, the Powder Magazine Office, the Fisheries Department, and the Marine Board, and he desires to know whether it is intended under the bill to take over the whole of these from the operation of the local government, or whether the general government are to be strictly confined to customs and excise? That is the difficulty which he has raised.

Sir SAMUEL GRIFFITH: It seems to me that the meaning is pretty plain. The clause says the commonwealth shall assume the obligations of any state "with respect to customs and excise." If, in a coastal town, the customs-house officer is pilot or lighthouse-keeper as well, it will not take over those functions.

Mr. GILLIES: The same remark would apply to the posts and telegraphs, which include other departments. I do not see that it is possible, under the clause, for the federal government to take over such departments. They would have to be specifically mentioned before they could be included in the obligations of the commonwealth.

Mr. FITZGERALD: Is it understood that the state governments will entirely surrender control of country post-offices, delivery of mails, and everything connected with the postal service?

Mr. PLAYFORD: Yes!

Mr. ADYE DOUGLAS: Absurd!

Mr. BAKER: Before the question is put, I would ask if the Committee have considered the question of telephones? Of course, it is not a very important matter; but the telephones are worked by the same staff as the telegraphs, and if the central government took over the telegraphs, and the local governments retained the telephones, they would have to establish new departments.

Mr. GILLIES: Telegraphs include telephones!

Mr. BAKER: Of course, if the word "department" governs the words "posts and telegraphs," and telephones are included, I am quite satisfied.

Mr. ADYE DOUGLAS: This clause gives over to the general government the whole of the departments mentioned, before the federal parliament comes into existence. It seems to me that it is undesirable to hand over the whole of our post and telegraph departments, which in the colony I represent include other departments, to the federal government. That ought not to be done until the parliament properly arranges matters, and carries them out in accordance with the provisions of clause 52, which deals with the powers of parliament. All these powers are handed over to the executive government at once. It seems to me to be sufficient to hand over to the executive government the customs and excise departments, leaving the other departments to remain until parliament meets, when the several states will have had the opportunity of separating departments affecting telephones, stamps, and so on, from the other departments with which they are connected.

Sir SAMUEL GRIFFITH: They will do that before in anticipation!

Mr. ADYE DOUGLAS: It is not likely that they will do it until they know exactly how far the commonwealth parliament intends to operate upon these matters. The expressions used are of a general nature, and there may be taken over a great deal more than we intend to be taken over. Therefore I think it would be as well to omit the words "posts and telegraphs" from the clause. Military and naval defence matters are not of so much importance. Matters relating to ocean beacons and buoys, and ocean lighthouses and lightships, however, are in the same position as posts and telegraphs. In Victoria and Tasmania these matters are connected with different departments; therefore I think it would be well to limit the immediate assumption of control to matters affecting customs and excise, and military and naval defence.

Amendment (Sir SAMUEL GRIFFITH) agreed to:

That in line 5, the words "all or" be omitted.

Amendment (Mr. ADYE DOUGLAS) negatived:

That in line 8, the words "Posts and telegraphs" be omitted.

Amendment (by Mr. ADYE DOUGLAS) negatived:

That in lines 10 and 11, the words "Ocean beacons and buoys, and ocean lighthouses and lightships," be omitted.

Clause, as amended, agreed to.

Clause 11. All powers and functions which are at the date of the establishment of the commonwealth vested in the governor of a colony with or without the advice of his executive council, or in any officer or person in a colony, shall, so far as the same continue in existence and need to be exercised in relation to the government of the commonwealth, with respect to any matters which under this constitution pass to the executive government of the commonwealth, vest in the governor-general, with the advice of the federal executive council, or in the officer exercising similar powers or functions in or under the executive government of the commonwealth.

Sir SAMUEL GRIFFITH: I understood that the hon. member, Mr. Wrixon, intended calling attention to this matter. Amongst the memoranda with which that hon. gentleman has favoured me, made by Mr. Shiels, it is pointed out that in some instances power is vested, not in an individual, but in a board. For instance, matters affecting ocean lighthouses are dealt with by marine boards. I therefore move:

That in line 4, the word "person" be omitted with the view to the insertion of the word "authority."

Amendment agreed to.

Amendment (by Sir SAMUEL GRIFFITH) agreed to:

That in line 10, after the word "officer," the words "or authority" be inserted.

Clause, as amended, agreed to.

CHAPTER III.—THE FEDERAL JUDICATURE.

Clause 1. The parliament of the commonwealth shall have power to establish a court, which shall be called the Supreme Court of Australia, and shall consist of a chief justice, and so many other justices, not less than four, as the parliament from time to time prescribes. The parliament may also from time to time, subject to the provisions of this constitution, establish other courts.

Mr. KINGSTON: At an earlier stage in the discussion of this bill I withdrew an amendment which I then moved in favour of giving legislative powers to the federal parliament for the establishment of courts of conciliation and arbitration. I did this because it was pointed out by the hon. member, Sir Samuel Griffith, that it would be more convenient to effect any amendment the Convention might desire in the clause which we are now discussing, dealing with the federal judicature. I propose to move now the addition of words to this particular clause, which will give the federal parliament power to establish federal courts of conciliation and arbitration for the settlement of industrial disputes. The amendment I desire to make consists in the addition to the clause of the following words:—

including courts of conciliation and arbitration for the settlement of industrial disputes.

I am not going to travel over ground upon which I have previously touched. This simple fact remains—that in view of the extent of the organisations which take part in these industrial disputes, having ramifications throughout the whole of Australia, it is impossible for any one colony to legislate for the creation of a tribunal which can deal satisfactorily with them. Under these circumstances, it resolves itself into this question: whether we shall sit idly by and allow the contending parties to settle the matter for themselves, disregarding the disastrous results which invariably accrue from the prolongation of these

disputes; or whether we shall do what we can for the purpose of creating facilities by which these disputes may be avoided or their duration shortened? I do not think it possible for the question to be answered in any other way than by a recognition of the duty which it appears to me is imposed on us in the creation of this constitution to make provision for the erection of courts which will satisfactorily deal with questions of the magnitude of those involved in industrial disputes. A federal judicature is proposed to be created. Various branches of jurisdiction will no doubt be conferred upon it; but I make bold to say that there is no more important branch of jurisdiction which can be given to it than the necessary jurisdiction for the investigation of troubles of the character to which I refer, and their decision, according to the substantial justice of the case. At the present moment various schemes are occupying the attention of the different local legislatures having for their aim the supply of facilities for the prevention of these disputes; but I am sure that every one who has felt it his duty to consider the question will recognise the force of the argument, that local legislation cannot satisfactorily deal with the question. I do not propose at this stage to indicate on what lines I venture to consider legislation should proceed; but I think that if at the time of the late labour troubles we had had something in the shape of a federal tribunal, having the confidence of entire Australia, having for its sanction Australian legislation, public sentiment would have been of such a character that the disputing parties would practically have been forced to refer their disagreement to this tribunal for settlement, and to abide by the result. All I ask in submitting this amendment to the notice of the Convention is this: that we may recognise that it is a question with which the federal parliament should have power to deal. If we do not take the power now, it can only be obtained by an amendment of the constitution. Surely it is a power which should exist, however much room there may be for difference of opinion as to the precise way in which it should be exercised. I merely refer in the amendment I move to the establishment of courts of conciliation and arbitration. The first duty of the proposed tribunal would no doubt be to endeavour to reconcile the parties. The second would be, in default of success in the endeavour to bring about a reconciliation between the contending parties, to pronounce a decision according to the justice of the case, which decision should bind the contending parties for a limited period, and which should be capable of enforcement. Courts of conciliation and arbitration appear to me to be highly desirable of establishment in view of the matters to which I have called attention, and it is with the sole purpose of enabling the federal legislature, when it sees fit and in such mode as it deems most expedient, to call these tribunals into existence that I move this amendment.

Amendment proposed.

Sir SAMUEL GRIFFITH: I should like for my own satisfaction, before voting on this question, to know how the hon. gentleman makes out that his amendment is not an interference with property and civil rights? That is the difficulty I feel. If courts of conciliation can be established, if anything can be done to settle labour disputes, I think it is a power the federal parliament might very well have. But I have been trying for the last three months to see how it could be put within their function without interfering with the proper function of the states, and I have not been able yet to answer that question.

Mr. DEAKIN: The hon. member, perhaps, might answer another difficulty which has suggested itself to me. I am cordially with him in all he desires to accomplish, and believe that much could be achieved in this direction by such legislation as he has outlined; but I fail to see that it can possibly become, for a very long time to come, a proper subject for federal legislation. On the contrary, I fear that if this power were given to the federal legislature, it might be exercised less satisfactorily than it would be by the individual colonies. There must be in such a matter as this, a certain amount of experimental legislation. The colonies, left to themselves, may take different, and, to some extent, diverse paths; and from the knowledge then gained, the federal parliament may legislate in the future. The hon. member's amendment, I take it, would not prevent the exercise by the several colonies of their present power of legislation on this question.

Mr. GILLIES: It would!

Mr. KINGSTON: Not at all!

Mr. DEAKIN: I imagine that the bestowal of this power on the federal parliament would not operate to the exclusion of the power at present possessed by the several colonies, until the federal parliament did actually legislate. If this provision would operate as a prohibition to the local parliaments I should be compelled to vote against it. But I think it simply gives the power to the federal parliament in the future, and possibly there cannot be much objection to that, unless it be on the ground suggested by the hon. member, Sir Samuel Griffith. I certainly think we should do something to prevent or even discourage the several colonies from dealing with this problem each in its own way, because only after the path has been trodden by the several colonies, and trodden in different ways, will it be probable that the federal parliament will ever be moved to bring into existence so immense an organisation as would be necessary to cope with the industrial disputes of Australia.

Mr. DIBBS: I think the idea of the mover of the amendment is to give power to the federal parliament to establish such courts. Long before federation would become an accomplished fact conciliation courts would, no doubt, be established in the various colonies, or at least some of them would have attempted to legislate with a view to a settlement of the question. Already the subject has been introduced into the Parliament of New South Wales and favourably received, and the hon. member, Mr. Kingston, has, I believe, introduced it into the Parliament of South Australia; and I have no doubt that when the minds of the people are brought to bear on the advantages of conciliation, legislation will be passed in various colonies which will pave the way to a law of conciliation being ultimately passed by the federal parliament. I see no harm in the insertion of words giving the federal parliament power to establish such courts if it thinks necessary.

Mr. KINGSTON: Referring to the remark which fell from Sir Samuel Griffith, if I understand the hon. gentleman rightly, his objection is to the establishment of any court of conciliation or arbitration.

Sir SAMUEL GRIFFITH: No!

Mr. KINGSTON: Then I fail to comprehend the argument of the hon. delegate. I understand him to say that the establishment of these courts by the federal legislature would be an interference with civil rights.

Sir SAMUEL GRIFFITH: With property and civil rights!

Mr. KINGSTON: Does the hon. delegate object to it on the ground that state matters should be regulated by the states themselves?

Sir SAMUEL GRIFFITH: Certainly; property and civil rights are left to the states!

Mr. KINGSTON: Then I understand that the objection of the hon. delegate is not as to the propriety of the establishment of courts of conciliation and arbitration; but as to the expediency of leaving these matters to be dealt with by the states themselves.

Sir SAMUEL GRIFFITH: Yes, that is the point which I take.

Mr. KINGSTON: The position that I ventured to take was that the states could not deal with these questions to the extent of the creation of a federal tribunal—could not deal with them to the extent of calling into existence a court competent to pronounce a decision having force not only in the particular state, but also throughout the commonwealth; and, taking, as I believe I am justified in taking, the hon. member's argument to amount to this—that he admits the propriety of legislation on the subject, but thinks the authority to legislate should be confined to the states themselves—I venture to say that it is wanting in force, because he does not recognise the strength of the position that the states have no power to legislate for the creation of a federal tribunal. With reference to the remarks of the hon. delegate from Victoria, Mr. Deakin, if I thought that the amendment which I indicate would prevent the states from legislating within their own boundaries or that it would affect the free exercise of their powers within their limits with regard to the creation of tribunals of this sort, I would not for a moment dream of moving the amendment; but it cannot have any such effect, and I am sure that the hon. member will see it. The amendment I moved does not place even the same restriction which, as regards a great variety of subjects, is placed upon the action of the states in matters of very considerable moment. There are cases in which the commonwealth and the state will have concurrent powers of legislation. Even in those cases it will be necessary to any restriction of the state rights that the federal power shall be exercised; but in this case it is not a question of concurrent legislative powers. The state has no power whatever for the creation of a federal tribunal, and with the view of giving the federal parliament a power which otherwise neither commonwealth and state will possess I ask the Convention to consent to the amendment. No doubt a variety of arguments might be advanced as to the mode in which federal legislation should proceed—as to the precise direction which it should take—as to the details of the scheme that would commend itself to the good sense of the federal parliament, but having listened to the criticisms to which my suggestion has been subjected, I confess that I cannot see any valid reason why the federal parliament should not have the power to deal with the question. Why should we at this early stage in the constitution of the commonwealth resist the proposal to give the parliament authority to deal with it when the occasion arises, and when a scheme is propounded which will commend itself to the good sense of the majority?

Mr. GILLIES: Does this amendment give the parliament that power?

Mr. KINGSTON: The amendment which I now propose would give the federal parliament the power of legislating with reference to the establishment of courts of conciliation and arbitration in such a way as they think fit.

Mr. GILLIES: In what clause?

Mr. KINGSTON: The clause now under consideration. As I have previously pointed out, I move the amendment at this stage of the bill, as no doubt the judicature, if created, would have most important functions. If we do not assent to an amendment of the character now indicated, the federal parliament, shortly after its constitution, might be desirous of dealing with this question, and a scheme might be propounded which commended itself to the good sense of a large majority of both houses, but it would be utterly powerless. It could do nothing, and the states themselves would be similarly situated. Under these circumstances it does appear to me that the force of the arguments is altogether in favour of giving the power, however much the federal parliamemnt may deliberate, and whatever room for difference of opinion there may be as to the precise way in which it should subsequently be exercised.

Mr. GILLIES: I should like to have the attention of the hon. and learned member, Sir Samuel Griffith, for a minute. There is a proposal made here that the parliament should be able to establish certain courts, and that these courts shall be able to deal with laws having reference to conciliation and arbitration. I want to know if, in the event of these words being added, there is in the bill any power given to the parliament to deal with this subject?

Sir SAMUEL GRIFFITH: I do not quite understand the hon. member's question!

Mr. GILLIES: In this bill we have dealt with a series of provisions giving the parliament of the commonwealth power to deal with certain questions; but this question is not included. I desire to know whether merely giving the courts of law power to deal with a question of this kind necessarily involves the power of the legislature to legislate on the subject?

Mr. FITZGERALD: I should like to supplement the remarks of the hon. member, Mr. Gillies: Suppose the federal court gave a decision which was at variance with that of the courts of the various states, which would rule?

Sir SAMUEL GRIFFITH: The question which the hon. member, Mr. FitzGerald, asks is rather a difficult one to answer. In America the supreme court in each state is supreme in its own limits, and so is the federal supreme court supreme in its limits, and the same point might be decided in two different ways, and both decisions be executed in the same state. In reply to the hon. member, Mr. Gillies, I think that the last paragraph in clause 52 would give the legislature power to legislate on the subject. The words are:

> Any matters necessary or incidental for carrying into execution the foregoing powers, and any other powers vested by this constitution in the parliament or executive government of the commonwealth.

That leads me to another question—how would the decision of a court of conciliation be carried out?

Mr. GILLIES: That is a question for the act itself!

Sir SAMUEL GRIFFITH: I confess I feel very great doubt whether the provision should or should not be put in here. I do not think the hon. member, Mr. Kingston, has removed the difficulty that I felt as to its being an interference with property and civil rights. Does the hon. member mean that a court of conciliation might direct that the wages of workmen should be raised?

Mr. KINGSTON: That is a question of detail!

Sir SAMUEL GRIFFITH: It is a question of principle. Does the hon. member mean matters of principle like that, because that might entirely depreciate the value of property in a state, or drive an industry out of a state? From that point of view, my vote will be determined in the matter. I think, much as I desire to get this power for the federal parliament, that we ought to hold fast by the principle that we are not going to interfere with the rights of property in the states.

Mr. GILLIES: I would suggest to the hon. member, Mr. Kingston, that it would be wise to await the result, and to see whether the colonies themselves could not do something. I can quite understand the hon. member's difficulty, and have appreciated it for a long time. The labour question is not a question that belongs merely to any one colony; but, as we have had experience, it permeates all the colonies, and a movement originating in one colony is made disastrous in its effect, not only in that colony, but in all the other colonies. It would be wise, if possible, to induce all the colonies to come to an understanding on the subject with reference to the framing of a law which would be fair to all parties. If the hon. member will leave the question a little longer, with the view of enabling the various governments to come to some conclusion,

then they might refer it to the federal parliament. Under the bill they would have power to refer the question to the federal parliament to deal with, probably on lines which they might be able to suggest. But I do not believe that in the first instance the federal parliament would be likely, in consequence of the inherent difficulty of the subject, to deal with it without being first advised by the various legislatures, or, at any rate, by the various colonies. The question is full of difficulties; the hon. gentleman acknowledges that himself, and I think he would do well to leave it for some little time to the state governments to endeavour to consider the matter among themselves, and to see, in the event of their not being able to legislate unitedly, whether they might not refer the question to the federal parliament.

Mr. PLAYFORD: In a case of this sort, if the insertion of the words can do no harm, and they may do good, why should we hesitate to insert them? We all admit, I imagine, that these industrial troubles do not belong to one colony alone. Labour has federated, and capital has federated, throughout the colonies, and the experience of the late strike shows most unmistakeably, or, at all events, shows us in South Australia, that a strike may be ordered from New South Wales, and that our people will obey the order; but that as far as our local laws are concerned, we are practically powerless to deal with the question. We all admit, therefore, that the subject, if dealt with at all, will have to be dealt with by the parliament of the commonwealth. Until the parliament of the commonwealth deals with the subject, the states are not prevented in any way from dealing with it. I am quite certain that the parliament of the commonwealth will not take any action until public opinion throughout the colonies begins to call upon them to make a law upon the subject, and to endeavour as far as possible to settle these disputes without the loss that is always occasioned to both sides by a strike. The object will be to prevent the possibility of strike in the future, as far as we possibly can. There will be no harm whatever in inserting the words which the hon. member proposes. It is one of those provisions which will not be exercised until the voice of the community demands that it shall be. For these reasons I shall cheerfully support the amendment.

Mr. KINGSTON: The hon. member, Sir Samuel Griffith, asked me if I proposed that the courts of arbitration and conciliation should have power to decide the rate of wages. I do not propose anything of the sort, for I do not propose any details as regards the powers which should be conferred upon the courts. I think that a question of the sort Sir Samuel Griffith asks could be put with equal force for the purpose of securing the rejection of many clauses in the bill. The power is given, for instance, to the federal parliament to legislate in such matters as marriage and divorce. Surely the hon. member might, with the same propriety, ask in what direction it is intended by those responsible for the appearance of that provision in the bill that legislation on those subjects should proceed. That matter will be discussed, no doubt, and decided by the federal parliament when the necessity arises. The simple question now is: shall the federal parliament have power to deal with this question? It is admitted that a power of this kind cannot be exercised by the states. A suggestion is made that the subject may be referred to them in the roundabout way which is proposed in another section of the bill. Why not, if we recognise the necessity of doing something, give the absolute power within the four corners of the bill—a power which, of course, will only be exercised with that discretion which the federal parliament will naturally be supposed to possess, and which will not be exercised before Australian sentiment is ripe for legislation on the subject?

Question—That the words proposed to be added be so added—put. The Committee divided:

Ayes, 12; noes, 25; majority, 13.

AYES.	
Atkinson, Sir Harry	Fysh, Mr.
Burgess, Mr.	Kingston, Mr.
Cockburn, Dr.	Munro, Mr.
Cuthbert, Mr.	Playford, Mr.
Deakin, Mr.	Russell, Captain
Dibbs, Mr.	Smith, Colonel
NOES.	
Baker, Mr.	Jennings, Sir Patrick
Barton, Mr.	Loton, Mr.
Bird, Mr.	Macdonald-Paterson, Mr.
Clark, Mr.	Marmion, Mr.
Donaldson, Mr.	McIlwraith, Sir Thomas
Douglas, Mr. Adye	McMillan, Mr.
Downer, Sir John	Moore, Mr.
FitzGerald, Mr.	Parkes, Sir Henry
Forrest, Mr. A.	Rutledge, Mr.
Forrest, Mr. J.	Suttor, Mr.
Gillies, Mr.	Thynne, Mr.
Griffith, Sir Samuel	Wrixon, Mr.
Hackett, Mr.	

Question so resolved in the negative.

Clause, as read, agreed to.

Clause 6. Notwithstanding the provisions of the two last preceding sections, or of any law made by the parliament of the commonwealth in pursuance thereof, the Queen may in any case in which the public interests of the commonwealth, or of any state, or of any other part of the Queen's dominions, are concerned, grant leave to appeal to herself in council against any judgment of the Supreme Court of Australia.

Mr. WRIXON: I beg to move:

That the clause be amended by the omission of the words "in which the public interests of the commonwealth, or of any state, or of any other part of the Queen's dominions are concerned" be omitted.

Letting the clause stand generally, that the Queen may grant leave to appeal. I hope this Convention will not mark the inauguration of a new constitution by cutting us off from the right of appeal to the Queen in England. I believe there is a strong and wide feeling among a large portion of the people of these colonies that they would not like to have that power taken away from them, and if my amendment be agreed to the Privy Council would put the same construction upon the bill as they put upon a similar provision in the Canadian act, allowing appeals only in special cases. That is the desire of us all. I am quite willing that the federal parliament should attach any conditions as regards costs that may be desirable to prevent vexatious litigation, but I hope the Convention will not mark this early stage of our intended inauguration of a constitution by separating this part of the empire from the right of appeal to the Queen, making it the only part of her Majesty's dominions in that position.

Mr. PLAYFORD: Our own court of appeal will be a court of appeal to the Queen. It will be the Queen's court.

Mr. WRIXON: Our police courts are the Queen's courts; but we are talking of an appeal to the Queen as the head of the empire, and I should be sorry to see this portion of her Majesty's dominions placed in a position different from that of any other part of the empire, rendering our law liable to the uncertainty necessarily attaching to such a course.

Mr. DIBBS: I think the proposal to establish an appeal court within these colonies is a mistake, as far as the suitors are concerned, and that the proposal is more the outcome of sentiment than of practical necessity. The idea has been that we should give to our own people—I was about to use the word "subjects," but the time has not yet arrived for that—an appeal court of their own, and that we should take away from them the right of appeal, making them almost foreign subjects. The idea exists in the minds of certain gentlemen that it will cheapen the cost of litigation to the suitor, if we have an appeal court in our own territory.

Having had considerable experience in appeals to the Privy Council, I would say that it is cheaper to appeal to the Privy Council, to have a thoroughly unbiassed court, a court in which the highest legal talent of the empire ought to be available for the hearing of cases, than it would be to appeal to any appellate court which might be established here. Of course, I hold that, as British subjects, we have the right of appeal to the Queen, and I, therefore, shall support the amendment of the hon. member, Mr. Wrixon. To take away from the people of this country the right of appeal to the throne is to commence to sap the foundations of a union under the Crown, the principle upon which our federation is to be established. If we are to be under the Crown let there be one form of law, let there be one set of decisions ruling in every part of the empire. If we are to carry out what evidently some gentlemen desire—I do not say that I am among the number—having our own appeal court, we should have to practically hoist our own flag, and we should then have our own decisions to guide all the courts of the colonies. I believe a majority of hon. members who support the proposal go for the sentiment of the thing rather than for the reality. We shall have certain decisions of the appellate court of the commonwealth of Australia—if that name is to be adhered to—and certain decisions of the Privy Council of England running at the same time within the same empire. There can be only one final appellate court in the empire, and that I believe should be the Privy Council of England. I base that opinion upon considerable experience of the Privy Council and of litigation in the courts of this colony. I maintain that it will be absolutely cheaper to take cases to the Privy Council and settle them there at once, with all the respect due to that great court of appeal, than to establish an appellate court here.

Sir JOHN DOWNER: I do not think the question of expense was so much considered by the committee as the question of having a national court. It was the determination to settle our own affairs amongst ourselves that had much more to do with the question than the incident of expense, which we thought would probably be lessened, although for the purposes of this discussion I will assume that it will be substantially the same. The chief reason which actuated the committee in coming to this conclusion was that we believed we had reached a stage of national life in Australia in which we were fairly competent to manage our own concerns, not merely political but judicial as well. Whilst we agreed to follow the course which Canada pursued and to allow appeals, the words were general in that case, but they have had a limit placed upon them by the Privy Council in their decisions. We thought it would be well to follow the course which was followed in Canada, adding the limitations which judicial decisions have imposed upon the more general words. Therefore, we are not going beyond what has been done before. Although many of us may think we are doing less than we are disposed to do ourselves, at all events there will be few of us who will not consider we ought to have gone at least as far as we have gone in the bill.

Question—That the words proposed to be omitted stand part of the bill—put. The Committee divided:

Ayes, 19; noes, 17; majority, 2.

AYES.

Barton, Mr.	Jennings, Sir Patrick
Bird, Mr.	Kingston, Mr.
Clark, Mr.	McIlwraith, Sir Thomas
Cockburn, Dr.	McMillan, Mr.
Deakin, Mr.	Parkes, Sir Henry
Donaldson, Mr.	Playford, Mr.
Downer, Sir John	Rutledge, Mr.
Fysh, Mr.	Smith, Colonel
Grey, Sir George	Thynne, Mr.
Griffith, Sir Samuel	

NOES.

Atkinson, Sir Harry	Gillies, Mr.
Baker, Mr.	Loton, Mr.
Burgess, Mr.	Marmion, Mr.
Cuthbert, Mr.	Moore, Mr.
Dibbs, Mr.	Munro, Mr.
Douglas, Mr. Adye	Russell, Captain
FitzGerald, Mr.	Suttor, Mr.
Forrest, Mr. A.	Wrixon, Mr.
Forrest, Mr. J.	

Question so resolved in the affirmative.

Clause, as read, agreed to.

Clause 7 verbally amended and agreed to.

Clause 8 (Original jurisdiction. Additional original jurisdiction may be conferred).

Sir SAMUEL GRIFFITH: There is a mistake in this clause, which does not express the intention of the drafting committee or of the other committee. The last two lines—

The parliament may confer original jurisdiction on the supreme court of Australia in such other cases as it thinks fit.

read much more widely than was intended. They were intended to be read in connection with the list in the preceding section. Of course, within that list it is quite right. There is no reason why the supreme court should not have original jurisdiction in them if parliament agrees to give it.

Mr. WRIXON: Concurrently with the other courts?

Sir SAMUEL GRIFFITH: Yes. I move that the last paragraph be amended to read as follows:—

The parliament may confer original jurisdiction on the supreme court of Australia in such other of the cases enumerated in the last preceding section as it thinks fit.

Amendment agreed to; clause, as amended, agreed to.

Clause 10 (Number of judges) verbally amended and agreed to.

Progress reported.

ADJOURNMENT.

Motion (by Mr. McMILLAN) proposed:

That the Convention do now adjourn.

Mr. BARTON: Perhaps I may be allowed to explain that I was unavoidably absent when clause 55 of chapter I was dealt with this afternoon. If it is permitted to me to say so I very much regret that I was not present, as, having been concerned in the labours of the Constitutional Committee, and having also, I may fairly say, had some share in the drafting of the bill, I do not like it to be supposed that I was deliberately absent on that occasion. I wish to say, therefore, not being entitled by order to give my reasons, that I should most deliberately have supported the clause as it stands in the bill had I been present.

Mr. ABBOTT: I beg to ask you, sir, and the Convention, to excuse me from attendance to-morrow. I have very important business to attend to, and I hope that some other member of the Convention will take my place to-morrow. If it should not be convenient for any hon. member to do that, I will put aside my engagements, although they are very important, and be here to act as Chairman of Committees. I would ask some hon. member to take my place to-morrow.

HON. MEMBERS: Mr. Barton!

Mr. BARTON: We shall no doubt find a gentleman who will gladly occupy the hon. member's place, but it will be very much better not to decide anything to-night. We all have our engagements; but I, for one, should be happy to bear my part, and I am sure that Sir John Bray will bear his; and there are other gentlemen of experience in the chair who will also be available.

Question resolved in the affirmative.

Convention adjourned 6·7 p.m.

TUESDAY, 7 APRIL, 1891.

Chairman of Committees—Personal Explanation—Commonwealth of Australia Bill.

The PRESIDENT took the chair at 11 a.m.

CHAIRMAN OF COMMITTEES.

The PRESIDENT: It has been intimated to me that the Chairman of Committees will not be here to preside in Committee to-day, and I understand that the Hon. W. Moore, the President of the Legislative Council of Tasmania, is willing to take the chair for this day only. Perhaps the hon. member, Mr. Barton, will move that the hon. member, Mr. Moore, take the chair in Committee for this day only.

Motion (by Mr. BARTON) agreed to:

That the Hon. W. Moore take the chair in Committee for this day only.

PERSONAL EXPLANATION.

Sir GEORGE GREY: Before the orders of the day are called on, I wish to make a personal explanation. Yesterday, when the motion of the hon. member, Mr. Kingston, as to courts of conciliation came on, I was called out of the House to sign an important law paper. I hurried back as soon as I could, but I was unable to vote on the question. Had I been present, however, I should have voted with the ayes.

COMMONWEALTH OF AUSTRALIA BILL.

In Committee (consideration resumed from 6th April):

CHAPTER IV.—FINANCE AND TRADE.

Clause 3. No money shall be drawn from the treasury of the commonwealth, except under appropriations made by law.

Mr. THYNNE: When we were discussing the clause relating to the powers of the federal parliament, I called attention to the very great power that was given to borrow money without any practical restriction, and I then proposed an amendment which would have the effect of restricting the powers of the federal parliament for the appropriation of money absolutely to the purposes authorised by this constitution. At the suggestion of the hon. member, Sir Samuel Griffith, however, I withdrew that amendment, with a view to having it introduced in this part of the bill. I therefore move:

That the following words be added to the clause:—"and for purposes authorised by this constitution."

Mr. MUNRO: I think the members of the Committee will require a little more explanation before they adopt an amendment of this kind. Are we to understand that the amendment means that, when making up the estimates for the year, it will be necessary for the treasurer of the commonwealth to take the opinion of the law officers of the Crown as to whether every item does or does not come within the constitution? If that is what is proposed, I think the amendment will be a most dangerous one. If that is what will have to be done, there is no knowing where the matter will end. My opinion always has been that we have quite enough to do with lawyers as it is, without throwing new business into their hands. We ought to allow the executive of the commonwealth to exercise their own judgment as to the moneys to be dealt with and appropriated in the ordinary way; but, if they have to consult the law officers of the Crown upon every item, the result will be an interminable difficulty, which we shall not be able to get over.

Mr. THYNNE: In answer to the hon. member, Mr. Munro, I might say that the object of the amendment is to emphasise the strict lines which ought to exist in regard to the spheres of duty of the two separate parliaments which have force in these colonies, and that the federal parliament should be required to restrict itself to those subjects with which it is intended by the constitution it should deal, and that it should not be at liberty to trench upon the functions which are reserved to the several states by the expenditure of money which is not contemplated in the objects of the constitution. I think that this is a very necessary provision, and it is well that we should have it clearly understood that the constitution which we are now preparing is not to be an all-absorbing one, which will wipe out, by slow or rapid degrees, as the case may be, the whole of the functions of the local parliaments.

Sir SAMUEL GRIFFITH: This subject has received a good deal of attention from me at different times within the last few months. I was under the same impression as the hon. member, Mr. Thynne, for a long time. I heard a little discussion about it here the other day; it was discussed a great deal in committee, and the result is that I have come to the conclusion that this provision is not necessary. Whether other hon. members have come to that conclusion I do not know. I have, however, been thinking about the matter for several months. It seems to me that the words in the 1st clause of the chapter—

shall form one consolidated revenue fund. . . this constitution.

contain all the limitations we can really insert, however many words we may use to express them.

Amendment negatived; clause agreed to.

Clause 4. The parliament of the commonwealth shall have the sole power and authority, subject to the provisions of this constitution, to impose customs duties, and duties of excise upon goods for the time-being the subject of customs duties, and to grant bounties upon the production or export of goods.

But this exclusive power shall not come into force until uniform duties of customs have been imposed by the parliament of the commonwealth.

Upon the imposition of uniform duties of customs by the parliament of the commonwealth all laws of the several states imposing duties of customs or duties of excise upon goods the subject of customs duties, and all such laws offering bounties upon the production or export of goods, shall cease to have effect.

The control and collection of duties of customs and excise and the payment of bounties shall nevertheless pass to the executive government of the commonwealth upon the establishment of the commonwealth.

Colonel SMITH: I should like to ask the framers of the bill how they propose to meet the difficulty which arises in the 3rd paragraph, which states that, upon the imposition of uniform duties there shall be free-trade amongst the colonies? I think some time should be fixed after the imposition of the duties, because it will probably take something like twelve months for those duties to be brought into effect, and it may happen that the merchants, especially of some of the colonies, may import goods in very large quantities, and virtually swamp the market for something like two years. It would be much wiser if some limit were fixed, after the imposition of the duties, before free-trade can come into operation amongst the different colonies. Otherwise we may have one colony swamping the others by rushing goods into their markets to the injury of the existing manufacturers. I would suggest to the hon. member, Sir Samuel Griffith, to allow the word "Upon," in the first line of the 3rd paragraph to be struck out, and that the words "twelve months after," be inserted in its place. By this means free-trade will not come into existence for twelve months, and the stocks which have been taken in hand with the view of swamping the various local markets will be somewhat exhausted. With the view of testing the feeling of the Committee, I move:

That in line 9 the word "Upon" be omitted with a view to the insertion of the words "Twelve months after."

Mr. MUNRO: This question was very fully discussed by the Finance Committee, and I confess that I arrived at the conclusion that the effect would be exactly the reverse of what my hon. friend proposes

I will point out to him how it would be the reverse. When the new parliament meets, and makes arrangements for imposing customs duties, the day and hour upon which they will come into operation will only be known to the executive, and they will bring them into effect suddenly. There will, therefore, be no time for piling up large quantities of goods in the manner referred to by the hon. member. The hon. member will see what would happen on the other hand. Supposing the federal parliament comes into operation on the 1st January of any year, and you fix that this part of the law shall only come into operation twelve months afterwards. In that event, up to the 31st December, all that possibly could be piled up would be piled up, because the importers would know the exact day upon which they would be shut out; whereas, under the other arrangement, they would be in doubt, and would not know exactly ——

Colonel SMITH: But for twelve months they could not send their goods across the border without paying duty. That is my point!

Mr. MUNRO: The hon. member must see that if the new duties come into effect twelve months after their imposition, a time is fixed, and that would be an indication as to when they could send the goods in.

Colonel SMITH: I do not see the point at all!

Mr. MUNRO: The hon. member must see the point when others see it, and when those who have had to feel the effect of it in former times also see it. The hon. member will remember what did happen in Victoria when a similar thing was proposed. It was proposed in one session of parliament to alter the law with regard to certain goods, and the tariff failed that session; but a hint was given to the public as to what the tariff was likely to be, and the result was that free goods were brought into the colony to swamp the market for the next two years. The proposal of the hon. member would act in that direction, for a date would be fixed on which the tariff would come into operation, and the result would be that people would be piling in goods until that day, whereas when the date is in doubt they cannot do it to the same extent. The hon. member and everybody else must know that those smart enough will take advantage of changes and be prepared to make the most profit they can make out of them; but they cannot take the same advantage when the time is in doubt as when it is fixed.

Mr. McMILLAN: I do not think that the hon. member, Mr. Munro, sees the drift of the arguments, neither do I, myself, agree with the hon. member, Colonel Smith; but if the hon. member, Colonel Smith, wants to carry out his ideas, he will have to make his amendment a little different, because it would create an absurdity. He says, "One year after the imposition of uniform custom duties by the federal parliament," but the moment the federal parliament imposes uniform duties, they must come into operation; therefore, the hon. member, if he wishes to give a breathing time of twelve months, will certainly have to alter the clause a little more thoroughly than by the insertion of the words "twelve months." Whilst I am on my feet I may say from practical experience that I do not care when a tariff comes into operation. It makes very little difference. People will go on trading very much as before; and as long as there is an interval of doubt with regard to future duties to be imposed, men will generally take their cue from the debates of a parliament, such as the federal parliament that will be created then, and will act accordingly. When once the parliament has decided on a uniform tariff, I am perfectly certain, from a commercial point of view, the sooner it comes into operation the better.

Sir JOHN BRAY: I think the suggestion made by the hon. member, Colonel Smith, is worthy of a little consideration, although I cannot support the amendment in the way in which he proposes it. It appears to me that we might provide that on a date to be fixed by the federal parliament the intercolonial duties should cease. I do not think that we should fix twelve months; but on the other hand, is it right to absolutely say to the federal parliament, "Immediately you impose customs duties, the customs duties of the several colonies shall cease"?

Mr. GILLIES: You do not want two sets of customs duties!

Sir JOHN BRAY: I admit that. But the point to which the hon. member, Colonel Smith, refers is, that if we had free-trade to-morrow we should have goods in one colony which had been imported free of duty competing with goods in another colony upon which duties had been paid; and the amendment to some extent removes the inequality.

Mr. MUNRO: How can we do it?

Sir JOHN BRAY: The question is, whether we should leave the federal parliament to see if they are able to do it, or say to them, "You shall have no discretion in the matter; but immediately you make these uniform customs duties, all other customs duties on goods shall cease to have effect." I think it will be desirable to give the federal parliament a little power in this matter. It may be, and I think it would be, true that it would be found that you could not have two customs tariffs in force at the same time, and the result would be that immediately a uniform tariff came into operation free-trade might exist between the colonies. But is it necessary to tie the hands of the federal parliament in the way proposed in the clause? I think it is not necessary; and I ask the hon. member, Colonel Smith, not to press his amendment, but to substitute one saying that upon a date to be fixed by the federal parliament, and after the imposition of uniform duties, all other customs duties shall cease, so as to give the federal parliament time to postpone intercolonial free-trade for a few months if they think fit to do so.

Sir SAMUEL GRIFFITH: The clause as it stands contains all that the hon. member, Sir John Bray, desires!

Mr. LOTON: It appears to me that uniform duties, when they are imposed by the federal government, will mean uniform duties, not as between the various states, but as against the outside world—the customs duties existing at the time, as between the different states, will come to an end. The point put by the hon. member, Sir John Bray, was this: he said that if the uniform duties were to come into operation at once it would enable the free-trade colonies to have an advantage over the others. But if six months further time is to be given after the uniform duties are imposed, the position would be this: Supposing, under the uniform duties, the tariff was 25 per cent. where it is only 10 or 15 per cent. now, what position would a free-trade colony be in, where there are no duties at all? As the matter is proposed to be dealt with by the hon. member, Sir John Bray, the people there would still be able to import for six months free of duty, while the people in the other colonies would have to go on paying the protective duties which they have imposed at the present time, and the position in New South Wales, or any other free-trade colony, at the end of the six months would simply be that people would have piled up as many million pounds' worth of undamageable goods as possible, would hold those goods in hand at the end of the six months, and would have paid no duty at all on them; whereas the people in the other colonies would have had to continue paying the protective duty that they have at the present time. To my mind, speaking as a commercial man, whenever these uniform duties are imposed, they must come into operation at once—the public should have no opportunity at all of taking advantage of the situation.

Mr. DONALDSON: One matter that has been lost sight of in the discussion will be in the minds of all hon. members who have been in governments. Where a reduction of duties is made, it is usual that the new duties shall come into operation at a certain time, as it would be rather unfair on a holder of goods who has paid high duties upon them that competition should go against him the day after the passing of the new tariff. I think that is the point which the hon. member, Colonel Smith, has tried to provide against; but in endeavouring to do that he is placing a tremendous restriction on trade if his amendment is carried, that twelve months shall elapse before free-trade shall take place between the various colonies. No doubt some of the colonies that levy much lower customs duties than others would have an immense advantage after the passing of a uniform tariff, inasmuch as they would be able to send their goods to colonies where higher duties have been imposed, and undersell the persons who had imported there. Whilst I do not agree with the amendment in the way it is proposed, I at the same time agree that the federal parliament, in passing a tariff bill, should make the same provision as is made by all other parliaments, namely, that where reductions take place the new duties should not come into operation till after a certain time, whereas the increases should be made immediately. I do not wish to fetter the hands of the federal parliament too much. They should be the best judges of their own matters, and I think we should have sufficient confidence in them to believe that they would act fairly and justly to the whole community. Therefore, the bill as it stands, in my opinion, is much better than the amendment of my hon. friend.

Mr. DEAKIN: The discussion has drifted upon two apparently different lines, and the question answered by my colleague, Mr. Munro, is one of quite a different nature from that which the hon. member, Colonel Smith, intended to bring before the Committee. It is not a question of whether you should frame a tariff, and having framed it, publish it to the world, and postpone its coming into operation for a given time.

Mr. MUNRO: That is what I meant!

Mr. DEAKIN: Exactly. Because that would be simply to invite the importers to flood the country with all the goods upon which it was intended to impose high duties. Such a proposal as that would not be listended to for a moment by any body of sensible men. But is it not certain that the manufacturing interests of the whole of Australia will be subject to an enormous stress of competition even without the publication of that tariff? It is perfectly true that until the federal government brings down its proposals no business man will be able to say upon what goods duties will be imposed, or to what extent they will be imposed. But does it require any such indication as that to put commercial men on the *qui vive?* Will not the fact that probably protection and free-trade will be submitted to the country by rival leaders and by candidates in all the constituencies be the first warning? Will not the return of the parliament with a majority of its members known to hold a certain opinion be another indication? And will not the importers of all the colonies if they see that a protectionist majority is being returned to the federal parliament, at once take steps to fill their warehouses to the brim?

Mr. DIBBS: No!

Mr. DEAKIN: Of course they will; and the fact is, that under these circumstances the influx of goods will be to that colony which imposes the lowest duties, especially to a colony which practically imposes no duties. To this it may be replied, and not unfairly, that although the ports of that colony are open, they will be as much open to the merchants resident in the other colonies as to the merchants in that particular colony. So that it is not a question of the importers of New South Wales against all the rest of the continent; it is a question of all the importers of all the colonies making use of New South Wales or any other colony in which duties are low to introduce large quantities of goods with the view of having them on hand at the time when protectionist duties are imposed and then selling them at a large advance. That is the danger to be guarded against. That is the very real and very substantial danger which the hon. member, Colonel Smith, had in his mind, and which he desired to meet by his amendment. It appears to me, however, that the amendment will not meet it, and I say with some reluctance that at the present time I do not see any amendment which can meet it, because, if you consider it for a moment, it implies the imposition of two tariffs. If it is desired to have a uniform tariff established, and yet at the same time to maintain the intercolonial tariffs for a given time afterwards, you have two tariffs maintained in each colony. Surely that is an impossibility? Under which tariff are goods which present themselves for admission, either at the border or at the seaboard, to pay duty? It is clearly impossible to have two tariffs in operation, one for the protection of our industries as against the importations of a neighbouring colony with lower duties, and the other against the outside world. Under these circumstances I think we have no resource, unless it be to adopt some amendment which may give the federal legislature a wider latitude of choice than the clause appears to present. The hon. member, Sir Samuel Griffith, considers that the hands of the commonwealth parliament are not tied by the clause. That is perfectly true as regards either the framing of the tariff or the date on which it shall come into operation. But there is no indication of any further power being given to them, if it can be given—and I consider that is a matter of grave doubt. But the point of the hon. member, Sir John Bray, is surely worthy of great consideration in view of the grave importance of the issue as to whether it would not be possible to add words to the clause, indicating that it is intended to endow the parliament of the commonwealth with every liberty of dealing with this question so as to be just to the several states. What we desire to do is, knowing that there must be something like a commercial revolution when a uniform tariff is imposed throughout Australia, to render that revolution as easy of acceptance and assimilation as possible by the industries of the various colonies—not to expose those who have invested their capital in manufactures to any greater shock than may be absolutely essential. This risk is not peculiar to Victoria—it pertains to every colony in the group which possesses any duties, and under which industries have grown up. Is it not possible, I would ask the hon. member, Sir Samuel Griffith, to introduce some words to indicate that this Convention contemplated the commonwealth parliament taking into consideration all the circumstances of the case, when imposing a uniform tariff, of which, of course, it could give no warning without increasing the danger? It should be indicated that power is given to devise any expedient, if expedient be possible, to mitigate this temporary industrial crisis which must occur when a uniform tariff is imposed.

Sir SAMUEL GRIFFITH: I should like to know what the hon. member is driving at a little more in detail before I answer his question.

Mr. PLAYFORD: There is only one point on which I should like some information from the hon. member, Sir Samuel Griffith. This clause says the exclusive power of levying duties of customs and excise shall not come into force until uniform duties of customs have been imposed by the parliament of the commonwealth. Now, we cannot wait for them. Directly the treasurer of the commonwealth announces to the federal parliament his tariff, it will be at once telegraphed to the various colonies, and the duties will be collected on that basis. The only point, therefore,

is, will these words cover that case? It will be seen at a glance that, unless the duties are at once collected the importers will be clearing goods under the old tariff wherever it suits them, all through the commonwealth. Will these words, I ask, give power to the treasurer of the commonwealth to instruct the various customs officers throughout the commonwealth to collect the duties which he has presented to the parliament of the commonwealth to consider?

Sir SAMUEL GRIFFITH: The hon. member no doubt is aware that, although that is done in the case of every new tariff proposed, it is done contrary to law, and the parliament afterwards indemnifies the treasurer. The only way is to give the tariff a retrospective effect. The tariff will come into operation in the same way as tariffs do now. I doubt myself, however, very much whether in the case of the first tariff it will be so. I doubt whether parliament itself would think it desirable that it should be retrospective in its effect. That, however, is a matter for them to determine.

Mr. PLAYFORD: They will lose revenue if they do not most fearfully!

Mr. GILLIES: In the event of a proposal on the part of the treasurer to increase the duties, the increased duties will be collected, and in the case of a proposal to decrease the duties a bond will be taken, as is usual in all the colonies, so that in every individual case where a duty is increased in a particular state, and left as it is in another state, the increase in that particular state will be collected from the time the treasurer announces his proposals.

Mr. DONALDSON: That is the practice; but we must bear in mind that we shall then be dealing with one tariff, although previously we had four or five tariffs.

Sir SAMUEL GRIFFITH: Oh, no!

Mr. DONALDSON: Yes; the tariffs of the various colonies.

Mr. MUNRO: Only one new tariff!

Mr. DONALDSON: There has not been much difficulty in the past where only one tariff was being altered; but here is a new tariff coming into operation to take the place of all the tariffs in existence at the present time. I say there will be very great difficulty in the case. Of course where the proposal is to reduce the duties the revenue will be collected on the lower rate, and a bond given in the case of the bill not being passed. But there are a great many inequalities about this. The more you look into it the greater the difficulties which present themselves. If we were to put restrictions in at the present time, I fear they would act adversely as far as the federal parliament is concerned.

Mr. MUNRO: The federal parliament will be able to manage it!

Mr. DIBBS: The hon. member, Colonel Smith, sees a difficulty, but has not suggested a remedy to meet the case. We all know that the commercial element in the whole of these colonies is particularly keen. Commercial men are in the habit of keeping their eye to windward, in view of any possible change in the tariff. As the present Colonial Treasurer of New South Wales knows, when any alteration in the tariff is pending, his shadow is haunted by a variety of commercial men who endeavour to glean from him the direction the change will take. I, myself, have known of large fortunes being made in New South Wales by men engaged in the wine and spirit trade. They have succeeded in ascertaining, from the utterances of the colonial treasurer of the day, the direction of the contemplated change before the delivery of the budget speech, and on one of these occasions a large quantity of rum was taken out of bond, and commercial men were the gainers by that transaction to the extent of some thousands of pounds, while the revenue was the loser. But let us take our experience; let us take the actual facts. Within the last three or four years a government in this colony succeeded in carrying through Parliament a tariff bill imposing *ad valorem* duties of 5 per cent. That bill was denounced by the free-trade party as being the rankest protection, but when that party came into power they gave twelve months' notice of their intention to take off these particular duties, with a result exactly similar to that which the hon. member, Colonel Smith, has in his mind. The free-trade party, who objected to the 5 per cent. duties, and called them the rankest protection, imported goods, and put them into bond until the twelve months' notice had expired, thus making a haul of £70,000. That was perfectly legitimate commercial work; but I think some words should be put into this clause to prevent a contingency of that kind. A simple remedy occurred to my mind when the hon. member, Mr. Deakin, was speaking. Why not insert words to the effect that the new tariff of the commonwealth should be the tariff of Victoria?

Mr. MUNRO: That is too thin!

Mr. DIBBS: What did the hon. member tell the interviewing reporters in Melbourne the other day? He told them several important things. They were all published in the Sydney newspapers, and I should like, if possible, to get at the truth in the hon. member's mind, and also to ascertain from the Colonial Treasurer of New South Wales whether he was a party to the alleged compact. It seems, judging from what the hon. member, Mr. Munro, said, that the Finance Committee appointed by this Convention have arranged what the tariff of the future commonwealth of Australia shall be.

Mr. MUNRO: They have not!

Mr. McMILLAN: Only in the hon. member's imagination!

Mr. DIBBS: I will read what the hon. member said.

Mr. MUNRO: What is it from?

Mr. DIBBS: The *Sydney Morning Herald.*

Mr. MUNRO: It would be a bad job for the hon. member if everything which appeared in the newspapers in reference to him were true!

Mr. DIBBS: The article to which I refer is headed, "Mr. Munro on the Federation Convention; a gloomy outlook." I pass over the gloomy outlook.

Mr. MUNRO: That has disappeared!

Mr. DIBBS:

> There has evidently been some private arrangement in the Finance Committee between the colonial treasurers of the respective colonies.

Mr. MUNRO: Who said that?

Mr. DIBBS: Mr. Munro.

Mr. MUNRO: I never did!

Mr. DIBBS: Then I ask the hon. member to deny it.

Mr. MUNRO: I do deny it!

Mr. DIBBS: Then I will bring the hon. member face to face with the *Sydney Morning Herald* and with the Melbourne reporters who interviewed him.

Mr. MUNRO: It is quite enough to be brought face to face with the hon. member!

Mr. LOTON: And how does the hon. member know that any one of the present colonial treasurers in the various colonies will be treasurer of the federal government?

Mr. McMILLAN: There will be plenty of candidates, because there will always be a surplus!

Mr. DIBBS: It is quite true that if this scheme comes into operation the treasurer of the federal government will always have a surplus, because at the outset the various colonies will be asked to hand over their customs and excise revenue to a government that cannot spend more than 10s. in the £, handing back to the colonies the balance, if they do not find some means of spending it to conciliate their supporters. When the various colonies come to look into the question they will have to determine how far they will permit the federal parliament to put everything into

one sack, and if there should be any surplus to dole out to each colony, as a sort of sop, a few shillings per head of their populations, the colonies themselves being, in the meantime, governed from some source not provided in this bill. I should like to know whether it is true that the treasurers of the various colonies sitting in the Finance Committee of this Convention have agreed among themselves that the future tariff of the commonwealth shall be upon the lines of the Victorian tariff? If that arrangement has been made, and especially if the free-trade Treasurer of New South Wales has agreed to the course, then the whole difficulty can be easily overcome by putting into the bill we are now discussing words to the effect that, on the constitution becoming law, there shall be one tariff in the colonies, that tariff being the tariff of Victoria.

Mr. BURGESS: But what the hon. member states with regard to the treasurers coming to an agreement on that point is not true!

Mr. DIBBS: According to the *Sydney Morning Herald*, Mr. Munro was asked this question:

> But, independently of the point in dispute, there appears to have been almost unanimity; none of the distrust anticipated regarding the surrender of fiscal control by the individual colonies seems to have been shown?

And he answered:

> No. Everything in that respect has been amicably settled. The delegates talked the matter over among themselves some time ago, and arranged it all. Our work on the Finance Committee, of which I was chairman, consisted merely of settling details. It is generally admitted among the delegates that the tariff adopted by the federation must be the Victorian tariff against the outside world, with intercolonial free-trade.

I should like to know whether this matter has been already arranged, because the people of New South Wales are anxious to have an answer. They want to know whether they are to have intercolonial free-trade and protection against the world on such a basis. Will the hon. member, Mr. Munro, deny the existence of this arrangement?

Mr. MUNRO: I have already denied it two or three times!

Mr. DIBBS: Not in the newspapers.

Mr. MUNRO: I do not deny anything through the press!

Mr. DIBBS: The *Sydney Morning Herald* has a large circulation in this colony, and in that appears the report that this agreement was made by the Finance Committee, imperilling the political existence of our own Colonial Treasurer. I ask these rival candidates for the treasurership in the commonwealth ——

Mr. MUNRO: I am not in it!

Mr. DIBBS: I ask them whether there is any truth in the statement? If there be no truth in it, the sooner it is emphatically denied the better, not only for the reputation of the hon. member, Mr. Munro, but also for the free-trade reputation of my hon. friend, the Colonial Treasurer of New South Wales. If this has been already arranged ——

Mr. MUNRO: Even the report does not say it has—it does not speak of any arrangement!

Mr. DIBBS: This was not written by Coulston, the man under the hon. member's bed; it was written by a reporter in open daylight, and the people of free-trade New South Wales want to know if their Colonial Treasurer has consented to give up his free-trade ideas, and to make the fiscal policy of Victoria the policy of the future commonwealth? I think that if there be any ground for this rumour, the easiest way out of the difficulty would be to make the amendment I have suggested.

Sir JOHN BRAY: Will the hon. member move it?

Mr. DIBBS: I will with pleasure; but in the first place I should like an explanation from the hon. member, Mr. Munro.

Mr. MUNRO: If the hon. member will sit down I will make it!

HON. MEMBERS: Question!

Mr. DIBBS: I have occupied less time than has any member of the Convention. I have been a very patient listener. I have received on one day information which has been cancelled by a complete change of front on the part of those who gave it on the following day—notably, in reference to the state rights question. I wish the hon. member, Mr. Munro, to deny this report.

Mr. MUNRO: I do not deny all that is contained in the report; but I certainly deny what the hon. member has said!

Mr. DIBBS: I will teach my hon. friends here, especially from New South Wales, who are pledged to vote in a certain way, that I stand here entirely as a free lance. I have been within these walls too long to allow my mouth to be shut at a moment's notice. If we are to have intercolonial free-trade, is it to be assumed that we are to have protection against the outside world? If so, the sooner that is stated boldly and distinctly, the better chance there will be of federation being approved of by the people of New South Wales. At present all that we know is the statement of the press, made on the authority of the hon. member, Mr. Munro, which leaves some of the New South Wales members in the unenviable position of having to make an explanation. While they are making their explanations I will write out an amendment expressing my views.

Mr. McMILLAN: The hon. member, Mr. Dibbs, is always a curious mixture of humour and assertion. Now, there has been some misapprehension—and of course by the enemies of my own party this misapprehension has been circulated very broadly—with regard to the proceedings in the secrecy of the Finance Committee; and perhaps it is better to make a clear explanation of what actually did occur, because some figures will be used in the course of this debate which may increase the misunderstanding. When the delegates particularly connected with finance operations came to Sydney, they required certain figures to be worked out on certain bases, and I told them that the Government Statistician of this colony would be very glad to work out—of course in a mechanical way—anything they desired that might illustrate the subject in any way whatever. In doing that, I think I only showed the ordinary courtesy which I might expect to be shown to myself by the government statistician of another colony. When the Finance Committee met, they thought it was well to have all the suggestions of all the members of the committee worked out purely *pro formâ* with a view to the whole question being thoroughly discussed. Of course, as hon. members know, in a committee of that kind many subjects may come up for discussion, many views may be put forward, but it is only the crystallised report of the committee that has any right to go before the world. Now, the hon. member, Sir Thomas McIlwraith, decided that a certain calculation should be made up for all the colonies on the basis of the Victorian tariff. That was entirely his own suggestion. The Government Statistician worked it out for him in a purely mechanical manner, and I believe that the desire of the hon. member, Sir Thomas McIlwraith, to have those figures before him is entirely answerable for the whole of this rumour. But it is very unfair and ungenerous to deal in this way with any of the figures that came before the committee. All that the committee are answerable for—all that I am personally answerable for as the free-trade Treasurer of New South Wales—is the absolute report that was furnished to the Convention. That is a clear explanation of the whole matter. Of course the desire of the hon. member, Mr. Dibbs, in this debate is to practically commit this Convention to a tariff against the world upon a protective basis. We all know that there must be a customs tariff, but certainly we are going far beyond our province if for one moment we attempt to dictate what shall be the fiscal policy of

the future. The free-traders of New South Wales have gone so far—that is, myself speaking for others, and my chief at the head of the Government—we have gone so far that we say it is absolutely necessary in order to have any union that we place in the hands of a federal parliament the whole question of the tariff of the future. Then, if we, as free-traders, fall, we fall.

Mr. DIBBS: You have fallen already!

Mr. McMILLAN: We shall have to give way to a majority of the whole of the colonies, because we simply recognise the rule which guides us in our own parliament, which guided the hon. member, Mr. Dibbs, the leader of the Opposition, when he gave way to the present Government of this colony, although it might only have had a majority of two or three. That rule must guide us all in this case if we are to come under a union. Consequently it is very unfair that this rumour should be circulated, and it is very ungenerous on the part of the hon. member, Mr. Dibbs, to try to fix this Convention to vote on any resolution referring to the fiscal policy of the future.

Sir THOMAS McILWRAITH: I demur entirely to the explanation just given by the hon. member, Mr. McMillan. I want to refer first to the real point that the hon. member, Mr. Dibbs, brought against the hon. member, Mr. Munro. I read the account of the interview when I was in Brisbane. When I came down here, finding that nobody had made mention of it, I thought it was a burlesque. It is a burlesque, because it is so far from the truth, and I did not think it was worth while to waste the time of the Convention by bringing it up. But I do not want an explanation of how the rumour came about to be made by the hon. member, Mr. McMillan. I want to hear a denial from the hon. member, Mr. Munro, that he said such a thing to a reporter, or that he was the origin of such a report; because I give my testimony that the subject of fixing the tariff for the future was understood to be left to the federal government, and there was not one word ever said about it up to the day that I left. I consulted my colleagues afterwards, and they said it was not mentioned on the only day I was absent. I want to hear that denial. I now come to another point which was referred to by the hon. member, Mr. McMillan. It is a point on which, I think, the Finance Committee failed most egregiously in the performance of their duty. The hon. member, Mr. McMillan, hints that there might be some information put before the committee which it was right should be furnished to them; but that, having given their report, they were not bound to give the information on which the report was based. Now, any one looking at the report of the committee will see at once what a bald thing it was, and they will be struck by the fact that the only important part of that document is one respecting which there is not a single table published or any proof given as to the conclusion arrived at. At the same time, a lot of useless tables, about twenty in number, are given, although no reference is made to them in the report. Now, why were the tables to which I refer suppressed? It is useless for the hon. member, Mr. McMillan, to say that they were suppressed because the committee were afraid that the rumour would do harm. The best way was to give the whole of the information, and there was no reason whatever for suppressing it. The hon. member, Mr. McMillan, is wrong when he says that this was information got at my suggestion, and obtained by me from the Government Statistician. I would recall to his mind the fact that the Government Statistician was called before the committee, and the committee, through the chairman, instructed him to work out certain calculations on the Victorian tariff. It was not I who personally instructed him.

Sir JOHN BRAY: I thought the hon. member did!

Sir THOMAS McILWRAITH: It was the chairman. The facts of the matter are these: certain calculations based on an imaginary tariff had been made up by the Government Statistician. The hon. member, Sir John Bray, questioned the accuracy of the imaginary tariff, and of course as long as it was known to be an imaginary tariff we only wanted to get the result of it. I told the committee that what I wanted to prove could be established by taking any tariff and working out the same calculation. I offered the hon. member, Sir John Bray, to take the tariff of South Australia.

Mr. McMILLAN: Was not the information obtained by the hon. member before the committee met?

Sir THOMAS McILWRAITH: That is a very different thing altogether. What I say is this: that I asked the hon. member, Mr. Munro, to tell the Government Statistician plainly what to do. But I had been getting the information for myself privately, and it was the committee who ordered the Government Statistician to prepare the information.

Mr. McMILLAN: That was afterwards!

Sir THOMAS McILWRAITH: I did not tell the committee. All that I told them was that I was getting some information, and I offered to take any tariff. The hon. member, Mr. Munro, asked that we should take the Victorian tariff, and the whole of the committee agreed to that as an experiment. That table is suppressed, and not only that table, but other important tables bearing on the matter. Is it not an absurd thing to take evidence and then to hand in a report omitting the principal part of the evidence? We have not the whole of the evidence suppressed, but only a portion of it, and that the portion dealing with a vital part of the report.

Mr. MUNRO: This is one of the things which always arise from having secret meetings. We ought to have done all our business publicly, so that everybody would know what we were doing. The charge made by an hon. member, Mr. Dibbs, that I said we had all agreed that the Victorian tariff should be the tariff to be adopted, is not true. I said nothing of sort. What I did say was that I took a calculation on the Victorian tariff to ascertain what the effect upon the revenue of the various colonies would be, and we found, what does not appear in any of the tables, as the hon. member, Sir Thomas McIlwraith, says, the effect to be marvellous—that the actual import duties received altogether in Victoria is only 11 per cent.; in South Australia, 21 per cent.; in Western Australia, 24 per cent.; and in the other colonies, 18 per cent. So that the actual amount raised by means of import duties in Victoria is the lowest of that of all the colonies, except New South Wales. That is the result of the tables that were calculated for us on the basis of the Victorian tariff. That is the information which I gave—that if we wanted the import duties levied in any of the colonies we must accept either the free-trade tariff of New South Wales or the protectionist tariff of Victoria. There is no getting away from that, because they are the lowest.

Sir THOMAS McILWRAITH: That is only the hon. member's opinion. It is not expressed by the committee!

Mr. MUNRO: I am talking of the results of the calculations. The result of the calculations was that one was 5 per cent. and the other less than 11 per cent., and the rest very much higher. I am not expressing an opinion, but making a statement of fact. If the future parliament wants to levy import duties they must take one or the other of those tariffs. To say that I said that the Finance Committee or anybody else had come to any arrangement about the adoption of any tariff is altogether wrong. I said nothing of the sort, as every one knows that not one of us may be a member of the federal parliament, and that parliament must make its own arrangements. The statement as to these tables being calculated, as the hon. member, Sir Thomas McIlwraith, said, is absolutely true. The calculations were made. I should have wished that all the calculations should

have gone among the appendices to the report. I did all I could to get that done, but there was an objection on the part of the committee, and as I had been going for compromise, I yielded to that objection and agreed that the tables should not be published.

Mr. BURGESS: I think it a matter of regret that the hon. member, Sir Thomas McIlwraith, was not present on the last day when the Finance Committee met. We had the advantage of his presence at every meeting except the last, when I think Mr. Donaldson took his place as a representative of Queensland. In justice to the hon. member, Mr. McMillan, I must confirm what he has stated with reference to the way in which the calculation about the Victorian tariff was brought about. It was very necessary that the Finance Committee should have some idea, based upon some fixed tariff, as to what result any alteration in our customs duties would have upon the sums which the colonies have hitherto derived from that particular source of revenue. The hon. member, Sir Thomas McIlwraith, having intimated that he had previously asked the Government Statistician to prepare a return, based upon the Victorian tariff, and the Government Statistician having stated that he had that work in hand, we thought that it would be well that it should be completed and brought before the committee, and that was, perhaps, the reason why the Victorian tariff was taken as the basis of our calculations. Later on —on the last day—when it became necessary to decide which tables should form the appendices to our report, the hon. member, Mr. McMillan, very properly brought under our notice the fact that it might give colour to the rumour that he was in favour of a protective tariff being established, if we put in the Victorian tariff alone as the basis of our calculations, and it was for that reason, and that reason alone, that that particular table was not inserted in the appendices.

Sir THOMAS McILWRAITH: That is only one. There were three others!

Mr. BURGESS: That is only one. There were three others which, upon consideration, it was thought were not required; and I think the committee were perfectly justified in submitting those tables, which they thought had some bearing upon the report. It will be our duty to more carefully inquire into this matter when we come to sections 9, 10, and 11. I merely rose to say that we simply took the Victorian tariff because, as a matter of fact, it was in course of preparation. The probability is that, if that tariff had not been suggested and the work partly done, some other tariff would have been taken in lieu of it.

Colonel SMITH: I will, with the permission of the Committee, withdraw my amendment.

Amendment, by leave, withdrawn.

Amendment (by Mr. DIBBS) proposed:

That the following words be omitted:—"Upon the imposition of uniform duties of customs by the parliament of the commonwealth all laws of the several states imposing duties of customs or duties of excise upon goods the subject of customs duties, and all such laws offering bounties upon the production or export of goods, shall cease to have effect," with the view to insert in lieu thereof the following words:—"That upon the constitution becoming law and the commonwealth being established, the tariff now existing in the province of Victoria shall be the tariff of the commonwealth until otherwise dealt with by the parliament."

Mr. MARMION: I would ask the hon. member why he proposes the tariff "now" existing in Victoria should be adopted?

Amendment negatived; clause, as read, agreed to.

Clause 5. Upon the establishment of the commonwealth, all officers employed by the government of any state in any department of the public service the control of which is by this constitution assigned to the commonwealth, shall become subject to the control of the executive government of the commonwealth. But all existing rights of any such officers shall be preserved.

Mr. GORDON: I should like to ask the hon. gentleman in charge of the bill what will be the position in regard to officers who are entitled to pensions?

An HON. MEMBER: The clause provides that their rights shall be preserved!

Mr. GORDON: But on which government will the responsibility rest—the state government or the federal government? In some colonies there is a pension list, amounting to £300,000 or £400,000. In South Australia we have, fortunately, no pension list. I think it should be clearly understood that the federal government will take over these liabilities, dating from the time when the officers are transferred.

Sir SAMUEL GRIFFITH: This is a matter of detail which it is quite impossible to go into in the constitution. The committee, after full discussion, thought it would be sufficient to provide that all existing rights should be preserved, leaving it to the executive government of the commonwealth and the other governments to work out the details between them.

Mr. DIBBS: The question raised by the hon. member, Mr. Gordon, is a very important one. The officers in the civil service of New South Wales have paid large sums into a superannuation fund, from which they are entitled to draw pensions, and it is important to know whether, if they are transferred to the federal government, their pensions shall be transferred also.

Mr. MUNRO: The clause provides that all existing rights shall be preserved!

Mr. DIBBS: Does that mean that the federal government will take over the liability? The tendency seems to be opposed to the granting of pensions by the commonwealth; but in New South Wales several thousands of persons have for years past been paying 4 per cent. of their salaries to a pension fund, and if they are transferred to the federal government it ought to be provided that the arrangement with regard to their superannuation fund should be continued. The clause would appear to have a prejudicial effect upon the civil servants to whom I have referred, and I think it requires explanation.

Mr. GORDON: I beg to move:

That the following words be added to the clause:—"But the commonwealth shall not be responsible for any pensions agreed to be paid by the states."

Amendment negatived; clause, as read, agreed to.

Clause 8. So soon as the parliament of the commonwealth has imposed uniform duties of customs, trade and intercourse throughout the commonwealth, whether by means of internal carriage or ocean navigation, shall be absolutely free.

Colonel SMITH: This clause absolutely fixes the time. Would it not be better to leave that to be fixed at the discretion of the federal parliament?

Mr. GILLIES: It will be fixed in the act!

Sir SAMUEL GRIFFITH: Surely the parliament when it imposes a tariff will say when it shall come into operation.

Colonel SMITH: This clause says "so soon as"!

Sir SAMUEL GRIFFITH: The duties will not be imposed until the tariff law comes into operation. The hon. gentleman seems to contemplate that the federal parliament may settle a tariff and give six months' notice of its coming into operation. I doubt very much whether a parliament would do anything of the kind.

Clause agreed to.

Clause 9. The revenue of the commonwealth shall be applied in the first instance in the payment of the expenditure of the commonwealth, and the surplus shall be returned to the several states in proportion to the amount of revenue raised therein respectively, subject to the following provisions:—

(1) As to duties of customs or excise, provision shall be made for ascertaining, as nearly as may be, the amount of duties collected in each state or part of the commonwealth in respect of dutiable goods which are afterwards exported to another state or part of the commonwealth, and the amount of such duties shall be taken to have been collected in the state or part to which the goods have been so exported, and shall be added to the duties actually collected in that state or part, and deducted from the duties collected in the state or part of the commonwealth from which the goods were exported:

(2) As to the proceeds of direct taxes, the amount contributed or raised in respect of income earned in any state or part of the commonwealth, or arising from property situated in any state or part of the commonwealth, and the amount contributed or raised in respect of property situated in any state or part of the commonwealth, shall be taken to have been raised in that state or part :

(3) Until uniform duties of customs have been imposed, the amount of any bounties paid to any of the people of a state or part of the commonwealth shall be deducted from the amount of the surplus to be returned to that state or part :

(4) Such return shall be made monthly, or at such shorter intervals as may be convenient.

Sir JOHN BRAY : An amendment of which I have given notice provides for a different manner of apportioning the surplus revenue to that provided in the bill. This clause proposes that the revenue of the commonwealth shall be applied in the first instance to the payment of the expenditure of the commonwealth, the surplus to be returned to the several states in proportion to the amount of revenue raised therein respectively. I do not think it needs much thought to see that if we are going to endeavour to ascertain the amount of revenue raised in each colony after the establishment of free-trade we shall have to maintain as great an army of customs officials as we do at the present time.

Mr. MUNRO : No !

Sir JOHN BRAY : We shall have to maintain even a greater number, because it does not require much foresight to imagine that the principal ports of Australia will be more than ever the means by which goods will be received from other parts of the world, and distributed amongst the several colonies ; and it will be almost impossible, with all the checks that human ingenuity can devise, to find out the ultimate destination of these goods. We all know that merchants and other people like to buy in the biggest market, and it is quite possible to suppose that Sydney and Melbourne will become the emporiums from which the other colonies will be to a great extent supplied ; and if goods are imported into Sydney or Melbourne, and there purchased, and sent afterwards to different parts of Australia, we shall have to follow them to their ultimate destination, in order to know what colony should be credited with contributing the customs duties. It seems to me that we shall do away with half the benefit arising from intercolonial free-trade if we attempt to put any check upon the distribution of goods in the manner proposed. In the published tables hon. members will see the amount contributed by the various colonies in the shape of customs duties. The amount per head in New South Wales is at present less than that in any other colony, and South Australia comes next. It seems to be imagined that whatever tariff is devised certain colonies that now pay a comparatively low amount per head will continue to do so in comparison with other colonies. But I take it that if we wish to establish a proper system of federation we ought to assume that any uniform customs tariff that bears fairly on the inhabitants of Australia will result in the inhabitants of each colony paying the same per head *pro rata* as the inhabitants of Australia generally pay. If we attempt to suggest, as we do in this bill, that it is not only possible, but probable, that a tariff will be imposed which will compel the people of one colony to pay a far greater amount through the customs than the people of another colony, and that, after providing for the federal expenditure, we shall have to return to the people of each colony, not an amount in proportion to its population, but an amount to be estimated on the assumption that a certain quantity of dutiable goods had been consumed by each inhabitant of the different colonies—if we attempt to do this, we involve ourselves in calculations which cannot fail to give great dissatisfaction. The true remedy is to provide that the whole of the federation revenue shall be expended for the general benefit of Australia. If we could do that, and so ensure that there should be no surplus, we should be accomplishing a very good thing indeed. I do not know that it is impossible to secure that object at the present time ; and I intend, at a subsequent stage, to propose a clause by which the commonwealth shall be liable for the public debts of all the colonies, and that each colony shall be liable to the commonwealth for its debts exceeding a certain amount ; that is to say, we will take the lowest amount any one colony owes at the present time, and say that that shall be the basis on which the debts of the different colonies shall be taken over.

Mr. KINGSTON : The rate per head !

Sir JOHN BRAY : The rate per head. The clause which I intend to propose reads as follows :—

> The commonwealth shall be liable for the public debts of each state existing at the time of this act coming into operation, and each state shall be liable to the commonwealth for the amount (if any) by which the public debt owing by the state shall exceed the amount of pounds per head of the population of such state.

Colonel SMITH : Where does the hon. member intend to bring that in ?

Sir JOHN BRAY : I shall bring it in later, but not in this clause. If we can devise some fair scheme by which the public revenue of the commonwealth shall be expended for the public benefit of Australia, let us do so ; but do not let us encumber the scheme with the idea that each particular mode of taxation is to be levied to an extent greater than is required for the public purposes of the commonwealth, and that in each mode of taxation, whether through the customs or by excise duties, there will be a surplus to be returned to the different colonies of Australia, and that that surplus is to be estimated on the basis of the amount paid to each colony as far as it can be ascertained. As far as customs duties are concerned, I believe it will be absolutely impossible, when we have free-trade between the colonies, to determine what amount could fairly be reckoned as having been raised in each particular state. I believe it will be more than ever difficult to get the returns for that purpose. At the present time, with customs officers on each border, it is to some extent possible to do it ; but when intercolonial customs duties are abolished merchants and other people will be less careful than they are now to ascertain the amount of goods passing from one colony to another. It will not be considered so necessary as it is now ; but if you carry out the idea that the surplus is to be divided on the assumption that each colony is to be credited with the customs duties derived from it, it will be absolutely necessary to take some account of these goods. But let us rather agree that if there is a surplus it shall be divided on the basis of population, though I hope that there will not be a surplus, and that no more money will be raised than will be required for the purposes of the commonwealth. Even if we adopted a free-trade tariff, the customs duties would be far more than required for the duties which we have already suggested should be undertaken by the commonwealth. The customs duties for New South Wales at the present time under a free-trade tariff—

Colonel SMITH : Under what ?

Sir JOHN BRAY : Under a so-called free-trade free-trade tariff—amount to a very large sum—£1 14s. 6d. per head.

Mr. MUNRO : It is about £2,000,000 altogether in New South Wales now—£1,900,000 !

Sir JOHN BRAY : Taking that as the basis on which our customs duties will be raised in the future, we have not provided anything like enough duties for the federal government to absorb such a sum. We are not going to have free-trade, and at the same time establish an elaborate system of checks on goods passing from one colony to another, so as to ascertain

what the duties which each colony would be supposed to contribute are. We shall lose the benefit of federation if we attempt anything of that kind. I therefore ask hon. members to agree that if there is a surplus it shall be returned to the colonies on the basis of population, and to assume that if we have uniform customs duties, they will bear equally upon the people of Australia, or if we go in for direct taxation, we shall devise a scheme which will bear fairly upon them, and that we ought, if possible, to avoid giving the federal government control of a large amount of revenue not required for the purposes of the commonwealth. However careful the senate and the house of representatives may be, we shall inevitably find that a government with a large surplus will develop a system of waste and extravagance, and we must, therefore, saddle the commonwealth with an expenditure that will be something like proportionate to the revenue intrusted to them to expend. In the first instance, I ask hon. members to agree to strike out the words which I have indicated, and I shall subsequently ask them to declare that the commonwealth shall be liable for the debts of the different states, and that each state shall be liable to contribute to the commonwealth, besides a certain sum, the amount of its liability beyond that sum.

Sir THOMAS McILWRAITH : I have a prior amendment to make. I move :

That in line 3, after the word "commonwealth," the words "which shall be charged to the separate states in proportion to the numbers of their people" be inserted.

Hon. delegates will see that in this part of the clause the drafters of the bill have departed from the recommendation of the Finance Committee, though I do not understand the reason for that.

Mr. MUNRO : In the whole of the clause?

Sir THOMAS McILWRAITH : No; one part of the clause is quite in accordance with the committee's recommendation ; but that part to which I am now referring, with the omission of the words which I wish to insert, is quite inconsistent with the proposal of the committee. I would draw attention to a paragraph in the first page of their report, which reads thus :

It is therefore recommended that the revenue from customs and excise be devoted, first, to the payment of all expenditure authorised by the federal government, such expenditure to be charged to the several colonies according to population.

Hon. members will see that the clause departs altogether from this recommendation, which says that the revenue of the commonwealth shall in the first instance be applied to the payment of the expenditure of the commonwealth, that supposing revenue to the extent of £8,000,000 is raised by the federal government, the whole expenditure of the federal executive is taken from that lump sum, and the balance is distributed by this clause, not according to population, as recommended by the committee, but in proportion to the amount contributed by each colony, which is a perfectly different thing altogether and very unfair, and I have got the Government Statistician to compute the effect of distributing the money in this way. The method by which the colonies are to be charged is by a percentage on the taking of the customs in each colony, which will be different in each colony because the contributions will be different. We shall not all pay the same amount per head, as we should by the recommendation of the committee. The average cost of the government of the different colonies is 11s. 5d. per head of the population. The bill, as it at present stands, however, would make them pay something quite different to that amount. I have had a calculation made out, based on the understanding that the Victorian tariff should be universally adopted, and the result is that instead of New South Wales paying 11s. 5d. per head of her population she would pay 13s. 1d. ; that instead of Victoria paying 11s. 5d. she would pay 12s. 4d. ; that instead of Queensland paying 11s. 5d. she would pay 15s. 4d. ; that South Australia would pay only 8s. 4d. instead of 11s. 5d.; that Western Australia would pay 12s. 2d. instead of 11s. 5d.; that Tasmania would pay 10s. 6d. instead of 11s. 5d., and that New Zealand would pay 9s. 1d. instead of 11s. 5d. I should like to see some very good reason given why one colony is more difficult to govern than another colony, according to population. The principle was affirmed by the Finance Committee, without demur, that the cost of government should be charged according to population ; but the manner in which it is now proposed to be charged will, unless my amendment is carried, have the effect I have stated. Why should that be? Can it be shown that there is that difference in the cost of the government of the various colonies to which I have referred? I can see no reason why it should be so. If there is any reason to be given it ought to be given by some member of the Finance Committee. The principle that the cost should be in proportion to the population was not demurred to by the committee, and why it should have been altered I cannot understand. That is all I have to say at present in reference to the amendment. Of course, I shall have to refer to the methods alluded to by the hon. member, Sir John Bray, at a later stage.

Sir JOHN BRAY : We do not require the words proposed to be inserted by the hon. member at all. The commonwealth collects the revenue ; they expend what they want for the purposes of the commonwealth, and they return the balance.

Sir THOMAS McILWRAITH : Quite so ; but I have given reasons, I think, why the words are required. I have shown that the provision in the clause will fall very unequally upon the different colonies, and that it will not carry out the recommendation of the Finance Committee. Take the converse proposition. Supposing the committee had met, and the Convention had not previously decided that the federal parliament was not to have the administration of the whole of the customs, would any proposal have been arrived at other than that each colony should contribute to the general government according to population? That is all I want them to do—to contribute according to population, and not according to the amount of revenue raised. Supposing we had taken another course and had said, "We will place the revenues from the pastoral lessees of the colonies in the hands of the general government," would that have been fair? I should think that the pastoral lessees are pretty well worked out in Victoria; but the rents from pastoral leases form an important part of the revenue of Queensland ; and if a course of that kind had been adopted, and it had been decided that general expenses should be paid out of this kind of revenue, we should find that Queensland, through her pastoral lessees, would have to pay the great part of the expenses of the government of the country.

Sir SAMUEL GRIFFITH : The hon. member, Sir Thomas McIlwraith, has asked why so great a departure was made from the recommendation of the Finance Committee, and, no doubt, the matter requires explanation. I will endeavour to state the arguments as they presented themselves to the Constitutional Committee when they had to deal with this matter. The drafting committee took the report of the Finance Committee and embodied it in the bill exactly in the terms in which it was brought up. By that proposal all the surplus revenue over the expenditure of the commonwealth after the imposition of a uniform tariff was to be paid back to the several states in proportion to the numbers of their people. That course involved that the expenditure should be in the same proportion, because what is retained would be in the same proportion as that which is given back. There is no doubt about that. If you define the principle upon which the return is to be made you also define the principle upon which the expenditure is to be borne. That recommendation of the Finance Com-

mittee, however, dealt only with the customs and excise duties. When we came to deal with the matter in the Constitutional Committee we found that, having proposed to give parliament absolute powers of taxation, we were bound to deal with the possibility that they should raise revenue from other sources than customs; and the only way in which we could see it was fair to return direct taxation was in proportion to the amount raised. It was pointed out, in reference to some particular branches of taxation, that the burden would fall almost wholly upon certain states. My hon. colleague has given the case of revenue from pastoral properties. We took the case of a stock-tax or a gold-tax, which are burdens which would fall very unequally on different colonies. It is quite fair, therefore, that these would not be returned according to population.

Sir JOHN BRAY: It would not be fair to raise them for federal purposes!

Sir SAMUEL GRIFFITH: Still it might be necessary to raise them for federal purposes. The hon. member will see that we have to face contingencies. The hon. member assumes that we are going to live on a protective tariff. That is very likely; but it is equally conceivable that our successors may be of a different opinion to us, and may resort to other methods of taxation. I object to argue on the assumption that all knowledge is with us. I think that only limited knowledge is with us, and that we must, at least, admit the possibility of our successors being as wise, or wiser, than we are.

Mr. MUNRO: They will have more information before them!

Sir SAMUEL GRIFFITH: That is so. This is the difficulty which met us. It being clear that, as to some portions of revenue, at any rate, the return should be in proportion to the amounts in which it is received—in proportion to the contributions of the different states—we felt it hard to justify charging the cost of government at per head. I do not know that this point was very much considered; but it certainly appeared to be an anomally that you should return the money upon one basis and charge the expenditure upon another. In those colonies from which the contribution per head is greatest the cost of government is usually greatest too, for very much the same state of society as induces a larger contribution per head—certainly of customs—involves an increased cost of government per head. I am indicating the arguments that occurred to the Constitutional Committee. We had a great deal of difficulty in coming to any satisfactory solution of the matter; but at last we modified the recommendations in the report of the Finance Committee which had been embodied in the bills before us by making a more general provision with respect to all revenue. The Finance Committee themselves were of opinion that this was the proper rule until there was a uniform tariff. Then, why does it cease to be fair afterwards? I recognise that it will be very inconvenient afterwards.

Mr. BURGESS: On account of the percentage of duties paid in the various colonies!

Sir SAMUEL GRIFFITH: If they were likely to be equal in the several colonies, the system per head of the population would be the proper one. Are they likely to be equal?

Mr. BURGESS: Bound to be in the course of time!

Sir SAMUEL GRIFFITH: I say that they are absolutely certain to be unequal, when you consider the different conditions of various parts of Australia—as unequal afterwards as before. That will be found from the tables worked out by the Finance Committee. It is not a uniformity of tariff that will bring about a uniformity of product. We knew also that on the system of return per head, South Australia would get back a great deal more than she ever contributed without any deduction whatever for the cost of government. That colony would get back all the customs revenue paid by her people, and a great deal more, and never contribute a farthing towards the cost of government. Having that before our eyes, could we bring up a bill formally proposing such a scheme? We could not expect to keep it secret. The public would want to know how it was worked out; and, with those facts before us, we were bound to depart from the report of the Finance Committee. This matter had our anxious consideration a whole evening, and was discussed from many points of view. The proposal in the bill seems to be fair. It involves inconvenience; but let hon. members weigh the inconvenience and injustice of any rival scheme, and say on which side is the balance of inconvenience. There is inconvenience on either side. There is great inconvenience on this, but no injustice; on the other side, there is less inconvenience, but there is the greatest injustice. I would sooner take the inconvenience than the injustice. We must be quite clear what we are doing in this matter, because a mistake made in settling this basis will involve the rejection of the constitution by any colony that is unfairly treated by it. The desire for federation is not so great that people will submit to manifest injustice; and I do not think that the people of Queensland would care to pay South Australia's share of the cost of the government of the commonwealth, and give them a handsome subsidy per head as well.

Mr. PLAYFORD: We do not want anything but what is fair!

Sir SAMUEL GRIFFITH: I am sure that my hon. friend, Mr. Playford, does not want anything unfair; but we must be able to demonstrate that this is fair and is likely to work out fairly. I rose particularly to answer the challenge given by my hon. colleague—to explain why we departed so far from the Finance Committee's report—and I hope I have succeeded in doing so.

Sir THOMAS McILWRAITH: I understand the hon. gentleman's argument to be that the committee admitted there was a great difference in the cost of government in the different colonies. From what facts did they conclude that there was such a difference in the cost of government in the different colonies that in South Australia it would be 8s. 4d. and in Queensland 15s. 4d. per head? They had not the facts before them.

Mr. PLAYFORD: ———

Sir THOMAS McILWRAITH: I could have quite imagined such a sentimental argument coming from my hon. friend, the Premier of Victoria.

Mr. MUNRO: Oh dear, no!

Sir THOMAS McILWRAITH: Not that the hon. member would believe in that argument, although he would say the great bulk of these customs duties are contributed by people who drink whiskey and that sort of thing—and therefore, the more customs duties they pay, the more gaols and reformatories we shall want. That is a sentimental argument; but it is not used by sentimentalists, and how can it be used by an astute lawyer like the Hon. the Premier of Queensland? What we want to know is, first—is it a true proposition that we should contribute towards the expenses of government in proportion to population? Let us settle that. I want to know if that is true? There has never been any dissent from it in the Finance Committee, nor have I heard any one dissent from that proposition.

Mr. PLAYFORD: That is done on an imaginary tariff!

Sir THOMAS McILWRAITH: If that is admitted to be true, you have to charge each colony according to its population towards the general expenditure, and return it the balance which it has contributed to the general state. That is what we want to do. We want to return the actual balance.

Colonel SMITH: And charge each one alike!

Sir THOMAS McILWRAITH: No, hand them back the actual balance. If one colony has contributed £2 10s. a head through their customs, and if it

is ascertained that the cost of the general government is 10s. a head, we should return them £2. If another colony has constributed £3, and 10s. per head is deducted from it towards the cost of general government, we should return them £2 10s. Is that not absolutely fair? I will put it in another way, for I heard the hon. member, Mr. Playford, say, "This is done on an imaginary tariff." It is not an imaginary tariff. These calculations were based on the Victorian tariff, but if anybody objects to them the same calculations were made by the hon. member, Mr. McMillan, months ago, and he had them when I came here; for when I went for the same information I found that he had it, and I got it the next day. This is one of the suppressed tables which I think never should have been suppressed, for they bear so directly on the argument before us. It is a remarkable thing that every table that bears on that has been suppressed. It is called table "H," and the heading of it is "Revenue which would be derived from each province if in addition to duties on alcoholic drinks, tobacco, opium, &c., duties equal to 13 per cent. *ad valorem* were levied on foreign produce imported." I think these calculations are the idea of the Colonial Treasurer—at all events, they were worked out by the Government Statistician. The way they got a general *ad valorem* duty of 13 per cent. was this: they put fixed duties on all such things as spirits, opium, tobacco, and so forth, and they chose a tariff which would, on the general importations, give the full amount of the contributions through customs for the previous year. That they found to be 13 per cent., and if they had the whole of that there would be a universal tariff of 13 per cent. This is how it works out: If the principle of the bill, so far as regards the clause that I am seeking to amend, is carried out, and the colonies pay for the general government according to their contributions through this tariff, and not according to population, New South Wales, instead of paying 11s. 5d., would pay 12s. 6d.; Victoria, 13s.; Queensland, 14s.; South Australia, 5s. 3d.; Western Australia, 18s. 1d.; Tasmania, 8s. 6d.; and New Zealand, 11s. 4d.

Mr. DOUGLAS: On what calculation is that based?

Sir THOMAS McILWRAITH: On the tariff they have explained.

Sir JOHN BRAY: An imaginary tariff!

Sir THOMAS McILWRAITH: An imaginary tariff—a tariff of the actual existing fixed duties on spirits and tobacco and an imaginary tariff of 13 per cent. on the importations, which will bring it up to the tariffs as they exist now. I know well that you get different results from different tariffs; but it is impossible to make a tariff of general application in the colonies that will not come out with the same results, and that is to prove that making the colonies contribute to the general expenditure according to the amount of their customs revenue is a wrong principle, will be unequal, will depart from the principle of payment according to population, and will fall very heavily on some of the colonies—for instance, on Queensland and Western Australia. Hon. members say it is an imaginary tariff when I use the Victorian tariff, and it is an imaginary tariff when I take a tariff made up by the Government Statistician. I should like to know how they can get at the effects or results unless in this way? We have to fancy something that will be done, and see what the result will be. That is clearly proved as far as this part of the clause is concerned. I do not want to go into the facts referred to by the hon. member, Sir John Bray, because that would lead very likely to a longer debate. But this is a much simpler matter. The simplicity of it is that each colony shall pay according to its population, and after its proportion of the general expenditure is deducted, the actual balance of its contribution shall be handed back, and not an average be made of all the colonies.

Mr. BURGESS: The hon. member, Sir Samuel Griffith, asked the Committee just now why the committee recommended a different course being taken, when we had a federal tariff, from that which we recommend at the present time. If the hon. member will refer to the table that has been printed showing the incidence of the customs duties now levied in Australasia he will at once see that is was absolutely necessary, as a matter of justice, until the federal tariff came into operation, that the balance, after the payment of the general expenses, should be returned in proportion to the amount raised. Now, for instance, let me take two colonies, New South Wales and Victoria, practically with the same population. Victoria raises £2,890,000 under her tariff, while New South Wales raises only £1,900,000. It would be, therefore very unfair to say that at the present time, with varied tariffs—tariffs showing that in one colony you collect only £1 14s. 6d. per head, whilst in another colony the amount is over £4 per head—the unexpended balance should be returned to each colony in proportion to its population. The committee thought that after the federal tariff had come into operation it would then be fair not only to charge the whole of the expenses of the federal government against the customs and excise revenue, but also to distribute the balance on the basis of population. I think that as the hon. member, Sir Thomas McIlwraith, has referred to the way in which South Australia would be benefited, it would be well to look at the other side of the question. Let us deal with the question we have absolutely before us. The hon. member proposes that the expenses shall be charged at per head of the population. If we do that, what shall we find? We shall find that South Australia, in connection with her postal and telegraph service alone, will be giving up a revenue of over £30,000 per annum, whilst Queensland will be benefited at the expense of the federal government, on that service alone, to the extent of over £113,000. That is not much, the hon. gentleman says; but if he will just take the trouble to look into the figures on the basis of a population of 422,000 persons, he will see that it means something like 5s. per head of the population of Queensland, the payment of which will be taken over by the federal government, and the inhabitants of the colony will be relieved to that extent. And so it is with other colonies in other ways. The average cost of defence, I find, is to be 3s. 3d. per head. In some of the colonies—in Victoria, for instance—the defence force costs now 6s. 3d. per head, so that there again that colony will be relieved to the extent of 3s. per head in connection with its taxation. Take, again, the postal service of that colony. I think the present loss is something like £50,000 per annum, and the committee calculated in their estimate that, with the reduced postage to the United Kingdom, that amount would be increased to over £80,000 per annum. In considering all these matters, the committee thought that, while they were prepared to recommend that the various colonies should be relieved of those charges, on the other hand, they should share in the general benefits which would be derived from the establishment of a uniform tariff. These, sir, were the reasons which actuated the committee in making the recommendations which they did; and I maintain that if you decide that, after the federal tariff is established, the expenses shall be charged on one basis, and the balance returned on an altogether different basis—I maintain that if you depart from the recommendations of the Finance Committee, you will act in defiance of the resolution of the Convention, that trade and commerce between the federated colonies shall be absolutely free, and you will altogether intensify the annoyances and embarrass trade more than it has ever been embarrassed in the past. I think that, viewed as a matter of absolute fairness to all the colonies, it is right that, if we are prepared to take over the whole of the responsibilities by which we relieve some colonies,

we should be equally prepared to distribute the unexpended balance, and possibly benefit those that have been injured in some other way.

Sir JOHN DOWNER: It is rather difficult to deal with the proposal now before us, without dealing with the whole question. It is quite impossible to consider the question as to the distribution of the expenditure of the government, without also dealing with the other question as to the manner in which any surplus revenue —which is quite certain to accrue—is to be disposed of. The proposal of the hon. member is that we should distribute the expenditure according to population and the surplus according to contribution, and he has quoted figures to show the exceedingly unjust incidence of any proposal such as is contained in the bill as brought before the committee, and which follows the report of the Finance Committee. The hon. member took South Australia and Queensland as two extreme cases, and he made the Queensland contribution 15s. 4d., and the South Australian 8s. 4d. But he did not take into consideration the other matters referred to by the hon. member, Mr. Burgess, and that when the post-offices and other institutions are taken over, the incidence would adjust itself, because, as the hon. member, Mr. Burgess, pointed out, Queensland, by the giving up of her post-offices, would gain at once 5s., reducing her contribution to 10s. 4d. South Australia, on the other hand, would immediately lose 2s., instead of getting a profit of £30,000 at the rate of 2s. per head of her population, and the result would be that, so far from the colony being placed in an advantageous position in comparison with Queensland, both colonies would be placed in identically the same position. Surely the hon. member cannot seriously propose that one rule is to be applied to the distribution of the expenditure, and another to the distribution of the surplus. But there is something which, as it appears to me, is altogether above and beyond this, and that is the question as to whether we seriously mean to have any federation at all. I have heard many hon. members, and particularly the hon. member, Sir Henry Parkes, speak most strongly of the terrible position in which the colonies were placed through the interference between them created by the customs-houses on their borders. Those customs-houses may be as great a curse to the colonies as hon. gentlemen have described them to be; but, at all events, they are established only for the purpose of each state protecting itself against individuals, possibly within its own boundaries, and possibly in other states. Now we are asked to agree to something still more invidious than the custom-houses to which hon. members object, inasmuch as each state would have to protect itself, not against individuals within its own borders, or in other communities, but directly against the other states. We should initiate this federation, the basis of which is to be a kindly and friendly feeling throughout Australia, with states having mutual distrust of one another, and having to impose barriers far more mischievous in their operations than the custom-houses which now exist. The representatives of the larger colonies who take this view also forget ——

Mr. MUNRO: We have not expressed our views!

Sir JOHN DOWNER: I do not know what view the hon. member, Mr. Munro, takes; but I do know that the hon. gentleman has certain views upon the matter, and as far as each of the larger colonies is concerned, if they object to the just and equal method recommended by the Finance Committee, and if they can show that in its immediate incidence some loss or inequality might arise, so far as a particular colony is concerned, I would ask them to recollect one other thing, that is, the strong disposition to centralisation everywhere—the strong inclination of every one to go to the largest centre of population. When these customs barriers are removed, undoubtedly, as the hon. member, Sir John Bray, has said, the smaller colonies will obtain their goods, to a much larger extent than at present, from the larger centres. Therefore, a large portion of the benefit of this arrangement must be reaped by the larger colonies; so that, even if they sustain some incidental loss, it will be much more than made up to them by their commanding position, and the attractions that would offer to the population of Australia generally. Having listened to the hon. member, Sir Thomas McIlwraith, and looked at his figures, I do not think there is any reason for departing from the report of the Finance Committee. Apart from that altogether, with such shifting communities, one colony having most population one day, and another colony having most population a little afterwards, it would be inexpedient for us to endeavour to make any arrangement based on the assumption that the relation of the population of the colonies to each other will continue as at present. From every point of view—from the grand national point of view on which this federation is endeavoured to be launched, from the point of view of the interest of the commonwealth, from the point of view of mutual good feeling between the states, from every consideration that patriotism and public feeling could urge—we should start on the basis which the Finance Committee recommended, recognising in this distribution nothing but population, and restore the clause which the Finance Committee recommended, and which was inserted in the bill when it came before the Constitutional Committee.

Sir THOMAS McILWRAITH: The hon. member, Sir John Downer, has just made a speech which I would have made myself. I do not want to do anything else in my amendment than to stand by the recommendation of the Finance Committee

Sir JOHN DOWNER: Then that is all right!

Sir THOMAS McILWRAITH: That has been my contention all through, and hon. members must have misunderstood me. The amendment I have moved is to insert certain words after the word "commonwealth"——

Sir JOHN DOWNER: So far I agree with the hon. member!

Sir THOMAS McILWRAITH: In order to comply with the recommendation of the Finance Committee:

That the revenue from customs and excise be devoted first to the payment of all expenditure authorised by the federal government, such expenditure to be charged to the several colonies according to population.

That is the whole of my amendment at the present time. I do not wish to propose any more.

Sir JOHN DOWNER: The hon. member does not want the other!

Sir THOMAS McILWRAITH: I am not going to pledge myself to support Sir John Bray's amendment. I shall have other facts to bring forward on that. I am not opposing the recommendation of the Finance Committee.

Sir JOHN BRAY: That is what the hon. member is doing!

Sir THOMAS McILWRAITH: I take the first recommendation of the committee, and say we should carry that out. I have declined to reply to the hon. member, Sir John Bray, until his motion is brought forward, when I will be prepared to give my reasons.

Sir JOHN DOWNER: I knew what the hon. member meant, because there was a telegram before the Constitutional Committee representing the hon. member's views in an unmistakable manner, and I have no reason to think that he has since changed his opinion.

Mr. McMILLAN: I think most hon. members will recognise that this is one of the most difficult questions which have come before the Convention. The difficulty arises out of this: No matter what arrangement you may make, it will not be an absolutely symmetrical arrangement. There is no arrangement conceivable which will work at the present time,

and which will work equitably in the future under other conditions. I think it was due to the Convention that the hon. member, Sir Thomas McIlwraith, should have stated that this is an amendment on which there would be a consequential amendment; because we are liable to debate two absolutely incongruous things. The question is: Are we going back to the position of the Finance Committee, or do we intend to accept this as a whole, or only partially? There are actually three propositions before us—first, the proposition of the hon. member, Sir Thomas McIlwraith, amending the first part of this clause and leaving the second part to stand as it is. Then there is the proposition that we should take the bill as it stands. There is a third proposition, that after making the amendment proposed by the hon. member, Sir Thomas McIlwraith, we should go right back to the original report of the Finance Committee. We should have the issue clearly before us at present. The recommendation of the Finance Committee was this: that we should practically take the basis of population all through. We debated the question whether that was fair under existing circumstances, and we made a provision by which existing circumstances should be dealt with on a separate basis, leaving it open afterwards to the federal parliament to go back to the population basis. That was the position taken up by the Finance Committee. Personally, as far as I am concerned, although there might be some inequality and apparent injustice to my own colony or to another, I thoroughly agree with the hon. member, Sir John Downer, that if we are going to federate at all we must accept these inequalities. But it seems to me that it would be better, perhaps, as a whole, if this amendment of the hon. member, Sir Thomas McIlwraith, be accepted, to go right back to the population basis. I know very well that that population basis would have a very curious effect with regard to South Australia. In fact, according to a set of figures which were made out, South Australia would get its government, to a certain extent, very cheaply. At the same time, we must have some kind of symmetry, even if it turns out to be unequal in its incidence. As the colonies increase in volume, a great deal of inequality will disappear, and I would very much prefer the hon. member, Sir Thomas McIlwraith, to declare that he wishes to restore *in toto* the recommendation of the Finance Committee. That would be absolutely fair, and at the same time it would leave it open for the parliament of the future to carry out arrangements on the most equitable lines according to their mature consideration.

Sir THOMAS McILWRAITH: I have not the slightest hesitation in declaring that I am perfectly prepared to stand by the recommendation of the Finance Committee.

Sir JOHN BRAY: That is all I want!

Sir THOMAS McILWRAITH: But what is that recommendation?

Sir JOHN BRAY: I will show what it is!

Sir THOMAS McILWRAITH: I know that the hon. member is going to put a construction on the report on account of two or three words which were omitted after I had left the committee—that is, that the whole arrangement is to be changed after a uniform tariff is established.

Sir JOHN BRAY: That is the report of the committee!

Sir THOMAS McILWRAITH: That is the report I do not agree with. The hon. member, Sir John Bray, will remember the position in which it stood. The whole of the latter part of the recommendation was mine. The hon. member, Sir John Bray, put forward a further recommendation, and I said, "Well, I have no objection to that." That forms the first four lines of the 5th paragraph of the report, and in the hon. member, Sir John Bray's manuscript there occurred the words "a few years" or "some years."

Sir JOHN BRAY: The words were "some time after"!

Sir THOMAS McILWRAITH: I will take those words, and the recommendation read in this way: "That some time after a uniform tariff has come into operation the surplus revenue may fairly be distributed amongst the various colonies according to population." I said that I agreed to that at once. I admit the principle that a time will come when the populations of all the colonies will approximate. I urged that myself, and had no hesitation whatever, nor have I any hesitation now, in saying that the principle on which I insist shall be revised by the federal government at any time within five, ten, or fifteen years. That is what I said at the meeting of the committee. But it is a very different thing to say that as soon as a uniform tariff is arranged it shall have a certain effect, that is, that the surplus shall be distributed according to population. That I never agreed to, nor did any member of the committee advocate it. The hon. member, Sir John Bray, did not advocate it. His own words were that after some years the time would come when we might fairly distribute any surplus according to population; but the time has not yet come to do it.

Sir JOHN BRAY: It was unfortunate for the Finance Committee that the hon. member, Sir Thomas McIlwraith, had to leave when he did; but if he is content to accept the recommendation of the Finance Committee which was included in the first draft bill prepared by the Constitutional Committee, I shall be satisfied. I felt, and we all felt, dissatisfied with the proposal that we were to estimate the revenue of each colony, charge so much per head for the cost of government, and return the surplus in that way. No one was satisfied with that proposal. No definite proposal was submitted for some time to overcome the difficulty; but at last we got one, the words of which are in the report:

> That after a uniform tariff has come into operation the surplus revenue may fairly be distributed amongst the various colonies according to population.

That is all I ask the Committee to agree to. When a uniform tariff is adopted we have to assume that that tariff is based in such a way as to fall fairly upon the whole of the people of Australia, and also that it will not be necessary to keep a check as to the goods crossing each border, so as to be able to reckon up the amount of dutiable goods consumed in each colony. If we have to do this we shall lose half the advantages of federation and destroy the benefits of intercolonial free-trade. If trade between the colonies is to be as this bill provides, in language as clear as any that can be used, absolutely free from one end of the continent to the other, it is utterly inconsistent with that idea to have an army of customs officers, or whatever else you may call them, to find out the value of the goods sent from one colony to another. If there is to be free-trade there should be no inquiry, and no means of ascertaining the amount of dutiable goods consumed in each colony. Perhaps it will simplify the matter if, instead of proposing the amendment in the way in which I did, I am allowed to propose, in lieu of clauses 9 and 10, the draft clause prepared by the Constitutional Committee, and I will do that, with the permission of hon. members, when the amendment of Sir Thomas McIlwraith is disposed of. That clause is as follows:

> 9. After the imposition of such uniform duties the surplus revenue derived from duties of customs and duties of excise on goods the subject of customs duties, remaining over and above the necessary expenditure of the commonwealth, shall be paid to the several states in proportion to the numbers of their people. Such payments shall be made monthly, or at such intervals as may be deemed expedient.

That is clause 9 of the first draft bill. Then it goes on to provide that in the meantime after these uniform duties have been imposed the revenue is to be applied in the way suggested by the hon. member. Whilst the duties are unequal, whilst the people of one colony are paying more than the people of another, they are fairly entitled to any surplus revenue obtained from

them according to the amount which they pay. I will move that, as it simplifies matters and means the same thing. It will come more clearly to hon. members, and will convey exactly the recommendation of the Finance Committee, which seemed to meet with the approval of the Constitution Committee in the first instance. I presume that it will be necessary first to dispose of the amendment now before the Committee. I would ask the hon. member, Sir Thomas McIlwraith, to consider this: If the idea of a commonwealth for the people of Australia is to consist in making each colony pay so much per head in proportion to population, then the idea of this free interchange of goods and uniform customs tariff is perfectly unnecessary. There is a much simpler way of getting so much per head than saying, "We will take away from you the right to impose customs duties, we will impose duties for the benefit of the whole people of Australia, we will reckon up how much your colony pays separately for the benefit of Australia, and return to you as much as we assume you have paid on the basis of your population." I say that any figures made up on this idea will be utterly unreliable, will cause great dissatisfaction, and break down all attempts to establish a commonwealth.

Sir THOMAS McILWRAITH: If I were in the happy position of the hon. member, of advocating the cause of a colony that was going to benefit so largely, I should appeal with the same happy smile to my opponent to take my view of his actions without finding it necessary to urge any reason. But being placed where I am, and having to defend my action, knowing that my constituents will ask the reason for the votes I have given, I want to be changed by reason, not by an appeal in such general terms as that which the hon. member has made. Why did we not hear this appeal in the Financial Committee? There were only two general propositions before it until I left. I was only absent one day, and we had arranged everything. The hon. member, Sir John Bray, agreed to put the whole of his recommendations alongside of mine, and the committee did not disagree with that. After I had left they made a very material change in the whole thing by leaving out what I always insisted on—that the change should take place only after a certain time. But the whole of the facts pointed to one thing, and that was that at the present time it would be unequal to all the colonies—in fact, politically iniquitous—to apply the principle that the hon. member was in favour of at that time. Now, what is the principle which he is advocating at the present time in his very mild way? I wish he had brought forward the facts which were before the committee, and which satisfied them. We had figures in the tables which have been left out of the report of the committee, and which influenced the committee most materially in coming to a conclusion. They produced a report which showed the effect of the uniform tariff on the importations of the colony in 1889, the latest date to which the statistics were at the disposal of the Government Statistician. We had that table before us, and this is what that table meant. Of course there have been discrepancies found which altered the figures to some extent, but which do not alter the principle. I ought to have prefaced my remarks by saying that I am forced into this discussion, which is quite alien to the amendment which I have proposed, by the continual attempt made by other delegates to force the discussion on their proposed amendments. I have been always restraining myself in speaking about my own amendment, and I ought not to be liable to attack from the Colonial Treasurer of New South Wales for not having declared what I intended to do in reference to another amendment. I have not the slightest hesitation in declaring that I mean to oppose it. I would have given that answer at once if I had been asked. I had no intention of suppressing my opinion on the subject, but I did not express it because it had nothing to do with the amendment with which I was dealing. The hon. member, Sir John Bray, in bringing forward this bigger question, is confusing the matter. My amendment was a very simple matter; his is a bigger question, and it forces me to go into that question, although in so doing I am going away from the subject of debate. The result of that information, which we had before us for 1889, was that, according to this uniform tariff, after each colony had contributed *pro ratâ* in proportion to population to the expenses of the central government, and had had the amount of the surplus returned to it according to population, New South Wales, instead of paying 12s. per head for the expense of government, would have paid 14s. 2d.; Victoria, instead of paying 12s., would have paid 16s. 1d.; Queensland, instead of 12s., would have paid 19s. 10d.; South Australia, instead of paying 12s., would have paid nothing whatever; she would have got the whole of her customs revenue back, and, in addition, a contribution from the fund of 11s. per head of population. This is how this principle would work, of distributing the surplus according to population. Western Australia, instead of paying 12s. for the cost of government, would have paid £1 15s. 8d., the largest contribution of all. Tasmania is in the same happy position as South Australia; she gets back the whole of her customs revenue, and 1s. 6d. per head of her population as a bonus from the other colonies. New Zealand is in a sort of medium position; she pays 9s. 5d., instead of 12s., to the cost of the general government.

Sir SAMUEL GRIFFITH: What would Western Australia have to pay?

Sir THOMAS McILWRAITH: She would have to pay £1 15s. 8d.

Mr. BURGESS: This is all imaginary!

Sir THOMAS McILWRAITH: Hon. gentlemen will insist upon saying that it is imaginary; but we have to suppose a tariff, to see what the effect of it will be. I have worked out the facts with regard to the Victorian tariff, and they bear me out in my argument. It is possible that a tariff like the Victorian tariff may be adopted. I do not say that I will advocate it. I do not express an opinion as to the advisability of a tariff of that sort. But what I say is that if the Victorian tariff is adopted, it will bring about results approximating to those I have enumerated.

Sir JOHN BRAY: No!

Sir THOMAS McILWRAITH: I will give the hon. gentleman the figures, which will be distributed in print in the course of half an hour. According to those figures, South Australia does not appear as what I might call a defaulter to the extent that she does at present; but she is still pretty low down in the list. We shall have to contribute a certain amount to her out of our revenue, and make her a present besides of the whole of her customs revenue. Hon. members will ask, how does this come about? It is quite easy to see how it comes about. The South Australian tariff, considering the amount of duties on specific articles and *ad valorem* duties, is far the heaviest in the Australian colonies—I am not quite sure about New Zealand, I have not given her tariff very much attention; but then it does not produce anything. What is the use of putting a duty of £5 on a silk gown, if no one wears a silk gown—if only cotton gowns are worn? What is the use of placing a duty of 14s. a gallon on good Scotch whiskey when the people swill their own acidulated wines? The tariff, as I say, does not produce anything. That is how it comes about that the figures are so frightfully unequal. Is it not very absurd to say we will return the contributions according to population, while South Australia has paid so little in proportion to its population into the general fund? Then look at another table which was suppressed, and which bears so minutely on this subject—table H. The Colonial Treasurer of New

South Wales led us to believe—I think unwittingly—that he had only suppressed the tables that applied to the Victorian tariff.

Sir JOHN BRAY: Only the imaginary tables. The actual facts were given!

Sir THOMAS McILWRAITH: With regard to the tables being imaginary, I repeat again that it is only by imagining a probable or possible tariff that you can arrive at the facts. I have no objection, as I told Sir John Bray in the Finance Committee, to take any tariff he proposes. I suggested that we should take the tariffs of all the colonies; but this was not agreed to, because the Government Statistician objected that the preparation of such a table would take too much time. I did not anticipate that this Committee would sit so long, and I regret that we did not have the information furnished. But let us take table H, which was suppressed. It is very interesting. It shows the "revenue which would be derived from each province if, in addition to duties on alcoholic drinks, tobacco, opium, &c., duties equal to 13 per cent. *ad valorem* were levied on foreign produce imported." The average amount raised by the whole of the Australian colonies is £2 6s. 4d. per inhabitant. Deducting 12s. from that, the amount contributed by the different colonies is very unequal. New South Wales contributes £2 8s. 5d.; Victoria, £2 10s. 4d.; Queensland, £2 14s. 2d.; South Australia—this is the cause of the enthusiasm—£1 3s. 4d.; Western Australia, £3 9s. 11d.; Tasmania, £1 12s. 10d.—there is a little mild enthusiasm in that quarter too; New Zealand, £2 3s. 8d. That makes an average of £2 6s. 4d. If we deduct from the amount raised per head by the different colonies the sum of 12s., the cost of the federal government—11s. 5d. is the actual amount, but I have taken a lump sum; it does not affect the argument—the result is an average amount to be returned out of the surplus of £1 14s. 4d. per head of the population. The full amount to which New South Wales is entitled—that is, if she gets back the real balance due from the amount she has contributed to the customs—is £2 8s. 5d., which, less 12s., would leave £1 16s. 5d., instead of £1 14s. 4d. She contributes, therefore, a bonus to South Australia and Tasmania of 2s. 1d. per head of her population. Victoria contributes about double the amount. She ought to get back £1 18s. 4d., and according to population she only receives £1 14s. 4d., or 4s. less than she is entitled to. Queensland, according to the principle agreed to by the committee, ought to get back £2 2s. 2d., instead of which she only receives, according to population, £1 14s. 4d., or 7s. 10d. per head less than she is entitled to. South Australia actually gets back all her customs and £1 3s. per head of the population in addition.

Mr. PLAYFORD: The figures must be wrong. South Australia cannot get back £1 3s. per head in addition to the £600,000 which would be raised from customs revenue!

Sir THOMAS McILWRAITH: If the hon. gentleman will wait until I have finished the table, I will allow him to reply. There is no doubt whatever about South Australia getting this money back. Western Australia will raise £3 9s. 11d. per head of her population, and she ought to get back £2 15s. 11d.; but, as she only gets back, under the proposal of the hon. member, Sir John Bray, £1 14s. 4d., she will contribute £1 1s. 7d. to the defaulting colonies. Tasmania would contribute £1 12s. 10d., and she ought to get back £1 0s. 10d.; but as she would get back £1 14s. 4d., she would be presented with a bonus of 13s. 6d.

An HON. MEMBER: If these figures are printed, why cannot the hon. member distribute them?

Sir THOMAS McILWRAITH: No, these are the suppressed papers. Now, I have offered to apply this principle to every imaginable tariff, and surely if it applies in every case I have proved it thoroughly. If the hon. gentleman thinks it is such a splendid argument to say that it would only apply to an imaginary tariff why does he not bring forward a tariff to which it would not apply?

Sir JOHN BRAY: I want to base my argument on facts!

Mr. PLAYFORD: The hon. member has taken the worst year of all in dealing with South Australia—the year when we had a 3-bushel per acre harvest!

Sir THOMAS McILWRAITH: That is another thing, and we will give the representatives of South Australia every latitude with regard to it. I did not know until the hon. gentleman told me that I had taken a bad year for South Australia. If I had known, I should have picked another year; but if I had gone further back I should have had to give reasons for doing so.

Mr. MACDONALD-PATERSON: We had a bad year in Queensland, too!

Sir THOMAS McILWRAITH: At all events, I have taken the latest statistics. The hon. member, Mr. Playford, asks how it is that when South Australia contributes £1 3s. 4d. they will actually get back £1 3s. more than that amount. It is simply because the average amount to be returned, if it is returned *per capita*, will be £1 14s. 4d., which will leave £1 3s. to be handed back, if the amendment of the hon. member, Sir John Bray, is carried. By their mode of distribution Queensland will get a great deal less than she ought, and New South Wales and Victoria will be in the same position, while New Zealand will be dealt with very well, and Western Australia will be the biggest victim of all, though South Australia and Tasmania will actually get back the whole of their customs, and a large bonus in addition. Those are the facts that came before the committee. What are the facts that have come before us since? I have here a table which was made out this morning, and which I would have had put before the Committee days ago had I known that these tables were suppressed; but I did not know it until last night. It shows what would be the result, if, instead of adopting this imaginary tariff, we should adopt the Victorian tariff. New South Wales would then have to contribute to the expenses of the federal government, instead of 11s. 5d., 14s. 11d., supposing the distribution were made according to the amendment of the hon. member, Sir John Bray; Victoria, instead of contributing 11s. 5d., would have to contribute 13s. 3d.; Queensland, instead of 11s. 5d., would have to pay £1 3s. 1d.; and South Australia, instead of paying anything, would receive a bonus of £1 1s. 3d. per head of the population. Western Australia is the only colony that would be square. She would have to pay 11s. 6d. instead of 11s. 5d., or 1d. more than she ought to pay; Tasmania would pay 6s. 5d., and New Zealand 1s. 6d. I use 11s. 5d. instead of 12s. because the Government Statistician in compiling this table has taken the latest returns. The effect of applying a uniform tariff to the various colonies would be to punish all the large consumers of goods. Those who contributed most would be mulcted to benefit those who contributed least. But that is not an equitable system of distribution. I now want to illustrate another argument advanced against my amendment by the hon. member, Sir John Bray. He said that we had enough trouble at the present time to ascertain the amounts to be paid at the customs, and if we were to keep up the existing system we should get no advantage from the federal government. I differ entirely from the hon. member, Sir John Bray, as to what it would cost to ascertain the amount paid in the shape of duty on articles actually consumed in the different colonies. I do not think there would be any great difficulty in regard to the matter at all. Quite independent of that, however, the matter is one which ought to be faced, so that our statistics may be placed on a proper basis. No one has a higher appreciation of the

talents of Mr. Coghlan and Mr. Hayter in getting up the statistics of the various colonies than I have. These gentlemen are worthy of all praise, and the books they issue are a credit to the colonies. I admire these gentlemen greatly, and I often have reason to be grateful to them for the information they communicate. They cannot, however, deal with information which they do not obtain, and a great deal of information which they do not obtain should and ought to be obtained, if necessary, at considerable expense. Take, for instance, the question as to how South Australia figures as an exporter and importer. One is surprised on looking at the terribly large amount of imports of that colony in proportion to the population and to the known trade; but when we take into consideration the fact that the whole of the silver and the lead which comes from Broken Hill figures twice in the statistics of the colony—first, on going into the colony at the Broken Hill boundary, and then on going out at Adelaide, or whatever other port it is shipped from, we can understand why the figures are so large. Another fact in regard to South Australia is that all the wool that comes down the Murray figures as an import of that colony, when it comes into port from the river, and then it figures as an export on going out. With regard to New South Wales, all the gold coming from Mount Morgan figures as an import, and as an export, too; and, possibly, it figures also as an import and export of Victoria. All these statistics therefore are misleading, and I contend that we ought to go to considerable trouble and expense in having them correct. There can be no trouble whatever in arriving at what I want to arrive at, and that is, the amount of money paid by the different colonies on the goods consumed in those colonies. The matter is not one which should be put on one side; let it be referred to practical men who are acquainted with business and with statistics, and I will guarantee that they will furnish a report that it will cost less to obtain the statistics properly and correctly than the Queensland Government alone will have to hand to South Australia for these bonuses, through the peculiar mode of distribution they advocate simply because it is the only practical mode. It is not the only practical mode; it could be done perfectly well otherwise. With regard to South Australia there is very little difficulty, and with regard to the other colonies there is very little difficulty; and the difficulty would be far more than counterbalanced by the advantage to the colonies in knowing, thoroughly, the extent of their business, the extent of their manufactures, the amounts imported and exported, and other information which we do not possess at the present time. Hon. delegates seem to imagine that there is some kind of symmetry between distributing the surplus according to population and charging the different colonies for their government according to population. I do not see at all where the symmetry is obtained in establishing a system of that kind, because the one question has nothing whatever to do with the other. The two propositions, that each colony should contribute according to population, and that the surplus should be distributed, as nearly as possible, according to the amount actually contributed to the revenue, are perfectly consistent. We give the colonies back what belongs to them after having charged them with their share of what it costs to govern the country. Is there anything at all to show why it is going to cost to govern Queensland, federally, double what it is going to cost to govern South Australia? I cannot give any reason. The hon. member, Mr. Burgess, says that all the disadvantages will be far more than counterbalanced by the advantages which are going to be given to Queensland financially. He instances the fact that we would make a profit out of the post-office of South Australia, and that a very heavy loss would be incurred by undertaking the post-office arrangements of Queensland. There is something in that idea, and if it had been brought before the committee, I, for one, would have said, "Adjust the methods at once; I have no objection whatever that it should be adjusted; but remember that you will be adopting something like a different principle." The South Australian Postal Department is profitable, I believe, because it is a bad one, and is administered for revenue purposes. The Queensland Postal Department is a good one, and is administered for the accommodation of the public, and we know perfectly well that we may lose by it. I have no doubt that when the new policy comes into operation, and the federal government takes charge of the postal departments, a good system of management and greatly increased accommodation will be adopted, and that the postal department of South Australia will cost as much as the postal department in Queensland. The difference entirely arises from the want of postal accommodation in South Australia. I know from experience that the accommodation to the people who write and receive letters is worse in that colony than in any other. I can therefore understand why they obtain a profit from their postal department. When matters are assimilated, I have no doubt there will be no occasion for grumbling. At all events, I, for one, would at once agree to handing over our proportion, so that there should not be any loss. But why raise a question of that kind here? The time to discuss questions of that kind was at the committee meetings. I was prepared to discuss the question, but it was put before the committee and was passed over with the whole of the facts before us as to the revenue and expenditure of the postal systems in the different colonies. Why was it not brought up? It was certainly not brought up on the understanding that a proposition such as that which is to be moved by the hon. member, Sir John Bray, would be accepted by the Convention. The hon. member, Sir John Bray, says that unless we act in a wide spirit it will be hopeless to expect that we can obtain federation. I would tell him that I have been as keen an advocate of federation as any one in the country, and that the only way to obtain federation is to make it reasonable to the people who have sent us here. Unless we do that we have no chance whatever of federating, and it is to remove any blocks of that kind that I insist on fair play being given. Unless we can show that fair play has been allowed, and that we have stood up for the interests of our various colonies, we shall have to defend ourselves before our constituents. I deprecate exceedingly the attempt which has been made by the hon. member, Mr. McMillan, to suppress information in connection with this matter. I think that if that information had been universally distributed amongst the delegates we would have had a far more thorough understanding on the matter. It looks, as some hon. member has characterised it, as though there had been secret meetings of the Finance Committee. I have no intention of making anything secret in connection with that committee myself, and all this information ought to have been distributed broadcast. It is information on which we are bound to act. The information contained in all those tables is true. It is made up by one of the cleverest men in the colony, and it is information that we can thoroughly trust. It is perfectly reliable. I say that it ought to have been disseminated broadcast. We ought to know the ground on which we stand. How could we possibly accept an amendment such as that of the hon. member, Sir John Bray? We should either have to acknowledge, when we go back to our constituents, that we did not understand the matter when the facts were put before us, or, what would be a great deal worse, that we were knaves and did not make use of the information in order to get justice for the different colonies. I can quite appreciate the motives that actuate the hon. members, Sir John Bray and Mr.

Playford, in standing up for their own colony. I remember the blank look of one of those hon. gentlemen when table E was put before him. I know that he must advocate the cause of his colony, and for that I was prepared; but I am perfectly satisfied that when South Australia understands the facts she will be as glad to come into the federation on the proposals that we made as on any other fair terms.

Mr. McMILLAN: I think that my hon. friend has been very severe on me, and rather unfair. If he has done anything at all to-day he has proved that the Victorian tariff is impossible in the future; and I would remind him that although he has selected one tariff, it is by no means a model one, and is not a tariff upon which any determinate results can be based, because, as very few people perhaps know, the Victorian tariff is a very curious one. I understand that about one-half of the articles come in free in a so-called protected colony. To take a tariff of that kind, which is adjusted for purely local wants and exigencies, and to bring out any general results, may, of course, be useful as being approximate, but cannot be reliable for the future. It seems to me that, as we are in the spirit of compromise, a very fair compromise can be considered which would practically restore the spirit of the recommendations of the Finance Committee, if we pass the amendment moved by the hon. member, Sir Thomas McIlwraith, and then, after the word "shall," in line 3 of the clause, insert the words "until the parliament otherwise provides," thus making the clause read, "and the surplus shall, until the parliament otherwise provides, be returned to the several states in proportion," &c. That was really the intention of the Finance Committee. We knew that we had a very difficult thing to deal with at present—that there was an absolute injustice staring us in the face according to present conditions—but we did hope that in the new tariff, and under different conditions, a simpler and more symmetrical principle could be applied. The hon. member, Sir Thomas McIlwraith, is not fair in his argument with regard to the respective colonies. He says, why should each colony not get back its proportion of its customs duties? But when we federate all the formal and merely provincial boundaries that divide us will be done away with, and we shall be restored to our geographical boundaries. Who will for one moment say that if these colonies were parcelled out again, Victoria would not probably have up to the Murrumbidgee? I should be very sorry ever to yield her an inch of territory more than she has, as we have got the territory; but does anybody shut his eyes to the fact that the trade of that region is almost entirely absorbed by Victoria? And if it is absorbed by Victoria, when she has heavy duties, with drawbacks and all the possible restrictions of trade, surely the great bulk of goods that will be imported into Riverina will come through the Custom-house of Victoria, and according to the argument of my hon. friend, those are really the customs duties of New South Wales. The whole spirit of this is entirely anti-federal. I allow that there is a tremendous difficulty. I allow that my hon. friend, in going back to his own colony and putting those figures before the people there without very broad explanations and without a very liberal spirit attached to them, would have a very difficult task. But I hold that those figures, although absolutely correct on the basis upon which they are made out, are not fair figures in this debate. I am willing to go so far as to accept those figures as the present condition of things. But if I accept them as the present condition of things, I do not admit that any one has a right to say that that will be the condition of things in the future. All the existing tariffs have been made out with a view to local exigencies. They have been made out with a narrow, provincial eye, and my hope for free-trade, as I have said before, is that when the unification, to a certain extent, of the colonies is complete, and when one common tariff is decided upon, it will not be a tariff to suit exactly either Victoria, or Queensland, or South Australia, but will be a tariff fair to all; and if that tariff is fair to all, allowing for certain differences that must always occur, it ought to work out very differently, on a symmetrical basis, from the Victoria tariff instanced by the hon. member. Therefore, I give notice now, if the Committee will allow me, though it is a little out of order, that when my hon. friend's amendment is moved and passed, which I trust it will be, I will move to insert after the word "shall," in line 3, the words "until the parliament otherwise provides," thereby giving the parliament, when it has come together in its true constituted federal spirit, a chance of dealing with the thing on the only lines upon which it can be dealt with—the broad lines of federal union.

Mr. ADYE DOUGLAS: It is difficult to follow the hon. member for Queensland, Sir Thomas McIlwraith, in his argument. He is like an unfortunate juryman who has all the rest of the jury against him. I understand that he was willing to adopt the opinion of the committee; but directly that was advocated by the hon. and learned member, Sir John Bray, he at once receded from that position. He then, in order to carry out, as it were, the position which he maintains, says that everybody is wrong except himself. The committee is accused of suppressing documents, the hon. member, Sir John Bray, is accused of misstating facts, and so we get into this abominable position. If anybody will take up the document that the hon. member was so exceedingly anxious this Convention should see, they will observe at once the fallacy of the whole of his argument. The argument is founded upon the supposition that the Victorian tariff is to be adopted. If any one will take the trouble to look at the figures, they will find that Queensland would have to pay £665,000 more than South Australia. Of course, such a tariff would not be adopted. The commonwealth would take care, as mentioned by the hon. member, Mr. McMillan, that the tariff should operate fairly amongst all the colonies. There is a most remarkable thing again with respect to the position of South Australia and Queensland. South Australia has apparently a very sober population; but, on the other hand, Queensland is a most intemperate country. Queensland goes in for £564,000 worth of intoxicants, and South Australia for only £207,000 worth, being a difference of £357,000 spent upon intoxicants. On the general revenue also, according to Victoria, Queensland would pay £679,030, and South Australia £327,000, making a difference of £351,000, showing how fallacious is the foundation upon which the hon. member, Sir Thomas McIlwraith, insists upon his argument. I think that we here should take the opinion of the Finance Committee as being the correct one, and we should endeavour at once to bring our labours upon this particular point to a close, instead of debating it as we have been doing for some three hours. The hon. member, Sir Thomas McIlwraith, will try to disguise or keep back this great fact that, in respect to the federal government taking over the postal arrangements, £112,000 at the least is saved to the one colony, while £30,000 is lost to the other, making the difference in the figures just about even on that point. Again, we find in reckoning the revenue that the amount per head for the whole of the inhabitants of Australia should be £2 6s. 5d. I imagine that the federal government will try and make these figures correspond as nearly as possible with respect to the general arrangements. The hon. member talks of Queensland; but the amount for Queensland at the present time is £3 7s. 10d., whereas if that colony comes into the federation it would be only £2 6s. 5d. How he is so persistent in carrying on this argument I am at a loss to understand. No doubt, in any federal arrangement the whole of these matters will

be carefuly considered, and the only plan to adopt is, it appears to me, that the whole of the revenue shall form one pool out of which the expenses shall be paid, and the balance shall be returned to the several colonies according to population. If that is done it will save all trouble. The clause in the bill will get rid of none of the difficulties existing at the present time. A man who travels from Sydney to Melbourne would be liable to have his portmanteau examined, and a man going there from Tasmania would have to go through the same ordeal if there happened to be a disagreeable customs officer. I understand that one great object is to do away with these difficulties and the expense as well, and we can only do that on the principle of paying the revenues of the federated colonies into one pool, paying the expenses of government out of that pool, and dividing the balance amongst the several colonies according to population. I hope that that system will be carried out, and that the proposal of the hon. member, Sir John Bray, will be accepted.

Sir THOMAS McILWRAITH: The hon. member, Mr. McMillan, has offered a compromise, and offered it in a spirit which, I think, is quite worthy of this Convention, namely, the spirit of conciliation, for the purpose of bringing about federation. I do not want to say a single word that would detract from the high trust that I have in the federation working well. I believe in remitting a great deal to them, and so far as the hon. member's suggestion is concerned, I have that trust in the federal government as to be satisfied to refer the whole matter completely to them. I do not want to have my ideas so fixed that it will require an alteration of the constitution to bring about an exact adjustment of the finances. I have the most full confidence that the federal parliament will work so well that they will do justice to all, and in that spirit, therefore, I am perfectly prepared to accept my hon. friend's suggestion.

Mr. BIRD: I am very glad that the hon. member, Sir Thomas McIlwraith, has been induced under pressure to state his intentions with regard to the amendment to be proposed by the hon. member, Sir John Bray, for if he had not done so, I should have been somewhat disposed to support his amendment, because I desire that the expenditure of the commonwealth shall be borne *pro rata*, according to the population of the various states. But while I hold that view, I certainly hold that the revenue, after a uniform tariff has been established, should be regarded as having been contributed equally in the same way by the populations of the states; or, as it has been put, that we should have simply one purse into which the whole of the revenue contributed to the commonwealth shall go, and out of which the federal expenditure shall be paid, the balance being distributed according to the population of the states. Since the hon. member has stated that he intends to oppose the amendment of the hon. member, Sir John Bray, I cannot help feeling that the adoption of his amendment would introduce into this clause a larger measure of inequality, and, to use a phrase of his own, of political iniquity, than it now contains. For I feel sure that the adoption of his amendment, which would spread the expenditure of the commonwealth equally according to the population of the various states, would produce that inequality in the federation which I hope we are all desirous of avoiding. I do not like this clause at all; to my mind it is the worst clause, or, perhaps, I should rather say it is the only bad clause in the bill, for it introduces that principle of inequality which is to be deprecated, and certainly deprecated above all in a body which we are going to term a commonwealth. I trust that the principle of having one purse, out of which the whole of the expenditure shall be paid according to the population of the various states, will be adopted either in one form or another. It is just possible that the amendment suggested by the hon. member, Mr. McMillan, as a compromise, may be the best way out of the difficulty at the present time; for I should certainly have felt that the parliament of the commonwealth would be disposed to act upon that principle of fairness which was embodied in the recommendations of the Finance Committee. And, if we are not likely to agree either to the amendment of the hon. member, Sir John Bray, or to that of the hon. member, Sir Thomas McIlwraith, probably our wisest course would be to consider carefully, and perhaps adopt, after such consideration, the amendment suggested by the hon. member, Mr McMillan. I could not help feeling, while listening to the remarks which fell from the lips of the hon. member, Sir Thomas McIlwraith, that we have hardly become possessed yet of the true spirit of federation. I could not help asking myself, while he spoke, Has it really come to this: that such a pettifogging, parochial spirit of selfishness is to be embodied in a clause of this bill constituting a commonwealth as to take into consideration the question whether Queensland drinks a little more whiskey than South Australia, or whether the populations of some of the larger and more settled states clothe themselves in costlier raiment, or perhaps spend their wealth on plate, and jewelry, and so forth, to a larger extent than some of the populations in outlying places far remote from those centres where the world of fashion congregates? Surely, if we are going to federate at all we must learn to lose sight of all these trifling differences, and feel that we are all one; that in the federation we are going to have a customs union in the truest and best sense of the word; a union for postal and telegraph purposes; a union for defence purposes; and that all expenditure in connection with carrying out those purposes shall be borne equally by the various states in proportion to their population after a uniform tariff is established. Of course, until a uniform tariff is established, there must be some provision such as is set out here, and such as was indicated by the recommendations of the Finance Committee for distributing the surplus revenuue to the various colonies, after meeting the expenses of the federal government for the first year or two. Therefore, I felt that when the hon. member, Sir John Bray, indicated his amendment in the first instance, it was defective in leaving the bill without a provision for that interim action; but he has now suggested, as an amendment of that, that the clause which was in the draft bill, and which truly embodied the recommendations of the Finance Committee, should be submitted to the Committee. I shall feel it my duty, if we go to a division on that, to support an amendment which will restore the clause as originally placed before the Constitutional Committee; and if, on the other hand, the Committee shall think it more desirable to leave the whole matter to the parliament of the commonwealth, I shall then doubtless feel it to be best to adopt the suggestion of the hon. member, Mr. McMillan, in that respect. But I do trust that in all these matters we shall show somewhat more of the true federal spirit, and that we shall lose sight of the trifling losses and trifling gains of one colony or the other, and that we shall all agree that in all these respects we are, and mean to be, thoroughly one.

Mr. BAKER: There is one statement made by the hon. member, Sir Thomas McIlwraith, that I cannot allow to go uncontradicted. He asserted that the post-office service of South Australia was carried on for the purpose of raising revenue, and not for the purpose of affording facilities to the public. I do not know what opportunities the hon. member has had of ascertaining in what manner the postal service of South Australia is carried on, but I give his assertion the most emphatic denial. I say that there is no colony in this group in which the postal service is better managed that it is in the colony of South Australia, or in which it offers

greater facilities to the public. I have known of instances in which persons who have taken up runs in the far interior, where they have been separated from the rest of the colony by long distances, without any water carriage, have applied to the Government of South Australia to establish a postal service for their particular stations, which applications have not been granted; but that is no reason whatever for asserting that the postal service of South Australia is not managed for the benefit of the public, and that it is not well managed. I say that it is, and I think I have had greater opportunities of forming an opinion than has the hon. member, Sir Thomas McIlwraith.

Sir THOMAS McILWRAITH: I never made the assertion that the postal service of South Australia was not well managed. What I said was that it was managed for the purposes of revenue, and not for the purpose of affording the greatest degree of accommodation to the public. I made no reflection whatever upon the Government of South Australia.

Mr. PLAYFORD: The hon. member certainly did. He said the postal service was not managed for the convenience of the public!

Sir THOMAS McILWRAITH: Certainly I did; but that is a question of policy. It is not a reflection upon the Government.

Captain RUSSELL: We have got into a remarkable position. As a matter of fact, we are debating one of the most important clauses in the bill, and, together with it, three or four amendments the wording of which we do not know, and some of which are not before the Committee at all. There is, of course, one amendment before the Committee; but allusion is repeatedly made to amendments that are to be moved; and until they are absolutely before us, we scarcely know what we are discussing. Unfortunately for all of us, however, I think we are drifting further and further away from federation. Whatever else we may be aiming at, we are certainly not aiming at that. I, at any rate, came here in a loyal and honest endeavour to support federation. There are two principles, it seems to me, which may be fairly discussed—one is a federation of Australasia, and the other is a unification of Australia. Whatever may be said in eulogy of compromise, I am afraid we may carry our desire to compromise so far that we shall have rather a unification of Australia than a federation of Australasia. We are getting into this absurdly anomalous position—that although we call what we are adopting federation, we are, in reality, drifting into unification. We have not, however, the courage of our opinions to go for either federation or unification. If there is to be a unification of Australia—and that, I am afraid, is what we are drifting into—it can be accomplished only by realising that we are one nation, and that the people of Australia are one people. All this talk about customs-houses, and the contributions of one and another portion of the colonies to the general revenue, must at once be set aside. Hon. members argue, it seems to me, as though we were for ever to remain as we are—that Victoria and New South Wales having a preponderating influence on the continent of Australia, are to remain with that preponderating influence for all time. Now, I venture to say that although New South Wales undoubtedly has from many circumstances an enormous lead, and may possibly retain that lead for many years, perhaps for centuries, to come, the day will yet come when, I will not say all, but many parts of Australia will be as populous as those portions which are now the most populous. Therefore, if we are endeavouring to create a constitution not for to-day, but for people unborn, we ought not to look upon the subject from the narrow point of view as to which of the colonies produces most revenue or consumes the greatest quantity of dutiable articles; but we ought so to frame our constitution that it shall apply to all parts of Australia without unnecessary interference with the various constitutions in the immediate future. I venture to say that the lines upon which we are proceeding will satisfy no one. I myself believe that unless we take more time to deliberate upon what we are doing, the bill we shall pass—for of course we shall pass a bill—will be so many waste leaves, and nothing else.

HON. MEMBERS: No!

Captain RUSSELL: Hon. members may say "No," and to a certain extent I agree with them; but I look upon the measure as the bringing together of a great mass of material, which, to use the metaphor of the builder, has yet to be shaped before it can be erected into an edifice, or which, if you regard it as food, has yet to be assimilated; and the conclusion to which I have arrived is that we, as a body, are not fitted to come to a decision upon these points. Delegates who have listened to the addresses delivered since the commencement of these debates, must realise at once that we have all most materially modified our opinions since we first came here. And it is desirable that we should do so. But if, in the crude, undigested state in which our views are at the present time, we are found materially changing our opinions in so short a space of time, will any one say that in the course of six months we shall not still further have altered them? I venture to say that by that time many of us will be found holding opinions different from those we now hold. And if that be the case with us, how much more will it be the case with the colonies we are here to represent? We came here knowing little or nothing about federation; but the people who sent us here knew still less, and if we have so increased our knowledge that we are able to materially alter our opinions upon material questions in the course of these several weeks, how much more will the people in the various colonies be inclined to alter their opinions before they come to a decision as to whether they will or will not accept the bill we frame? I myself believe that we should only be doing right—perhaps I stand alone in the opinion—although entertaining it I will enunciate it—that instead of our coming to any conclusion at once this Convention ought, sooner or later, to adjourn for six months. If we are at present unable to agree upon a basis of federation, that of itself would be a very serious drawback. If, on the other hand, we bring up a bill which is so based upon compromise that the major portion of the colonies will not agree to it, I am afraid we shall also have retarded the cause we are here to advance.

Mr. PLAYFORD: What is the question before the Committee?

Captain RUSSELL: It is not often that I trouble the Convention, certainly not so often as my hon. friend, and if I have not stuck absolutely to the letter of the bill, I have not delved into the pages of history from the time of the ancient Romans, as the hon. member has so often done. I would point out one respect in which I think we have done extremely wrong. We have not had the courage to view the matter completely. We have already passed one clause which will offer a fatal objection to any of the smaller colonies, at any rate, coming within the scope of the federation.

Mr. PLAYFORD: That clause is not under consideration now!

Captain RUSSELL: Then I will not refer specifically to any clause. I will confine myself to general principles.

Mr. PLAYFORD: I rise to order. We are discussing now clause 9 of chapter IV, and I think we ought to confine ourselves to that clause. If we wander over the whole subject of federation, we shall never finish our labours. I am sure my hon. friend, Captain Russell, will forgive me for calling attention to

his remarks. We are doing things on business lines, and we should confine ourselves to the business before us.

The CHAIRMAN: I think the hon. member is quite in order.

Captain RUSSELL: The clause before us is so excessively wide that there is scarcely any subject within the range of federation which cannot be fairly alluded to. There are provisions in the bill whereby the whole power of levying duties of customs and excise is to be taken away from the states and vested in the federation. There are also provisions whereby the power of direct taxation shall be taken from the states and shall be vested in the federation.

Mr. MUNRO: The federal parliament is to be permitted to impose direct taxation!

Captain RUSSELL: Yes, permitted to this extent: We know the major power will be in the commonwealth, and if the customs and excise duties are not sufficient for the federation, what will be left for the states? In addition, the federal government will have power to borrow to any extent it chooses for any purpose. It will, therefore, have the power to pledge the security of all the states, and to take all powers of taxation, while we practically relieve the states of nothing whatsoever. No small, weak state dare enter into a federation like that, because we cannot get away from the sad fact that there are heavy obligations and enormous debts; that interest has to be paid to the bondholder in England. So long as that is the case the bondholder in England will raise such a hubbub and put such pressure on the Imperial Parliament—because the whole of his security will be taken away—that the Imperial Parliament will throw great obstacles in the way of Federation unless provision is made for the payment of the foreign bondholder in a way not provided for here. Under these circumstances this debate upon the extent of the consumption of dutiable goods in one colony or another is futile, and is merely beating the air, and until we come to the true basis of either a proper confederation, with limited powers, or the unification of Australia—which I am afraid we are all aiming at—we are really wasting our time.

Mr. KINGSTON: I only rise for the purpose of putting a question to the hon. member, Sir Thomas McIlwraith, to whose persistent advocacy of his views on this subject I have listened with a great deal of interest. I have in my hand a table headed, "Methods of distributing the surplus revenue," and I understand that this is one of the documents which was prepared under the instructions of the hon. member, Sir Thomas McIlwraith, and which he has plaintively alluded to as having been suppressed.

Mr. MUNRO: No; that was never before the committee!

Mr. KINGSTON: However that may be, the figures in the return are of considerable interest, and I am particularly struck by the first column, headed "Customs revenue which would be raised under the Victorian tariff." What I desire to know is: How are those figures arrived at? Are they arrived at on the basis of the imports at the present time?

Mr. DONALDSON: For 1889!

Mr. KINGSTON: Under these circumstances they are utterly misleading, and worse than worthless. What is the position? The different colonies have different tariffs. In South Australia we have a tariff which has been adopted, not for revenue purposes, but for protective purposes, and which has had the undoubted effect of limiting our imports and increasing our local manufactures. Other colonies are not so situated.

Mr. DONALDSON: What about Victoria?

Mr. KINGSTON: Even with regard to Victoria, I have it on the best authority that our tariff is infinitely more protective than the Victorian tariff; that whilst we collect something like 20 per cent. in the shape of duties on imported goods, owing to the large number of lines which, in Victoria, are admitted free, the percentage which they collect on the total value of their imports does not amount to 11 per cent. When we consider that the adoption of a uniform tariff must alter the existing differences in the amount of imports, is it fair to base a calculation of the probable results of a uniform tariff on the present value of the imports under the different tariffs of the various colonies? It is utterly unfair and misleading. Supposing the South Australian tariff were reduced to the level of the Victorian tariff, what would be the natural result? Our imports would increase. Supposing, on the other hand, that the New South Wales tariff were raised to the level of the Victorian tariff, what would be the inevitable consequence? The imports would diminish. Are we, in total disregard of what must be the inevitable result of a uniform tariff, to be asked to lay down within the four corners of this bill a hard and fast rule based on the existing state of affairs which in the natural order of things must be altered? The suggestion is utterly untenable. If the figures are based on the conditions to which I call attention, they are liable to the criticism to which I have felt it my duty to subject them.

Mr. DONALDSON: Where is the criticism?

Mr. KINGSTON: That to base a calculation as to what will be the contribution of the whole of Australia under a uniform tariff on facts and figures relating to the quantity of imports at the present day when we have varying tariffs which, of course, affect the amount of imports, is utterly unfair.

Mr. DONALDSON: Mere assertion!

Mr. KINGSTON: The hon. member says it is mere assertion. I invite him to prove the fallacy of it. Surely he will recognise this: that the placing of the various tariffs of the different colonies on a uniform basis will alter the inequalities which at present exist, and which are fairly enough attributable to the difference in the fiscal systems which obtain in the different colonies. If the figures are based on the imports of 1889, it seems to me that they are worthless. If they are not so based, I should like to know on what foundation they rest, for it appears to me that they either rest on the worthless foundation to which I have called attention, or they are matters of pure speculation, which can afford us no reliable guide in the course which we propose to lay down as to the distribution of surplus revenue.

Sir JOHN BRAY: The amendment before us is not the one which I intend to move. I ask hon. members to vote against this amendment, with the view of substituting a clause included in the draft bill by the Constitutional Committee on the recomendation of the Finance Committee.

Mr. MUNRO: I understand that if this amendment is carried the Colonial Treasurer of New South Wales will move another which will leave it open to the Parliament to make future arrangements which will be satisfactory to all parties, instead of making the clause hard-and-fast, as it is now. Am I to understand that that is agreed to?

Mr. McMILLAN: Yes!

Sir SAMUEL GRIFFITH: The effect of this amendment, if carried, with the one indicated by the Colonial Treasurer of New South Wales, will be to leave it for the federal parliament to make its own arrangement for the distribution of the revenue when a uniform tariff is established. That will restore the bill exactly to the form recommended by the select committee, with this exception only, that it will be for the federal parliament to say when it shall bring in a new system of distribution.

Question—That the words proposed to be inserted be so inserted—put. The Committee divided:

Ayes, 21; noes, 14; majority, 7.

AYES.

Barton, Mr.	Jennings, Sir Patrick
Cuthbert, Mr.	Loton, Mr.
Deakin, Mr.	Macdonald-Paterson, Mr.
Dibbs, Mr.	Marmion, Mr.
Donaldson, Mr.	McIlwraith, Sir Thomas
Fitzgerald, Mr.	McMillan, Mr.
Forrest, Mr. A.	Munro, Mr.
Forrest, Mr. J.	Rutledge, Mr.
Gillies, Mr.	Thynne, Mr.
Griffith, Sir Samuel	Wrixon, Mr.
Hackett, Mr.	

NOES.

Baker, Mr.	Downer, Sir John
Bird, Mr.	Fysh, Mr.
Bray, Sir John	Gordon, Mr.
Burgess, Mr.	Grey, Sir George
Clark, Mr.	Kingston, Mr.
Cockburn, Dr.	Playford, Mr.
Douglas, Mr. Adye	Russell, Captain

Question so resolved in the affirmative.

Mr. McMILLAN: I now move:

That after the word "shall," line 3, these words be inserted, "until uniform duties of customs have been imposed."

I shall afterwards propose that there be added at the end of the clause the following words:—

After uniform duties of customs have been imposed the surplus shall be returned to the several states in the same manner and proportion, until the parliament otherwise prescribes.

That leaves it open to the parliament to alter it; but it does not necessarily indicate that it shall be altered. I may say at once, in view of the debate that may follow, that I do not think we ought to indicate to the parliament that there is any defect in our handiwork; but we should leave it open to them under the altered conditions and under a tariff which we cannot foresee, to alter the process if they think it right to do so.

Mr. ADYE DOUGLAS: Will the hon. member inform us what was the meaning of the report of the Finance Committee, which stated that when the uniform tariff came into operation the surplus revenue should be distributed according to population?

Mr. McMILLAN: I intended to explain to hon. members that this is a compromise.

Mr. ADYE DOUGLAS: Oh, another compromise!

Mr. McMILLAN: That, while we do not go back entirely upon the report of the Finance Committee, we leave it open to the federal parliament to carry out to the letter, if necessary in the future, that particular report, or any report they like to adopt.

Amendment proposed.

Sir JOHN BRAY: I understand that the hon. gentleman intends afterwards to propose what should be done after the uniform tariff is imposed. The present amendment carries out the recommendation of the Finance Committee, that until uniform customs duties are imposed the surplus shall be returned according to the amount of revenue raised in each colony; but the question comes in, what is to be done after the uniform tariff is imposed?

Mr. McMILLAN: This amendment is merely a suggestion of the hon. member, Sir Samuel Griffith, with a view to make the clause perfect!

Sir JOHN BRAY: I am quite content to take this amendment.

Sir THOMAS McILWRAITH: I should like to understand whether the hon. gentleman is going to take the other too? Unless hon. members opposite are prepared to say they will accept the other amendment, we shall reject this one.

Sir JOHN BRAY: As far as I am personally concerned, I recognise that the feeling of the Committee is against the proposal I made, and I do not want to interpose any unnecessary delay. But I would ask hon. gentlemen who take the view of the case opposed to mine, to say that we will let the federal parliament prescribe what is to be done with the surplus. Do not say that this is to be continued until the act is passed, because the act may never be passed; but say that after the federal parliament has established a uniform tariff, it shall prescribe what is to be done with the surplus.

Mr. McMILLAN: We can fight that out on my second amendment!

Sir JOHN BRAY: I am quite willing to accept the words at the end, "After a uniform customs tariff has been established the surplus shall be returned to each state in such manner and proportion as the federal parliament may prescribe."

Amendment agreed to.

Clause further amended verbally.

Mr. McMILLAN: It has been suggested that the most convenient place for my amendment would be after sub-section 3, and then sub-section 4 will be a separate paragraph of the clause. I therefore move:

That after sub-clause 3 the following words be inserted as a new sub-clause:—"After uniform duties of customs have been imposed, the surplus shall be returned to the several states or parts of the commonwealth in the same manner and proportions, until the parliament otherwise prescribes."

That does not direct the parliament to make the distribution in a different way from that in which we have proposed, but it gives them a free hand in the matter.

Sir JOHN BRAY: I do not want to delay the Committee by enlarging on this point; but I think that those who have carried it against us ought to consider that we are not satisfied with the position, and instead of simply leaving the matter to the federal parliament to deal with if it thinks fit, they should make it the duty of the federal parliament to prescribe how the surplus shall be divided immediately they meet. In the one case we say, "This system can go on as long as you like; you need not alter it"; and in the other which I suggest, we say that the federal parliament shall determine how the surplus shall be divided. They may say that the system proposed is the best system, and continue it; or, on the other hand, they may say that the surplus shall be divided according to population. As we cannot all be satisfied as to the proper mode of distributing the surplus, I think we might all agree that the federal parliament should prescribe what in their opinion is the proper method of distribution. I therefore move, as an amendment on the amendment of the hon. member, Mr. McMillan:

That in line 4, all the words after the word "commonwealth" be omitted with a view to the insertion in lieu thereof of the words, "in such manner and proportion as the parliament may prescribe."

That will bind the parliament to provide some means for distributing the surplus. If they cannot provide a better means than there is in the bill, they will continue that; but if they can provide a better means, they will provide it.

Mr. MUNRO: While personally I should like to assist the hon. member, Sir John Bray, all I can in this matter, I am afraid he is creating an unnecessary difficulty. While we are all anxious to leave the matter to the parliament to decide in a proper and equitable manner, if we insist that their first act shall be to decide it, they will not be in a position to have the necessary experience to make a just and equitable arrangement. I think that the proposal of the hon. member, Mr. McMillan, is more satisfactory than that of the hon. member, Sir John Bray, because it gives the parliament power to make a fresh arrangement if they think fit, and the necessity for such an arrangement is bound to be thrust upon them if there is any inequality or injustice existing, because the representatives from those parts of the commonwealth where it exists will bring it forward. But to compel the parliament to make this arrangement before it has had time to go into the matter carefully, and ascertain whether there is any injustice or inequality, is to cause unnecessary trouble and friction. I should like to vote for the amendment of the hon. member, Sir John Bray, if I could; but I think that the amendment of the hon. member, Mr. McMillan, is more just and equitable, and likely to be more satisfactory to all.

Mr. THYNNE: It seems to me that the hon. member, Sir John Bray, has forgotten some of the clauses which we have already passed. He now proposes that the mode of distributing the surplus shall accompany the bill imposing the federal tariff; but we have already provided that a taxation bill shall contain only one subject of taxation, so that practically his proposal now is that the federal parliament shall not pass the tariff until they have first of all passed a bill by which the surplus is to be distributed. That increases the difficulties in the way of passing a federal tariff at all, and I think would make them so great as to leave in perpetuity the present system of taxation in each colony.

Mr. ADYE DOUGLAS: I presume that the object of the hon. member, Sir John Bray, is to have something of a final character. The amendment proposed by the hon. member, Mr. McMillan, leaves everything just as it is. The colonies of New South Wales and Victoria will retain their tariffs as at present, and nothing can be done in the federal parliament to bring about a uniform tariff; and so we shall go on as we are now for the next ten or twelve years. That is not the object of this Convention. The object of the Convention is to have a uniform tariff of some kind as speedily as possible.

Mr. MUNRO: The amendment of the hon. member, Sir John Bray, will prevent that!

Mr. ADYE DOUGLAS: The amendment of the hon. member, Mr. McMillan, will postpone the day as long as possible.

Sir SAMUEL GRIFFITH: No; but the amendment of the hon. member, Sir John Bray, will do so!

Mr. ADYE DOUGLAS: The amendment of the hon. member, Mr. McMillan, leaves the matter entirely open.

Sir SAMUEL GRIFFITH: It seems to me that putting the sub-clause in the form proposed might lead to the most serious consequences. I anticipate that there will be very little difficulty in framing a uniform tariff. I anticipate also that there will be a great deal of difficulty in determining how to distribute the proceeds. If the parliament agrees to a uniform tariff, either one or two things must happen; it must either, in the same session, by another bill, provide for its distribution, which they may not agree upon in that session, or there will be a large surplus in the hands of the federal government which cannot be distributed at all. Serious difficulties may thus occur.

Mr. DEAKIN: The amendment of the hon. member, Mr. McMillan, says that "after the imposition of duties" this question may be considered by the federal parliament; and the amendment of the hon. member, Sir John Bray, has the effect of rendering it imperative that, after the imposition of duties, the federal parliament should undertake this question.

Mr. FITZGERALD: And coincidentally!

Sir SAMUEL GRIFFITH: Immediately!

Mr. DEAKIN: Neither the word "coincidentally" nor the word "immediately" is used; and as I read the amendments they have neither the effect of requiring the federal parliament to "immediately" nor yet "coincidentally" undertake this task. The only word indicating the time at which it has to be undertaken is the word "after," which is surely indefinite enough for all purposes. I do not wish to occupy time if I am under a misapprehension, but I think the point ought to be made clear, because any concession which can be made to meet the views of the large and important minority who voted in the last division should be made; and when that concession is in the direction of giving greater liberty to the federal parliament, of allowing the commonwealth to settle its own affairs, it has behind it another strong argument to which we are bound to pay attention. I will say nothing more until the exact words of the amendment are read.

Sir THOMAS McILWRAITH: It is circumscribing the action of the federal parliament!

Mr. DEAKIN: I think that is a wrong word to use. It is requiring action from the federal parliament, but it is leaving the federal parliament thoroughly free as to the direction which that action shall take.

Sir THOMAS McILWRAITH: They must take action!

Mr. DEAKIN: They must take action, and the only word which implies time is the word "after." If there is any such implication, as the hon. member, Sir Samuel Griffith, fears, I am sure the hon. member, Sir John Bray, will be perfectly willing to alter his amendment. As I understand it, all that is desired is simply to require the commonwealth to deal with this question as soon as it conveniently can after the passing of a uniform tariff. It will be an easy matter to adopt the necessary words to remove any further implication from the amendment, and by that means we should have the great advantage of rendering this clause acceptable to the Committee as a whole.

Sir SAMUEL GRIFFITH: The hon. member, Mr. Deakin, has lost sight of this point, that we have laid down a fixed rule so long as there are various customs tariffs: but as soon as there is a uniform tariff we wish to let the federal parliament make any rule it pleases. We must, however, provide for the interval. The amendment of the hon. member, Sir John Bray, leaves no interval, but it leaves the surplus incapable of distribution until the federal parliament has made a new law on the subject.

Mr. DEAKIN: As I understood the hon. member, I did not think he intended that.

Amendment upon the amendment negatived.

Amendment agreed to; clause, as amended, agreed to.

Clause 11. Preference shall not be given by any law or regulation of commerce or revenue to the ports of one part of the commonwealth, over those of another part of the commonwealth, and the vessels bound to or from one part shall not be bound to enter, clear, or pay duty, in another part.

Amendment (by Sir SAMUEL GRIFFITH) proposed:

That the word "bound," line 5, be omitted with a view to the insertion of the word "required."

Mr. BURGESS: Before the amendment suggested by the hon. member, Sir Samuel Griffith, is put, I think it would be well that he should explain exactly how he would obtain the statistics which will be necessary from the various colonies, in order to distribute the customs revenue on the basis which has just been agreed to, if we are to give any effect at all to the clause under consideration. I take it that what we have just agreed to, instead of allowing trade to be free, will embarrass it more than it has ever been embarrassed in the past. I am confident of that; and the result of the working will prove that the statement I am making is correct. If, in addition to that, you pass this clause, by which any vessel leaving one port and sailing to another will have to enter out, or clear, or report, you will never be able, I maintain, to obtain the information which will be absolutely necessary in order to enable you to give effect to the clause which we have just agreed to. Again, I would point out that cases will arise in regard to dutiable goods, goods carried under bond from one colony to the other, in which it will be absolutely necessary for a vessel to be entered out and cleared in the ordinary way in order to prevent smuggling or anything of that kind.

Sir THOMAS McILWRAITH: I do not think this clause has been sufficiently considered, and it is quite open to the objection raised by the hon. member, Mr. Burgess. Take the case, for instance, of a vessel—and the whole of the American trade is conducted very much upon this principle—coming from Boston to Melbourne. She delivers some of her cargo there, and goes on to Sydney, and afterwards goes on to Brisbane. How do the last three lines of the clause apply in a case of that kind? Why should she not

discharge her cargo, as she does now, in Melbourne or Sydney, pay the dues, and go on to the next port, and pay dues there too? It has also been overlooked that the dues referred to in the clause are part of the local revenue. What business have we to say that the state shall not impose a local revenue? We have only taken charge of certain powers connected with navigation; we have not taken over the ports of a colony, and we have no business to take over the revenue of a colony.

Sir SAMUEL GRIFFITH: This is one of the celebrated clauses in the American Constitution, one of the few clauses taken from it, and I am very much disposed to think it would have been better if it had stopped at the end of the first sentence. I certainly think that it would be better to omit all the words after the word "commonwealth."

Mr. DIBBS: This clause provides for free-trade between the ports of the various colonies. A simple provision for a similar purpose was made by the colony of New South Wales eight or nine years ago in one of the Marine Board bills. It was enacted that a vessel paying either tonnage or harbour dues in one port should be exempt from paying them in any other port in the colony. I think that the word "duty" in this clause is a mistake, and that either "tolls" or "harbour dues" should be inserted in its place. We would to a certain extent be robbing various states of a portion of their revenues; but for the good that would result it would be as well to make the law as it is clearly intended it should be, by striking out the word "duty." Then a vessel that paid dues at Sydney would be exempt at Melbourne, Hobart, or any other port in Australia. The similar rule which we made here eight or nine years ago has answered very well.

Mr. PLAYFORD: I think we had better leave the words as they are. They have been in the American Constitution for over a hundred years!

Mr. DIBBS: Can the hon. member tell us what they meant a hundred years ago?

Mr. PLAYFORD: We know what they mean to-day!

Sir SAMUEL GRIFFITH: This is a very important clause. Vessels will really be bound to enter. I do not know what the term "enter" exactly means; but the captain will have to go to the custom-house, and state that he is going to start, if only for statistical purposes, and he will have to take out shipping papers when he goes away, and pay some kind of dues. I move:

That the clause be amended by omitting all the words after the word "commonwealth," line 4.

Mr. DIBBS: I would ask, supposing we had one gauge of railway through to the Victorian capital, would it be necessary for a train to "clear" when she arrived on the border?

Sir JOHN BRAY: Railways do not come from foreign parts!

Mr. DIBBS: We are not going to call Hobart a foreign part. If federation is brought about, will Melbourne be a foreign part? I am illustrating the matter. It is said that for statistical purposes it will be necessary for vessels to have intercolonial clearances. Formerly a vessel carrying 100 tons of coal from Newcastle to Sydney entered here, and after she had discharged her cargo "cleared," before going back to Newcastle. All this gave needless trouble to the captain. But now a vessel takes out a clearance only once a year. If we have trade between Sydney and Melbourne across the border without any interference by customs laws, or for statistical purposes, why should we not have trade equally free between Sydney and Hobart? A citizen of Sydney has as much right to take a vessel free into Hobart or Melbourne as to cross the border free of duty by rail. Information for statistical purposes can be obtained in another way. The clear object of intercolonial free-trade is to simplify trade in every possible shape, and ships should be allowed to go from one port in the colonies to another without having to take out clearances or make entries each time.

Mr. MUNRO: I understand that the reason why the amendment was proposed was that it does not bind the federation to a certain course, but leaves the federation to make its own arrangements. That is really what it does; it does not compel them to do anything.

Mr. THYNNE: I sympathise with the hon. member, Mr. Playford, in his respect for this clause, because it has been taken from the United States Constitution. I think we ought to hesitate before we eliminate the latter part of it. The hon. member, Sir Thomas McIlwraith, suggests the difficulty in the case of a ship from Boston discharging part of her goods in Melbourne or Sydney, or in any other port.

Sir THOMAS MCILWRAITH: The same thing applies to all the mail ships!

Mr. THYNNE: Under this clause those ships would not be affected in the slightest degree. In the words "and vessels bound to or from one part shall not be bound to enter, clear, or pay duty in another part," the words "another part," refer to some place other than the port from which the vessels are bound or the port to which they are going. The hon. member, Mr. Dibbs, has really pointed out an instance that this clause is intended to provide for: that is, that a vessel coming from Melbourne to Newcastle shall not be required to pass entries at Sydney, nor that any regulation of that kind under the constitution shall be permitted which would give a preference to any one port or part of a district over another. I think that the words "another part" apply to some place other than either the place from which the ship is coming or that to which she is going. In the place from which she is coming she has had to pay her ordinary dues, and she will have to pay in the place at which she arrives. This clause has come down really as the result of some of the oppressive navigation regulations of the old time in the United States. That is no doubt the origin of it, and with the hon. member, Mr. Playford, I have every respect for the operation of this clause as preventing what has happened in the past, and what may happen in the future, and to keep our constitution free from the danger against which the Americans thought it necessary to provide.

Amendment agreed to; clause, as amended, agreed to.

Clause 13. The parliament of the commonwealth may, with the consent of the parliaments of all the states, make laws for taking over and consolidating the whole or any part of the public debt of any state or states, but so that a state shall be liable to indemnify the commonwealth in respect of the amount of a debt taken over, and that the amount of interest payable in respect of a debt shall be deducted and retained from time to time from the share of the surplus revenue of the commonwealth which would otherwise be payable to the state.

Sir JOHN BRAY: With reference to this clause, hon. members will be aware that I intimated a short time ago that in my opinion we ought to throw on the commonwealth immediately the responsibility of the debts of the various colonies. It is quite true that so far as relates to the colonies themselves it will be necessary to make some adjustment of the amounts that have to be borne by the commonwealth; but, still, in order that the states of Australia may reap the benefits to which they may fairly look forward, from federation, it seems to me absolutely necessary that we should provide that the commonwealth shall undertake the responsibilities that have been incurred. I therefore propose to move in substitution for this clause, a clause which has been handed round, in print, I believe, to hon. members, and which reads as follows:—

The commonwealth shall be liable for the public debts of each state existing at the time of this act coming into operation, and each state shall be liable to the commonwealth for the amount (if any) by which the public debt owing by the state shall exceed the amount of pounds per head of the population of such state.

It has been suggested that it would be well to make each state liable for the full amount of its debts, and not to provide, as I propose to do here, that a certain fixed amount of so much per head of the population should be intrusted entirely to the commonwealth. I think, however, it is preferable that we should do it in the way which I suggest here, and should distinctly say to the commonwealth, "We intend to saddle you with the responsibility of paying the interest on these debts, and the debts themselves up to a certain amount to be agreed upon, at per head of the popula tion." If we do not do that we shall, as has been indicated by several hon. members throughout this discussion, be intrusting the commonwealth with a revenue which will largely exceed their requirements; and which will cast upon them the very difficult and delicate task of determining how it is to be returned. It seems to me it would be far better for us to say at once, "You have to undertake not simply the collection of a certain amount of revenue, but you have also to undertake a certain amount of liability in connection with that revenue. We shall leave you to determine how you can fairly do this best in the interests of all the states." In carrying this amendment, I would point out that we do not in any way interfere with the right of each state to borrow what it requires for its own purposes. I, for one, would not be inclined to do that. I feel that each colony has its own future to work out, and must be allowed its own way of working it out, and that the federal government is not to say to all these different states, "You have borrowed so much money, and you must not borrow any more." But I say that we ought to provide that the federal government shall undertake the responsibility of the debts of the various colonies at the time this bill comes into operation, and if any other clauses may be necessary to adjust this more definitely than my amendment, I trust they will be agreed to. But I do ask hon. gentlemen to consider the fact that, if we trust the commonwealth with the collection of a large amount of revenue, the least we can do, in order to place the treasurers of the different colonies in a fair position to calculate their revenue and expenditure, is to say that, while a certain amount of their revenue is taken from them, at the same time they shall be relieved of a certain amount of their expenditure, which amount can be calculated so as to act fairly and equitably between the various colonies. In my opinion, if we neglect to take this opportunity to do this we shall fail in the duty we have undertaken. I am quite willing to admit, as has been stated by the hon. member, Sir Thomas McIlwraith, that, when the Finance Committee were considering this matter, I was not prepared at once to ask the federal government to assume this responsibility. But I was one of those who suggested that we should include a clause in our report — the clause which is now before the Committee—which would empower the federal parliament at some future time, with the consent of the different state parliaments, to take over our debts and liabilities. It seems to me, after fully considering the matter, that in simply empowering them to do this we are not doing all that we ought to do—that we ought not to empower them, but that we should require them to do it as far as we fairly can in the interests of the states and of the federal government itself. As between the commonwealth and the outside public, the commonwealth will be liable for all the debts, and as between the commonwealth and the states, each state will be liable for an amount which exceeds so much per head of the population. The commonwealth is to look to each colony for its portion of the debt, and for its proportion of the interest on the debt, and so far as the treasurers of the different states are concerned they will know that not merely a large amount of their revenue is taken away, but that a large portion of their liability is removed from their shoulders. It will save a great deal of confusion if we can agree to some such scheme. I trust the Committee will agree to some such scheme as that indicated by my amendment, because I am one of those who feel that we ought not simply to leave it to the federal government to determine how they shall spend the large amount with which they are intrusted; but that we shall, as far as we can, form an equitable mode of distribution, at the same time as we intrust it to them. I therefore move, in the first instance :

That the clause be amended by the omission of the words "The parliament of," line 1.

Sir SAMUEL GRIFFITH : Are we to understand that the whole question of taking over the debts is to be discussed on this amendment ?

Sir JOHN BRAY : Yes !

Mr. DIBBS : Why not move to omit the whole clause for the purpose of putting something else in, so that we may discuss the whole question ?

The CHAIRMAN : The parliamentary course would be to negative the clause, and to propose a new clause subsequently.

Amendment proposed.

Mr. DEAKIN : The extreme gravity of the proposal which is now before the Committee is scarcely likely to be undervalued. This is a deliberate proposal to saddle the commonwealth at the outset of its career with a debt of considerably over £100,000,000.

Mr. MUNRO : £180,000,000 !

Mr. BAKER : £143,000,000, excluding New Zealand !

Mr. DEAKIN : With a debt of nearly £150,000,000, even excluding New Zealand. Then, sir, it is perfectly clear, and I take it that the hon. member, Sir John Bray, is seized of the fact, that his amendment, if carried as a whole, would only be the first of a series of clauses which would be required to deal with this question in its consequential aspects. Nevertheless, it raises the financial issue at once. The prospect is one from which, like the hon. member, Sir John Bray, I must confess, I would have shrunk at an earlier stage of our proceedings; but in listening to the debates which have taken place on the financial questions in connection with the commonwealth, especially in listening to the discussion to-day in connection with the surplus, the disposal of which has proved so great a task to the Committee, I must confess myself prepared to take a very much more favourable view even of this startling proposition than I should have done a few days ago. The more we consider it, the more I think we shall agree that the plan which we submit to the people of the various colonies, by which their governments are deprived of an immense source of revenue, and by which the commonwealth is endowed with an enormous surplus from the very day on which it comes into existence, is certain to be used against us by all opponents of this bill. It will be said that the several states have a poor guarantee of receiving anything if you intrust the commonwealth with such powers as are embodied in this measure—if you intrust it with this amount of money, and require it, before returning anything to the colonies, to discharge any and all of its obligations. We shall be told again and again by those who desire to oppose the commonwealth that the colonies will, in the course of a year or so, see nothing of the customs revenue they are now asked to surrender. Upon this point I think the remarks of the hon. member, Sir Harry Atkinson, a day or two ago were extremely pertinent, as they were also the chief cause of modifying my own opinion on the subject. The position he put is one that will recommend itself to those friends of the commonwealth who desire at the outset that its policy shall be one of strict economy. Perhaps it would be premature to pass too positive an opinion at the present moment; but assuming that calculations were sufficient to assure us that we were not undertaking too extreme a step, it certainly would be an enormous advantage in commending this measure

to the people of the various colonies if, instead of their being asked to surrender an immense revenue, without any definitely determined return, they were shown that the revenue taken from them is at once applied to purposes in which they are immediately interested — that if, on the one hand, we deprive them of that source of revenue which keeps their coffers full, we, on the other hand, deprive them of liabilities which empty their coffers. I believe that certain calculations have been prepared which tend to show that it would be possible, even with a customs revenue based upon a tariff such as that of Victoria, for the federal parliament to discharge the whole, or almost the whole, of the interest on the debts of the colonies of Australia, if not of Australasia. That being the case, the question is certainly worthy even at this late stage of our deliberations, of the most careful consideration of the Committee, whether on the faith of such calculations we might not take a bold step that would put us before our constituents in quite a different position—in the position of recommending a commonwealth that from its commencement will have liabilities requiring from those who may be intrusted with its direction the strictest scrutiny of every particular of public expenditure, and thus imbuing them at the outset of their career with habits of close economy. This would be a great recommendation from both points of view—as relieving the states immensely, and as, in another sense of the term, relieving the commonwealth of that surplus about which we have had such a warm debate. It may be necessary, before we finally commit ourselves to the proposal that other clauses, to make the scheme complete, should be adopted. But the difficulties we have had to encounter upon the floor of this chamber with regard to the surplus are trifles compared with the difficulties we shall have to encounter on the hustings when we are face to face with our constituents and with the opponents of federation. This question of the finances will be used against us to the utmost extent, and I think we should have a good answer if we were to adopt this proposal, and that we should at the same time be giving to federation a great momentum. The desire of being relieved of a large measure of liability will operate as powerfully with the colonies in favour of federation as a design to deprive them of customs revenue may meet with resistance. If this proposal can be justified, I take it that this bill will go commended to the various colonies much more than it would in its present aspect. I rose in default of other hon. members, who did not appear willing to debate the question at so early a stage. I trust the treasurers of the various colonies will give us the benefit of their experience, because if this proposal be as feasible as it now appears, it will be a most advantageous one to adopt in the interests of the commonwealth.

Mr. McMILLAN: I should like to explain my position in this matter, because it is perhaps rather a curious one. I thoroughly believe in the consolidation of the debts of the colonies ultimately; but I think we have just reached that stage of our proceedings when we are liable to go too far. I believe we are going beyond the principles we ought to lay down for ourselves in dealing with the question of federation. My hon. friend, who has just resumed his seat, sees very clearly, as possibly do other hon. members, that if we take over the debts of the colonies, and make ourselves liable for the interest, we shall get rid of this dangerous surplus. I am quite willing to confess that in the hands of some treasurers that surplus would be a very great danger indeed. But there are a great many consequences arising out of such a course as is proposed. In the first place, if you take over all the debts you must regulate the borrowing in the future, and with colonies under such different conditions it seems to me that if we now enter upon this dangerous ground we shall open for ourselves a battery of opposition on the part of some of the colonies which it will be absolutely impossible to silence. In dealing with this question as a whole, what I take it we have to do in regard to salient questions of great importance in connection with the future is to see that the federal parliament has power to deal with them. But these questions, which it may be necessary to deal with in the future, are great bones of contention at the present time, and it would be foolish for us, in view of the necessity to make this bill palatable to our parliaments, to enter upon new departures which may receive the utmost opposition.

Colonel SMITH: Who is to oppose them?

Mr. McMILLAN: I am endeavouring to explain in the most ordinary English I can adopt. Take the position of New South Wales as compared with that of Victoria. Victoria is a comparatively consolidated colony; it has a railway system which, at any rate for certain purposes, has practically opened up the whole of its territory; but New South Wales and Queensland are practically only beginning to open up theirs. They have done a great deal. We, in New South Wales, have done a great deal; but we have in hand at the present moment schemes with reference to our railway system which will involve loans, and the very policy we are now adopting may be looked upon in the future as an anti-federal policy. Consequently, if you attempt to take over the debts as they stand now, you must carry consequential clauses that will deal with the future policies of the colonies.

Mr. DEAKIN: Why?

Mr. McMILLAN: Certainly, because you cannot have two classes of debts.

Mr. DEAKIN: Why not?

Mr. McMILLAN: Surely the hon. member, if he has any pretension to a knowledge of finance, does not believe that we should have a consolidated commonwealth debt in respect of works already carried out, and that we should have new debts, at the same time, on the part of the various provincial parliaments.

Mr. DEAKIN: We are bound to have that in any case!

Mr. McMILLAN: The only advantage of consolidating the debts of the colonies is that all borrowings for large undertakings may be under the auspices of the federal government. The hon. member does not surely propose for one moment that we should consolidate these debts, amounting in the aggregate to £181,000,000, and that we should then allow New South Wales to expend £4,000,000 or £5,000,000 of loan money borrowed under different conditions and guarantees. Let the hon. member consider what that would open up, and he will see that it is absolutely impossible. I appeal to any financial man. The whole benefit arising from the dealing with this question consists of the unification of stock. Of course, there will be municipal loans, guaranteed by the provincial governments or raised in other ways, but for all large undertakings, if once the federal parliament takes over the present debts, it must negotiate and control future loans.

Mr. DEAKIN: Why?

Mr. McMILLAN: If I am liable for certain debts, if I am liable for money borrowed for certain undertakings, surely I must have control of those undertakings more or less. Surely, before a loan would be projected by one colony, it should have the recognition of the federal government. Then look at what you would open up. Not that I say it may not be opened up in the future—but it will be a very debatable question in the different colonies. You open up the question with regard to the great public undertakings of the different colonies being canvassed in the federal parliament. I do not say that it will not come to that; but the federal spirit will have to be in existence some years, and will have to grow beyond its present proportions, before that will be assented to.

Mr. DIBBS: If we agree to this clause, we may as well procure a hundred weight of dynamite and blow the whole thing up!

Mr. McMILLAN: That would be a veritable bomb-shell. If we simply give, as this bill gives, to the federal parliament the right to negotiate with the other parliaments—and I believe a great deal will be done in future by negotiation, and that a great deal will be undertaken by negotiation that is not provided for in the four corners of this constitution—and if we imply by this clause that such a thing may be a benefit in future to all the parties concerned, we shall go as far as we possibly can. I warn hon. members who are anxious to see this federation carried into effect, that if they vote for the amendment they will agree to a proposal which will do more to shatter the whole fabric we have been trying to erect than almost any other point of contention we have had before us could effect.

Mr. DEAKIN: Why?

Mr. McMILLAN: I even go so far as to say that I hope the loans will be consolidated, and that some arrangement may be made in the future which will be consonant with the views of the different colonies. But, at the same time, I see that that very project is surrounded with enormous difficulty, and that it is not we who have to thrash out that difficulty. It must be a matter for the future. I certainly think that those who are in favour of a bill which will be acceptable to all the parliaments of the different colonies should negative the amendment now before us.

Colonel SMITH: I confess I am somewhat surprised at the remarks of the hon. member, Mr. McMillan. At the Melbourne Conference, and in the opening debate at this Convention, the hon. gentleman was strongly in favour of some course of this kind being adopted.

Mr. McMILLAN: In the future, certainly!

Colonel SMITH: He stated at Melbourne that he had not the slightest doubt that in the course of time the dominion parliament would be able to borrow money not alone in London, but on any of the bourses of Europe at from ½ to 1 per cent. less than the price at which individual colonies can borrow now. That would ultimately result in a very large saving. It is intended to hand over to the federal parliament a revenue of £9,000,000, while the expenditure of the federal government would only be about £2,250,000. The balance would have to be refunded to the different states. I contend that each colony might retain all its railways, while the customs revenue, if properly applied by the dominion parliament, would not only pay the working expenses of the dominion, but would also pay the whole of the interest on the public debt. If the hon. gentleman had said that we ought to divide the loans which have been expended on reproductive works from the loans which have been expended on non-reproductive works, I could have understood him. It might be necessary to divide the loans in that way, and let the various colonies be responsible for the money expended upon the non-reproductive works. I quite agree with the hon. member, Sir John Bray, that we ought not to ask the federal parliament to refund any of the revenue; but it should take over obligations from the states, such as the payment of interest on the debts which have accrued. We ought to place ourselves in such a strong position that the dominion parliament could guarantee loans. For instance, they want a railway in Western Australia about 800 miles long. If that project commended itself to the dominion parliament, they might say, "On certain conditions we will guarantee that loan for you." That would make a difference of at least ½ per cent., and possibly more on the amount borrowed, and the expenditure would do more to open up that enormous territory than anything else that could be done. I hope hon. members will not be led astray by the hon. member, Mr. McMillan, because he blew hot at Melbourne, and he blows cold here.

Mr. McMILLAN: No; I am quite consistent!

Colonel SMITH: He has given us no reason whatever in support of his views. He says that all this may be done by and by, but when we open the door for him he wants to close it. Such a proposal would be of advantage not only to the larger colonies, but to the whole group, and I hope hon. members will not hesitate to prepare the way by adopting the amendment of the hon. member, Sir John Bray, so that the federal parliament may have the power to do this if they think it is desirable. The hon. member, Mr. McMillan, talked about opposition to this proposal. Who will oppose it? Will any of the parliaments oppose a proposal that the colonial debt should be taken over and consolidated? Not a single parliament in the whole group would do so. I am surprised that the hon. member, Mr. McMillan, who is a financial man, should raise objections to this proposal after speaking so strongly in favour of it at Melbourne.

Mr. McMILLAN: Perhaps the hon. member will allow me to explain that what I said was that the union of the colonies would very largely increase their credit. I still think that whether or not the debts are consolidated the mere fact of federation will increase the credit of the colonies.

Colonel SMITH: All I contend for is that the power should be given to do this. The hon. member, Mr. McMillan, said that if this clause were passed, a number of consequential clauses ought also to be passed. Why should not that be done, and why should not the debts be consolidated? When the colonial debts become due, and a fresh loan has to be floated, it would be infinitely better if that operation were carried out by the dominion government. One hon. member has gone so far as to say that we have already reached the limit of our borrowing powers. If so, it is far better that the whole of the debts should be dealt with by a federation.

Mr. DIBBS: It is too bad for the hon. member, Colonel Smith, to taunt the hon. member, Mr. McMillan, with what he said at Melbourne last year. He then spoke under the influence of the very generous treatment which the New South Wales representatives received there. The delegates were not then bound down to particulars. It is when you come to the details of a bill that you have to call things by their names. With the details which are now placed before us it cannot surely be expected that the hon. member, Mr. McMillan, will speak in the "hifalutin" strain in which he spoke at Melbourne. This is a hard matter of fact. What would be the effect of this proposal on New South Wales? And the hon. member, Mr. McMillan, knows perfectly well that if he proposed in our parliament a constitution with such a clause in it as that now suggested—I do not know whether the parliament would be carried out on a shutter, but the hon. member certainly would be. The Parliament of New South Wales is not at present prepared to federate its debt. I notice that hon. members have been talking about what a nice convenient thing it would be if the commonwealth were to take over the debts of the colonies; but what about the other important side of the question? What about federating the assets? That is the most important question. The people of New South Wales believe that as far as the assets are concerned they stand in a position superior to that of even our wealthy neighbours in Victoria. I suppose the difference in the London market is 97 and 103 for 3½ per cent. debentures.

Mr. MUNRO: Nothing like it!

Mr. DIBBS: I should be prepared to guarantee the floating of a Victorian £3,000,000 loan if it was wired to England that the Convention had unanimously agreed that the commonwealth should take over the

debts. I think the Convention is going decidedly too far. This clause should come out of the bill altogether. We started on our enterprise of endeavouring to frame a constitution in a moderate way. The modesty of the speakers, and the small length which they proposed to go in inserting merely the thin edge of the wedge of federation people could appreciate. The idea gradually grew step by step until unification became the object. That was the idea with which we started; but it appears that as hon. members found themselves away from the public eye they began to talk wildly and boldly, and now they propose that the commonwealth shall start with a debt of £181,000,000. The proposal is so diametrically opposed to the interests of New South Wales that I am certain that if it were stated that the government proposed to submit to parliament a scheme of federation, our debts to be thrown in, and with our debts our assets, the thing would be scouted on every hustings in the country. The matter is going too far. If we sat another month or two we should have the hon. member, Mr. Deakin, coming forward with a proposal to do away with the commonwealth of Australasia, and to have a flag of our own. That will come next. We are going too far in asking that the federal parliament should take over the whole of the public debts. I agree with the hon. member, Mr. McMillan, that that will come in time. No doubt our public debts will become federated, but to attempt now to rush the people of the various colonies to give up the whole of their assets, and tie their hands as to future borrowings, limiting their right to so much per head of the population, would be an outrage on the people, which, as far as this colony is concerned, would make any attempt at federation an impossibility. I am certain that it would only be necessary to nail up on the hustings the announcement that it was proposed to hand over the assets of New South Wales to a federal parliament ——

Sir JOHN BRAY: There is no such proposal!

Mr. DIBBS: How stupid we are in New South Wales! If you take over the liabilities surely you must take over the assets with them!

HON. MEMBERS: No!

Mr. DIBBS: It would be a farce for the commonwealth to accept liabilities amounting to £181,000,000, and to have no security over the assets. The thing is an absurdity on the face of it. It only requires that we should sit a little longer for some more foolish proposal to be made. The assets must go with the liabilities; you cannot separate them. Our liabilities at present are secured on our assets; and if the commonwealth takes over the liabilities, they want something more than the revenue derived from customs duties to cover the liabilities.

Mr. DEAKIN: The customs revenue is more than the interest now!

Mr. DIBBS: Some figures were given us by Sir Thomas McIlwraith, and I have a paper here which contains the amounts.

Mr. DEAKIN: The interest is under £7,000,000, and the customs revenue is £8,600,000!

Mr. DIBBS: The interest is shown by the paper in my hands to be £7,545,000, with loans amounting to £181,847,271.

AN HON. MEMBER: That includes New Zealand!

Mr. DIBBS: What are the New Zealand delegates here for? I presume that the federation is to include the whole of Australasia, or those gentlemen would not be here. The total loans outstanding is over £181,000,000, and the interest payable is £7,545,000.

Mr. DEAKIN: Turn to page 32. The total amount of the import duties is £8,600,000!

Mr. DIBBS: How are the expenses of the federal government to be defrayed?

Mr. DEAKIN: They would have £1,500,000!

Mr. DIBBS: Then you are going for some form of property taxation; that is what will follow.

Colonel SMITH: No!

Mr. DIBBS: Will the hon. member, Sir Thomas McIlwraith, say now what the proposed cost of the federal government is to be?

Sir THOMAS MCILWRAITH: It was the Treasurer of New South Wales who stated it!

Mr. DIBBS: I do not believe the Treasurer of New South Wales. I am told that the expenses of the federal government will be £2,250,000 per annum, and there would be £7,500,000 for interest, making altogether £9,750,000, and the customs revenue under the tariff will be about £8,700,000.

Mr. DEAKIN: That is the present tariff. We shall have a great deal more!

Mr. DIBBS: It clearly shows that property will have to be taxed considerably to make up the deficiency.

Mr. DEAKIN: No; you have the post-office, too!

Mr. DIBBS: Our post-office and the post-offices generally are not sources of income.

Mr. DEAKIN: And you will have a saving in the interest!

Mr. DIBBS: I admit that when the day comes when the colonies of Australia are united as the United States of America have united, our public debt will be more saleable in the markets of the world where the money comes from. But then the whole thing would have to be changed to accomplish that. At present we are dealing with a federation which is not to be a union, but only a loose form of federation, and, in addition to that, it is proposed that the commonwealth should take upon itself a most extraordinary responsibility in regard to our debts, whilst it is given no control over the assets. To my commercial mind, if you assume liabilities you must have the control of the assets. Say what you will, if the liabilities are pooled the assets must be pooled to. I may, by way of warning, say, that if you want to excite the antipathy of the whole of New South Wales towards federation, the idea of handing over our liabilities to the commonwealth, and with them the assets of the country, will produce that result.

Mr. CLARK: No!

Mr. DIBBS: The people in England will look at the matter with a clear eye. They will say, "These colonies are pooling their debts for the purpose of getting cheaper money. What assets and what security have they?" We will reply that we offer the security of the whole of Australia; therefore the commonwealth if it takes the liabilities must take also the assets. I remember a friend of mine, who was an Irishman, going once to a gentleman in charge of one of the English banks established here, and wanting to satisfy him that he was entitled to borrow from the bank a loan of £40,000. The banker very naturally asked him for a balance-sheet showing his assets and liabilities. He brought a list of his assets, and the banker at once said, "Now, I want to see a list of your liabilities," and the Irishman turned round and said, "Do you want to insult me?" We should insult the people of England if we attempted to consolidate our debts and did not show them that the assets were there attachable to the liabilities. Any consolidation of debts must be accompanied by a consolidation of assets. The people of New South Wales will be no parties to allowing their assets to be thrown into one common pool—at least at the present stage.

Mr. BIRD: Nothing that has taken place since the Convention met has astonished me so much as the position now taken up by the New South Wales delegates, Mr. McMillan and Mr. Dibbs. Prior to the light thrown upon Mr. Dibbs' opposition to the proposal to take over the whole of the debts, which he indicated in his belief that the assets of the colonies must go with the liabilities thus taken over, I was really wondering on what grounds either he or Mr. McMillan could raise any objection or have any fear in regard to the consolidation of the debts.

Mr. McMILLAN: I never said that the assets and the debts should go together. I said that future expenditure would have to be controlled!

Mr. BIRD: If the hon. gentleman objects on another ground than that of Mr. Dibbs, I can only say that I am still more surprised that he takes up the position he does; because it seems to me that there is some ground of objection to handing over all the liabilities of New South Wales if all the assets are to go with them; but on what ground objection can be raised to the liabilities being taken over if the assets are to be held by the colony itself, I am at a loss to see. Nothing but gain can accrue to New South Wales or any other colony by allowing the commonwealth to take over all the liabilities. Surely, as soon as it is possible to convert the existing loans from the somewhat high rates which some of them now bear to lower rates—a process which may be taken in hand even before some of the bonds mature, and which certainly can take place as the obligations fall in—as soon as that can be done, there is no doubt that the commonwealth will be an infinite gainer. In the course of time we shall save, in the matter alone of interest on the public debts of the colonies, sufficient to cover the whole of the expense of the federal government, apart from the services and outside matters of that sort belonging to the conduct of the federal government. Surely the prospective gain of £500,000 or £750,000—or it may amount in the course of time to nearly £1,000,000—in the matter of interest alone, is a saving in connection with the debts of the colonies that ought to lead every member who has to do with the financial affairs of any colony, to jump at once at the proposal to hand over the debts to the commonwealth. The hon. member, Mr. McMillan, seems to fear that this will interfere somewhat with the future borrowing of the various colonies. I cannot see how difficulty is going to arise even there. If, a few years after the debts existing at the time of federation were taken over, the hon. gentleman, as the treasurer of New South Wales, desired to borrow £4,000,000 or £5,000,000 for public works, and knew that by getting the guarantee of the federal government he could secure that loan at ½ per cent. less than by going into the market on his own account, surely the people of New South Wales would raise no objection to the federal government being asked to borrow the money.

Mr. McMILLAN: Yes, but under this proposal you could not borrow at all without their leave!

Mr. BIRD: Under the proposal as it now stands provision is simply made for taking over the debts.

Mr. McMILLAN: The present debts!

Mr. BIRD: Yes.

Mr. McMILLAN: It would be absurd to take over the present debts without also taking over future debts!

Mr. BIRD: I quite agree with the hon. gentleman that the words seem to indicate a necessity for something further, and we shall have to insert a clause which will provide for dealing with debts of states which may come in afterwards, for the consolidation of those debts, and also for securing further loans for the states already in the federation who may want to increase their indebtedness for the purpose of extending their public works. That is an additional clause which, I think, we will all agree to insert. That being so, I fail to see on what ground the treasurer of any colony in the group can object to the commonwealth taking over the liabilities as now proposed. The hon. member, Mr. Dibbs, appeared to be unable to see, notwithstanding the interjections that were thrown out while he spoke, that the liabilities of the colonies could be taken over while the assets in the shape of railways and other reproductive works were not taken over. If we hand over to the commonwealth sufficient revenue for the purposes of the general government, and of paying the interest on all the debts, surely in a sense we give it assets enough. It needs nothing more. It has been stated by two or three hon. members that figures can be produced showing that if we hand over the whole of the customs revenue to the commonwealth, it will not only have ample funds to pay interest on the debts now existing, but also sufficient for the purposes of federal government. Perhaps I may be allowed to refer to some figures which I have taken the trouble to prepare in order to show that in almost all the colonies the customs revenue is more than ample to cover the interest on the debt. In New South Wales the customs and excise revenue, taking as a basis the year 1889, amounts to £2,200,000, while the total interest on the debt is only £1,800,000, leaving a balance of £400,000, which is more than sufficient to pay the share of the colony in the cost of the general government. In Victoria we find a still better condition of things, for while they contribute a revenue of £3,040,000, the interest on their debt is only £1,672,000. Queensland is in a similar position, her customs revenue being over £200,000 more than the interest upon her debt. South Australia is an exception; the revenue from her customs and excise amounts only to £573,000, while the interest on the debt is £878,000. I apprehend that a large proportion of the public debt of South Australia has been incurred in the construction of the trans-continental telegraph line, and as that will be one of the items of property to be taken over by the commonwealth in connection with the postal and telegraph departments, South Australia will be relieved to a very large extent of this excess of interest on the debt over the revenue provided. And so I might go through all the colonies. Taking the figures as I have taken them, the fact is patent that there is more than enough revenue provided by the colonies at the present time to pay the whole of the interest on their public debts without handing over any other assets whatever, and it is perfectly plain that, in order to continue this condition of things, whatever alterations are made in the tariffs taxation must be imposed only to such an extent as to keep up the relative proportion between the two amounts. I feel very strongly with those who have held that in giving over all these revenues to the commonwealth we ought to hand over with them liabilities equivalent thereto, and that it is most dangerous to leave in the hands of the commonwealth such a large surplus as there will be unless these debts are handed over to it. For these reasons, which I trust will commend themselves to the judgment of the Convention, and especially of those members of it who have expressed their strong opposition to the proposal of the hon. member, Sir John Bray, I feel compelled to support to the utmost of my power the amendment which he has moved. The only question about which I am uncertain is whether we should fix the amount which the hon. member has left blank. My own idea is that we should endeavour to fix it at some such sum as £40 per head, which represents the minimum indebtedness of any of the colonies; but that is a matter of detail which may be left out of consideration; though, if we leave it open to the federal parliament to decide, we incur some of the dangers that we want to avoid by throwing the whole of the debts of the colonies upon the commonwealth; because the federal parliament might fix the limit beyond which the colonies should be liable at so low an amount as to defeat our object. My own idea is to fix the amount at something like £40, leaving the rest to be provided for by the colonies themselves in due course. This, however, is a point of minor importance and otherwise I agree with the amendment of the hon. member, Sir John Bray.

Mr. MUNRO: I am afraid we are entering upon very dangerous ground. There is not the least doubt that it would be of great advantage to the colonies to have their debts taken over by the commonwealth. It would be very convenient for many of us if some one would take over our debts and be responsible for

them; but we have to take into consideration the whole consequence of this proposal, and I feel that in the clause as it stands we are going as far as prudence authorises us to go, because the clause provides that the commonwealth may make arrangements with the parliaments of the various colonies for the purpose of taking over their debts. It has been said that in handing over the debts of the colonies to the commonwealth you do not also propose to hand over the assets; but I think that would be a very imprudent course. I do not think that it would be wise on the part of the commonwealth to take over debts amounting at the present time to £181,000,000, and which will probably in a short time amount to £184,000,000 or £185,000,000, or, in round numbers, about £200,000,000, unless some arrangement of a satisfactory character is made to the effect that the colonies whose debts the commonwealth takes over shall not run into other large debts, because if you relieve them of their pressing liabilities and leave them to run into debt again just as they think proper, the result may be disastrous.

Mr. GILLIES: That is a very important point!

Mr. MUNRO: It is the essence of the whole question. If the colonies want to be relieved of their debts merely with a view to incurring other debts, they will gain no relief, because they will be responsible for the interest of the debts which the commonwealth takes over, in addition to that of their future debts. And it seems to me that there will be a still greater difficulty for the states to meet if the commonwealth is to take over their existing debts, and to have power to borrow on its own account, on the English market, for its own purposes, without guaranteeing the future loans raised by them, inasmuch as those loans will be at a heavy discount, because no single state could occupy the same position in the market as the commonwealth would occupy.

Mr. McMILLAN: You could not have two classes of stock!

Mr. MUNRO: Then you must have one of two things. The commonwealth must take the responsibility of all the borrowing, or prevent future debts from being incurred without its consent.

Mr. FITZGERALD: No loan could be raised by any state without the authority of the federal government!

Mr. MUNRO: Are hon. members prepared to take the responsibility of saying to the parliaments of their various colonies, "You shall not borrow another shilling without the consent of the federal government"?

Colonel SMITH: A municipal corporation can borrow without the consent of the state parliament, and why should not the state parliament have a similar power?

Mr. MUNRO: The hon. member is going away from the question with which I am dealing. The municipal corporations that borrow upon the security of their own assets can only do so upon the authority of an act of parliament giving them that power; but the parliament that gives the power to borrow did not take over their debts. What is proposed now is, that the commonwealth should take over the existing debts of the colonies; and I say that, if it takes over those debts, we must either provide that it shall become responsible for all future debts, or prevent future debts from being incurred without its authority. Are hon. members prepared to take up that position? I venture to say that very few of us are; and unless we are prepared to take up that position, we cannot at the present time deal intelligently with the question. In the clause we take all the authority which we can prudently take with a view to beginning the federation; and at a future time I should be delighted to see the commonwealth take up the position which it is now proposed that it should take; but I do not want to see it done until they can do it effectively, and with advantage to everybody concerned. If the amendment proposed by the hon. member, Sir John Bray, is agreed to, the result will be that the Convention will not be able to close for a fortnight or three weeks, because we could not, as men responsible to our various colonies and to the commonwealth, come to a conclusion on this question without taking time to consider its defects, and to work out all the details in connection with it to see what the result would be. All that we have undertaken at the present time is to put a provision in the Constitution Bill by which the commonwealth may make arrangements in the future with the parliaments of the various states. That will give them time to go into the matter and deal with it in an intelligent manner, which will be satisfactory to all concerned; but if we, who have no authority to do anything of the sort, provide that the debts of the colonies shall be taken over by the commonwealth we must, as I said, continue to sit here for a fortnight or three weeks longer to work out the details of the proposal so that we may see what its effect will be. I trust that we shall confine ourselves to the provisions of the clause as it stands, and I am sure that they go as far as we can prudently go at the present time.

Mr. GILLIES: I agree, generally, with the speech of the hon. member, Mr. Munro, not but what I would like, if under existing circumstances we could see our way, to adopt the amendment submitted, with, unquestionably, certain modifications which would be necessary to carry out any such proposal under the circumstances. I had no doubt, at the moment the proposal was submitted, of the result. I was as confident as I am that I stand here that it would have no support from New South Wales; on the contrary, that it would receive the strongest possible opposition on grounds which I need not now mention, but which I am perfectly certain are quite within the knowledge of members of the Constitutional Committee. I think, from that point of view, it would be quite unnecessary to discuss the question at this stage, because I feel confident that we should be informed by the delegates of New South Wales that they would decline to recommend to their parliament any such proposal. Although great results might be accomplished by the proposal—and I can quite well understand some of the views which have been urged in support of it—I feel perfectly certain that the time is not ripe to enable us to carry out anything of the kind. I think it is better, under the circumstances, not to say too much on the subject, because I feel confident that all we might say would be quite in vain.

Amendment negatived.

Sir JOHN BRAY: Before the clause, as a whole, is submitted, I desire to say frankly, as I have said before, that when we first met I was not prepared to make this proposal, but the matter has been growing in my mind, as it has in the minds of other hon. members. I think that it is a mistake on our part not to have some such provision as that which I have suggested. I can only say that I never for one moment intended that by adopting the course I have proposed, or by adopting the course defined in the bill, the different colonies should be prevented from borrowing whatever money they require for their own purposes. They can do that on their own credit.

An HON MEMBER: Without the leave of the commonwealth?

Sir JOHN BRAY: Yes; the commonwealth may guarantee loans in certain cases; but no one would suggest that, in the absence of that, the separate colonies should be prevented from borrowing. I trust, although I am not able to carry the proposal, that the commonwealth will take early steps to achieve the objects I have suggested, because it appears to me, as I have already stated, that the great defect of the bill is that we do not sufficiently and definitely define the means of appropriating the revenue with which we propose to intrust them.

Sir SAMUEL GRIFFITH: It has been suggested since the clause was drawn and brought up by the

committee that power to take over the debts under certain circumstances ought to be accompanied by a corresponding power to take over the assets, under conditions.

Mr. GILLIES: There is power in the clause to make terms!

Sir SAMUEL GRIFFITH: I am very much disposed to think that this will happen: that the federal parliament will take over the trunk lines of railway—perhaps one, perhaps several. Why should they not have power to do so? I entertain some doubts as to whether they have that power. Several hon. members spoke to me on the subject, and I think the matter is worthy of consideration. I think it would be desirable to give express power for the taking over of any public works of any of the states by the federal parliament, of course with the consent of the parliaments.

Sir JOHN BRAY: Put it in another clause!

Sir SAMUEL GRIFFITH: This is the place to put it. I doubt very much whether they possess the power. If we consider it worth while to give them the power, the clause should read:

May make laws for taking over and consolidating the whole or any part of the public debt of any state or states, or for taking over any public works of any state or states.

I mention the matter because several hon. members have asked me to do so.

Mr. THYNNE: In the next clause restrictions are placed on the power of the federal parliament which are very much greater than the power given for the amendment of the constitution itself. We provide in another part of the bill that the constitution itself, and even this very clause, may be altered without the consent of all the states in the confederation, and now we propose to insert this clause restricting the action of the commonwealth, which cannot act in the direction desired unless every state concurs. It seems illogical to require that the concurrence of every state in the commonwealth should be insisted upon, whilst we can alter the constitution itself with the consent of a certain proportion of the states. I think there should be some alteration in the clause, and that a majority of two-thirds of the states, or something of that kind, should be required. This will enable the federal parliament, with some reasonable prospect of doing practical business, to investigate the question of taking over the debts. But if the parliament of the commonwealth cannot enter upon the question unless they are satisfied that every one of the state parliaments is agreeable to work with them, they will be discouraged from ever undertaking it.

Clause, as read, agreed to.

CHAPTER V.—THE STATES.

Clause 1 (Continuance of powers of parliaments of the states).

Sir SAMUEL GRIFFITH: I desire to make a verbal amendment in this clause. It states:

All powers which at the date of the establishment of the commonwealth are vested in the parliaments of the several colonies, and which are not by this constitution exclusively vested in the parliament of the commonwealth, and all powers which the parliaments of the several states are not by this constitution forbidden to exercise, are reserved to ——

I think that that expression is not adequate. A great many of their powers which they are not forbidden to exercise might be withdrawn from them by the exercise of similar powers by the parliament of the commonwealth, and the clause would be more accurate and less liable to criticism if it read, "and which are not by this constitution exclusively vested in the parliament of the commonwealth, or withdrawn from the parliaments of the several states." I move:

That the words "and all powers which," lines 4 and 5, be omitted, with the view to insert in their place the words "or withdrawn from."

Mr. GILLIES: Say it in express enactment. The hon. and learned member, Sir Samuel Griffith, will, perhaps, remember that a statement was made by an hon. member of the Convention to the effect that the power of borrowing money having been granted under this bill to the federal parliament will exclude the local legislatures from being able to borrow money. I believe there is no foundation whatever for that statement.

Sir SAMUEL GRIFFITH: None whatever. Words like "express enactment" do not mean anything.

Amendment agreed to.

Amendment (by Sir SAMUEL GRIFFITH) agreed to:

That the clause be further amended by omitting the words "are not by this constitution forbidden to exercise."

Clause, as amended, agreed to.

Clause 5. All references or communications required by the constitution of any state or otherwise to be made by the governor of the state to the Queen shall be made through the governor-general, as her Majesty's representative in the commonwealth, and the Queen's pleasure shall be made known through him.

Mr. GILLIES: I propose to ask the Committee to omit this clause. I do not desire to make many observations. I believe that we were not called upon by our respective colonies, who gave us authority to come here, to interfere in the slightest degree whatever with the governments of the states. In addition to that, it is not necessary. The mere fact that a local parliament passes a bill, and that that bill, if it has to be sent home, must be sent through the governor-general, and not through the governor of the state, I feel confident will create a great deal of irritation in the various colonies.

Sir SAMUEL GRIFFITH: Not at all!

Mr. GILLIES: I can say to the hon. gentleman that it has created a great deal of irritation in some of the colonies already, and I have contended constantly that where a provision is not necessary to the creation of the constitution it ought not to be inserted. It is far better to err on the safe side. It is a mere piece of imagination that there is anything inconsistent in creating a governor-general, and in allowing a governor to communicate with the Crown. There is no inconsistency at all, and in my judgment it is not necessary that a clause of this kind should be inserted, because unquestionably it interferes with the present position of state governors, and I consider that ought not to be done. We ought not to create anything likely to beget antagonism to any portion of this bill. We shall have trouble enough without that; and I confidently believe that everything of this kind that we insert in the bill will beget opposition elsewhere, where we do not desire opposition.

Sir SAMUEL GRIFFITH: In my opinion this is a very important provision, but I doubt very much whether this late hour of the day is a good time to go into the matter. What the hon. member, Mr. Gillies, maintains is that after the establishment of the commonwealth, the governments of the different states should be in direct communication with the Queen's government in London, each pulling in different directions, as they have done before.

Mr. GILLIES: No!

Sir SAMUEL GRIFFITH: That is what the hon. member proposes.

Mr. GILLIES: Certainly not!

Sir SAMUEL GRIFFITH: Well, the hon. members proposes to leave that state of things existing. I have always maintained that one of the principal reasons for establishing a federation in Australia was because the governments were always pulling in different directions. Australia speaks with seven voices instead of with one voice. Now, the hon. gentleman wishes that Australia should continue to speak with seven voices instead of with one voice.

Mr. GILLIES: Only on matters appertaining to themselves!

Dr. COCKBURN: On matters appertaining to themselves they should not want to communicate with the Imperial Government at all!

Sir SAMUEL GRIFFITH: I maintain that ministers in Australia are to be the Queen's ministers for the commonwealth, and any communication affecting any part of the commonwealth which has to be made to or by the Queen, should be made with their knowledge. Without that we shall not have the voice of one commonwealth in Australia. I maintain that this argument is quite indisputable. The hon. member's argument amounts to this: somebody will not like it; some people object to it, and it is not absolutely necessary. I admit that it is not absolutely necessary; but I say it is necessary if we are going to establish a real commonwealth in Australia. I think the idea is that there is to be but one government for Australia, and that we shall have nothing more to do with the Imperial Government except the link of the Crown. We recognise the Crown, but do not desire to have the governments of Australia all trying to attract the attention of the Secretary of State in Downing-street.

Mr. GILLIES: We cannot prevent them from having agents-general!

Sir SAMUEL GRIFFITH: Certainly not; but the agents-general will be limited to their functions as commercial agents.

Mr. GILLIES: Will they?

Sir SAMUEL GRIFFITH: They will no longer be diplomatic agents. I maintain that Australia is to have only one diplomatic existence, and, therefore, only one diplomatic head, and one diplomatic mouthpiece in any other part of the world. Those are my reasons. I hope the matter will not be considered a light one. I think it is very important indeed.

Sir JOHN DOWNER: I agree with the hon. and learned member, Sir Samuel Griffith, in attaching great importance to this matter, but I consider that it is only important in the way in which the people in the various colonies will look upon it; and, in my opinion, they will look upon this as being another instance in which they give up a great deal more than the circumstances of the case require. I take it that we came here under practically the same commission, with instructions to confer together as to the surrendering of such powers as were necessary to create the commonwealth, but with the strictest injunctions to retain to each colony all the powers not absolutely necessary for the commonwealth. We all agree that in every matter which relates to the commonwealth and the Crown, the governor-general shall be the only medium of communication between the people and the Crown; but as to matters which are in no way committed to the commonwealth, which are to proceed in precisely the same fashion as they did before, and as to which the commonwealth is expressly excluded from exercising any jurisdiction whatever, surely it is thoroughly superfluous to put in a clause which gives the appearance of limiting the authority that is intended to remain unlimited, and to give the governor-general an apparent authority, which many of the colonies, and many of the people of the colonies, will think a real authority, to interfere in matters which exclusively concern the states themselves. There are a few matters on which the colonies even now have to communicate with the Imperial Government—a few bills which they have to reserve; but with bills which relate to their own internal economy, what on earth has the governor-general of the commonwealth to do? Why should not the same procedure which has been adopted in the past prevail in the future? We want now to use every means of encouraging the colonies to enter into this federation; and, as has been well stated by the hon. member, Mr. Gillies, heaven knows, the difficulties in our way are quite enough, without wanting to unnecessarily accumulate them. Many will attach an importance to this provision which it really does not possess, and will say that, while pretending to maintain the autonomy of the colonies in those particulars in which we have not expressly surrendered it, we are, in reality, making ourselves entirely subsidiary to it on other questions. What does it all come to? It might come to a question of creating great disputes between the commonwealth and some state. An amendment of the state constitution might not, perhaps, commend itself to the judgment of the executive of the commonwealth for the time-being.

Mr. BAKER: That has nothing to do with it; that is not the question!

Sir JOHN DOWNER: The bill would have to be reserved for her Majesty's assent; it would have to go through the executive of the commonwealth.

Mr. BAKER: Through the governor; not through the executive!

Sir JOHN DOWNER: Through the executive in substance.

Sir SAMUEL GRIFFITH: Why not?

Sir JOHN DOWNER: I shall say why not, if the hon. member will wait a little. It will have to go through the executive of the federation, who would make, no doubt, such minutes and recommendations on the matter, with which they had nothing in the world to do, as might happen to occur to them at the moment. If it is asked, would you invite conflict by allowing each state to legislate independently, without the executive of the commonwealth having any opportunity of expressing their opinion as to whether or not they are legislating on matters within their jurisdiction?—I would say in answer to that question, "No; I wish them to have every information as to what is going on in every state." There will be no difficulty in every bill, before it becomes an act, being sent to them for their consideration to make such recommendations on their own account as they like. But I say that, so far as each colony is concerned, it appears to me an absolutely gratuitous act, having most carefully endeavoured to preserve all their rights in every instance in which it is not absolutely necessary to surrender them, for the mere sake of what I consider a figment, or, as it is put by the hon. member, Sir Samuel Griffith, rather an unpleasant reality, as it might prove in the case I have mentioned, to deprive themselves of the constitutional rights which they as colonists have at the present time, and to give up a portion of their self-governing rights which will in no way that I can see assist the commonwealth, but will certainly, I think, degrade the colonies in their own estimation.

Mr. BAKER: I do not think there is in this Convention a stronger advocate of state rights and state interests than I am; but, still I strongly support the clause as it stands, for it seems to me that one of the very fundamental ideas of a federation is that, so far as all outside nations are concerned, the federation shall be one nation; that we shall be Australia to the outside world, in which expression I include Great Britain; that we shall speak, if not with one voice, at all events, through one channel of communication to the Imperial Government; that, as it has been put, we shall not have seven voices expressing seven different opinions, but that her Majesty's government in Great Britain shall communicate to her Majesty's Government in Australia through one channel of communication only. My hon. colleague, Sir John Downer, with whom I generally agree, but with whom I strongly disagree in this matter, has put it that as regards the communications which will be sent to the home Government through the governor-general, the executive of the commonwealth, can in effect exercise some power. But it does not seem to me that the clause provides for anything of the sort. It simply says that the governor-general shall be the channel of communication. It does not say, and it does not appear to me to mean, that the executive of the commonwealth shall have the right to veto any bills passed

by the different states, or shall have the right to recommend her Majesty to disallow any such bills. It does not appear to me to go to that extent at all.

Mr. KINGSTON: What is the good of it?

Mr. BAKER: The good of it is this: That to the outside world—to Great Britain—we shall be the Commonwealth of Australia, and not seven separate independent states, acting in seven different manners, even so far as great Britain is concerned. It is a matter, I think, of very great importance, and I quite agree that the clause ought to be retained.

Sir HENRY PARKES: It really does one good to hear so sound a sentiment from my hon. friend, Mr. Baker, to which I entirely respond. I cannot understand, for the very life of me, how we can aspire to be one Australian people under the Crown and have several channels of communication with the Crown. We must either be a nation or we must be a chain of unfederated states. I have been surprised at the attitude taken up by my hon. friend, Mr. Gillies, because I look to him almost for guidance in this Convention, and I have been surprised that he should take up a position which appears to me to be so untenable. I am very glad, and I think I may in some measure congratulate myself that I have been capable of sufficient self-restraint not to take a very prominent part in the discussions of this Committee, because I have always found that some member or other to some degree, sometimes more and sometimes less, had fully expressed my sentiments, and I was not desirous of delaying the proceedings. But there has been one feeling throughout our discussions, especially of late, which if regarded seriously would be almost distressing, and that is the feeling of delegates to resolutely look on particular parts of Australia. If we are federating, trying to unite the whole, we must keep our eyes broadly fixed upon Australia as a whole, and we must, to a very large extent, endeavour to lose sight of geographical lines of separation and peculiarities in different states of society. If we aim and aspire to be one Australian people, we must try to look upon Australia as a whole, and I think I can take to myself some credit for having taken this view from the very first. No person has heard me speaking of New South Wales, and I must say the delegates from New South Wales have been pretty free from this local feeling.

Sir THOMAS MCILWRAITH: Oh!

Sir HENRY PARKES: So much is that the case that at times I have found myself with no support whatever from my fellow-delegates, showing that we have not acted together. In some of the most important steps taken by my fellow-delegates I have not even been consulted, so that we have not banded together as against the rest of Australia; nor am I aware that the name of New South Wales has been very often on our tongues. For myself, I say that throughout the proceedings of this Convention I have desired to keep my eyes steadily upon the Australian people, and I feel as much interest in that portion of the Australian people in Western Australia as I do in that portion who are in New South Wales. I am just as anxious for the security of their rights and for their prosperity as I am in respect of those matters in our own colony, and I cannot understand how we can rise to the level of a federation unless, as the hon. member, Mr. Baker, says, we insist upon being known to the outside world by only one channel. If we have a governor-general he will be the chief representative of the Crown, and as such he ought to be the only channel of communication with the Crown from this continent of Australia. That reminds me of words I have heard here on several occasions, that various bodies were being stripped of their dignity. Repeatedly we have been told that the senate would be stripped of its dignity if certain things were done. I am at a loss to conceive how anything which comes into existence by the drawing up of this constitution can be stripped of any dignity. Whatever dignity, or character, or standing it has it derives it from this constitution, and unless something is afterwards done in an aggressive manner, it can be stripped of nothing. We strip a state government of no dignity, no position, no character whatever when we say that there shall be only one channel of communication between the nation of Australia and the Sovereign whom we acknowledge at the other end of the world. Each state will be as free as it is now to make its representations to the Crown, the only difference being that the representation must be transmitted through the greatest and the only proper channel between this young nation and the Crown. I instanced, I remember, when this matter was being considered by the Constitutional Committee, the case of the navy. If a state governor had any power in dealing with the Crown, how would it be in any intercourse with the officers in charge of any branch of the naval forces we have in these seas for our defence? Any one must see that the utmost confusion must arise unless dealings with the admiral of the station were conducted solely through one channel—that of the governor-general. If we keep the position defined by the bill now before us, with one unit between us and the Crown of England, we must not allow any other person whatever, whether a governor of a separate state, or be he who he may, to communicate with us in affairs relating to the empire outside, except through the governor-general of the colony. It does not appear to me to admit of much argument to show that that must be the case. As to jealousies that may arise, I cannot see that any jealousies can arise, when the thing appears to be so reasonable under the new order of things we shall bring into existance under a federation. I trust the clause will be passed as it now stands. It was considered very minutely by the committee empowered to consider it, and it has so much to recommend it, and there is so little to recommend a number of channels of communication between the commonwealth and the outside world, that I cannot believe but that the committee will pass it as it stands in the bill.

Mr. WRIXON: I should feel greatly impressed by the arguments urged by the hon. member, Sir Henry Parkes, if it were proposed to constitute a unified government in this country. I should then see the force of my hon. friend's arguments. I think there might be great virtue in that unified government whenever we are ready for it; but it is not proposed to have a unified government now. It is expressly provided that we take certain rights to the federal government, and that everything not so taken is left to the state; and I am afraid that by this provision requiring them to communicate in all matters through the governor-general, while you add nothing to the real union of the different provinces, you will excite a well-founded distrust and jealousy in them as to what their real position is to be, and as to how much you are going to take from and leave with them. After all, it is a mere matter of etiquette—that is, as to what mouthpiece the different communications shall pass through.

HON. MEMBERS: No!

Mr. WRIXON: Well, it is a matter of etiquette in relation to graver matters, and while you gain nothing with regard to the real unity of the provinces, you impair their sense of independence, and are apt to inspire them with feelings of jealousy. If it were proposed in this clause to limit this means of communication to matters such as the hon. member, Sir Henry Parkes, has alluded to, namely, the imperial navy—to matters common to the whole of Australia—I could then understand it; but that is not what is proposed here. It is proposed that no one of these provinces shall have the least communication in regard to the most local matter with the Sovereign, unless through the governor-general. Now that, I take it, is a position inconsistent with the station which we

mean to assign to these provinces in the new dominion. They are not small provinces, they are great dominion states, they will have large populations, and I can see nothing inconsistent with their position in this confederacy in their having in their own governor a means of communication with the Sovereign direct. I can conceive of no more confusion in that arrangement with regard to the dominion of Australia than now exists with regard to India, where you have a governor-general and governors of the different dependencies. I am afraid that, while we gain nothing in reality by this clause, we give cause for jealousy to the different provinces, making it more difficult for them to communicate their views to their Sovereign.

Mr. DEAKIN: The illustration my hon. colleague, Mr. Wrixon, has just given is, I fancy, a little unfortunate. There are lieutenant-governors in India; but no lieutenant-governor communicates with the India office except through the governor-general, and that is the course of procedure sought to be established by this clause. My hon. colleague regards this matter in the light of etiquette, and considers that it is of comparatively small value, except in so far as it is likely to arouse feelings of jealousy on the part of the colonies, which, he considers, are being deprived of nothing, but which, in their own opinion, are being deprived of an important mode of procedure. If that is the hon. member's only objection, I think it applies just as forcibly against his own contention as against the clause. If the several colonies are really losing nothing, there is on the other side a great gain. The hon. member said he would support the clause if we were establishing a perfectly unified government. Those who have opposed every federal proposal contained in this bill have said they would accept it if we were to have a unified government. But, sir, we are to have a unified government for the particular purpose with which this clause deals. Read the list of powers which are to be intrusted to the federal parliament, and there remains one broad general impression on the mind, which is, that in all foreign affairs—if we may use the term—that in all national affairs, the parliament of the commonwealth is to represent the whole people. What are the communications which will proceed from the various colonies to Downing-street? Ninety-nine per cent. of them must inevitably be of a more or less national character. If the hon. member implies that the clause is so wide that it will embrace in the net, not only large questions of policy, which he admits should proceed through the governor-general, but also the minor questions, which, in the language of the hon. member, Sir John Downer, are of exclusively local concern, what injury will be done to matters of exclusively local concern if they are sent through one channel, instead of many? As the hon. member, Mr. Baker, has said, it is not a loss of power on the part of each state. No colony will be gagged or compelled to make representations which it does not wish to make; nor will any of their representations be prevented from reaching the Secretary of State for the Colonies.

Mr. GILLIES: There will be loss of prestige!

Mr. DEAKIN: They may lose some prestige, but then we come back to the old question: Is not that loss balanced by a far greater gain on the other side? Our losses of the past have not been simply losses of prestige, but very real and practical losses to the colonies of Australia, because they have spoken through many channels instead of one? Should we have lost New Guinea if we had spoken with one voice instead of with seven? Should we have had such an unsatisfactory state of things as exists at present in the New Hebrides if Australia spoke with one voice? No. Imperial Ministers have invariably said that what they waited for, and desired to listen to, was the voice of Australia, and that if they failed to act in a particular emergency, it was because of the confusion of voices which they heard from these colonies. It cannot be claimed that the confusion of voices will be prevented even by this clause. Any colony which desires to make representations can do so in future just as much as in the past; but passing through one channel, and passing under the criticism of the chief imperial officer representing the Crown in Australia, they will have given to them not only the unity that comes from passing through one channel, but they will be open to comment by that officer and his advisers, so that the Imperial Government, when it receives those representations from any particular state, will at the same time be made aware of the manner in which any proposal is regarded by the executive officers of the commonwealth. If that is not to be the case, what will be the commonwealth? It will not be even a bundle of sticks; it will not even be tied together; on the contrary, each state will stand apart, making its own representations, even on matters of national concern.

Mr. GILLIES: No; only on its own affairs!

Mr. DEAKIN: I understood that the hon. member, Mr. Gillies, was opposed to the whole clause, and that he did not suggest any amendment.

Mr. GILLIES: I oppose the whole clause, because it is not necessary!

Mr. DEAKIN: Unless this clause appears in the bill there is nothing to prevent each state from making representations on any matter without in the least referring to the general government. There is nothing to prevent each state making privately and secretly representations against the policy pursued by the governor-general and his ministers, or against the legislation which they are proposing. If the states will lose something in the way of prestige or etiquette, is that much to lose when we are on the other side gaining the great advantage of having all the affairs of Australia with the mother country dealt with on settled principles and definite lines? So long as each colony is allowed to make its own terms with the Colonial Office, and so long as each question is dealt with separately, we have no more security than the good judgment of English officials that the representations of one colony will receive the same attention and consideration as are given to the representations of another colony. If, however, representations pass through one channel, they will be bound to receive attention and consideration, and to be dealt with on the same principles. The very question which the hon. member, Sir John Downer, referred to, that is, the amendment of the constitution of a particular state, is one on which the governor of the commonwealth is entitled to be heard, and it is very much better that it should be heard through a definite and recognised channel rather than that we should have a state government making representations independently, and the central government making representations independently to Downing-street, while the Downing-street office would have to return the representations of the federal government to the state government, and the representations of the state government to the federal government. That would indeed be a very inconvenient method of carrying on communications if we ever have the unfortunate spectacle of a state government being pitted against the commonwealth government. The states will lose nothing, comparatively speaking, by this proposal. It does not deprive them of a power, it only fixes a channel of communication. State communications would reach the colonial office just as expeditiously through that channel as if they were sent independently, and they would be dealt with quite as expeditiously, while on the other hand there would be enormous advantages. The secondary question introduced in connection with this clause is really bound up with the same principle. There would be but one governor-general, but one means of communication with the imperial authorities, and that is through the governor-general. It will follow of necessity that there will be but one representative for diplomatic matters in Great Britain, one

agent-general, and that will be the representative of the commonwealth. The several states would always remain independent with regard to one another, but with regard to the outside world they ought to appear undivided. On the other hand, allow the governors introduced by the Imperial Government into different parts of this continent to make representations to the home Government. They will receive different instructions, and they will make different representations as to the opinions of the people with respect to any question which may arise. Those representations may be made in a confidential manner without any reference whatever to the central authority. In what position should we then place the central executive? Not in the position of men charged with the responsibility of the affairs of Australia, and charged with the surveillance of all the affairs of Australia, supreme with regard to all matters outside its borders and with regard to all national matters. They would be unacquainted with negotiations proceeding between the several members of this confederacy and the Imperial Government. They would be absolutely unacquainted with them, and the matters might never be referred to them. Is that a desirable state of affairs? Upon this clause hangs the essential principle governing the relations of Australia to the mother country in future. If this clause is defeated the proposed governor-general will cease to be a governor-general. He will become one governor among many, and he will lose the dignified position in which this constitution proposes to place him. You will not only deprive the governor-general of his influence, but you will deprive the commonwealth of its influence. You will deprive the commonwealth of that single voice which would carry weight by its diplomatic representation in the mother country. Do this, and you will strike one of the severest blows at Australia as a commonwealth and in its relations with the mother country.

Mr. FITZGERALD: It appears to me that there is only one recommendation in favour of the proposal of my hon. friend, Mr. Gillies, and that is, that it will flatter the self-esteem of the colonies by allowing them to have direct communication with the home Government, and to that extent it may facilitate the obtaining of their sanction to the proposed federation. Though I admit that it would have that effect, the arguments on the other side are so overwhelming that I can hardly imagine that the Convention can be influenced by that consideration, which is utterly dwarfed by the enormity of the case which has been presented on the other side. I will make one remark in reply to my hon. friend, Mr. Deakin, who referred to the lieutenant-governors in India. I believe it is quite true, unless a change has been made recently, that the governors of the provinces of Madras, Bengal, and Bombay communicate with the authorities in London direct.

An HON. MEMBER: That is not a federation!

Mr. FITZGERALD: I know that it is not, but India was referred to. The governors of the presidencies of Madras and Bombay in all matters connected with their own presidencies communicate directly with the office in London. But that has nothing to do with the case. I am sorry that my friend, Mr. Gillies, should take such a provincial view of this question. If we are to federate, I believe that these colonies must speak with one voice, and let us hope that the power that union will give us will make it a voice that will be respected throughout the world.

Mr. CUTHBERT: I am sorry that I cannot agree with the last speaker. I certainly attach a great deal of importance to this clause, and I think it is one well worthy to be debated a little longer. I did not understand when certain resolutions were proposed by the hon. member, Sir Henry Parkes, that it was intended to concede to the federal parliament any powers beyond those enumerated in the constitution. And if this question had been presented to us at the commencement, as to whether the position of the respective governors throughout the different colonies was to be lowered in public estimation, I think a great number of delegates would have said that this was a power that it was not intended to hand over to the federal parliament. I agree with those hon. members who say that the federal parliament ought to speak with one voice as far as all federal matters are concerned. But when it comes to dealing with purely local matters it is a different thing. If the parliament of Queensland or Victoria determined to pass a certain law of a purely local character, and they asked the assent of the governor to that law, and it became necessary for the governor of that colony to communicate with the home authorities, why should the governor-general be brought into the matter at all, and why should the position of the governor of the colony be lowered? I say that if there are not words of restriction inserted in this clause you might as well sweep away the governors throughout the colonies, as they will be reduced to such a very low position that I question whether you will get men of high attainments to come out and take those positions. It is a matter that deserves a great deal of consideration.

Mr. FITZGERALD: How will the governor of the colony know whether a bill is inconsistent with the laws of the federal parliament?

Mr. CUTHBERT: He has only to look at the constitution. He will know by the advice of his attorney-general whether the law is inconsistent with any powers intrusted to the federal parliament. In addition to that we have the safeguard of the judiciary, the judges who are to be appointed for the special purpose of ascertaining whether the state legislation goes beyond the federal legislation. For these reasons I strenuously oppose the clause as it stands. If the bill goes to Victoria in this particular form, there will be the strongest objection to it.

Mr. ADYE DOUGLAS: I cannot understand the position taken up here to-night, that the governor of a colony is to be a mere superintendent of that colony. I consider that the governor of the colony will still maintain his position, and only those matters in which the federal parliament is concerned should be beyond his jurisdiction. It seems as if the object were—and if it were, I would go with it at once—to cut the painter. We all profess that we do not wish to do anything of the sort, yet we are gravitating to it as fast as we can. We say we are to be a nation—one people regulating the whole of our affairs; and yet we are not to be in that position. Hon. members have taken up a most extraordinary attitude. They say that the governor of a colony like Victoria is to have no power whatever of representing the feelings and views of his government and people except through the governor-general, who may have no interest whatever in that colony. Supposing the seat of the federal government were at Hobart, and the governor-general were there, would the people of New South Wales submit to have all their communications sent through him, and thus to become nonentities, as it were? Certainly not. They would claim the right, whatever the law was, of being heard. No doubt in regard to large matters affecting the whole commonwealth, the governor-general is the person through whom communication should pass. But the governor of the colony ought not to be denuded of all power, and entirely cut off from communication with the mother country. I hope that it will not be attempted to put the governors of the colonies in such a low position that they will not be able to make any representations of their views and opinions to the home authorities, except through the governor-general. The states should retain as much power as possible, and surrender as little as possible to the federal parliament. But we are working the other way; we are giving the whole of the power to the federal parliament, and trying as fast as we can to divest the states of any power whatever.

I trust that this meeting will not separate until it has provided that the governor of a colony shall have the power to make known the views of his people to the home authorities without the intervention of the governor-general. I believe the hon. member, Mr. Fitzgerald, was correct in stating that the governor-general in India exercises power in regard to matters in which India as a whole is concerned, but that each lieutenant-governor makes direct representations to the home Government in reference to matters connected with the presidency over which he is placed. I consider that we are interfering with the state governments, and I shall do all I can to prevent those governments being deprived of that authority which they ought to have through their governors.

Progress reported.

Convention adjourned at 6·32 p.m.

WEDNESDAY, 8 APRIL, 1891.

Commonwealth of Australia Bill—Hour of Meeting—a Plebiscite.

The PRESIDENT took the chair at 11 a.m.

COMMONWEALTH OF AUSTRALIA BILL.

In Committee (consideration resumed from 7th April):

CHAPTER V.—THE STATES.

Clause 5. All references or communications required by the constitution of any state or otherwise to be made by the governor of the state to the Queen shall be made through the governor-general, as her Majesty's representative in the commonwealth, and the Queen's pleasure shall be made known through him.

Sir JOHN BRAY: This question was discussed at some length yesterday afternoon, and is, no doubt, exceedingly important, though I feel that, perhaps, too much has been made of the idea that the colonies would be deprived of a great deal of their liberty if the clause were carried. But at the same time we must all recognise the fact that we have started this constitution with the idea that no state shall be interfered with unless it is absolutely necessary, and, as far as I am aware, we have certainly not advanced any reasons to show that it is absolutely necessary that all references or communications required to be made by any state to the home Government should be made through the governor-general. I agree with the proposition so ably and clearly put forth by the hon. the President, that, so far as Australian matters are concerned—that is, matters relating to the commonwealth as a whole—we must have only one voice, and all communications must go through the governor-general. But I would ask, is it necessary to go further than that, and say that every act passed by the local legislatures of the separate states shall be transmitted to England through the governor-general, and the question of its allowance or disallowance be made known through him? I say that it is not necessary. It appears to me that although in practice all communications relating to the commonwealth as a whole, and many other communications, may go through the governor-general, it is unwise to provide in the Constitution Act, as a matter of law, that no state shall be able to communicate with the Queen except through the governor-general. Although such a provision may not in itself deprive the states of any great power, it may be implied by some that the position of governor in each colony is unnecessarily degraded, and it will be felt that not only the position of the local governors, but even that of the local governments, is unnecessarily deprived of some important privileges. If, however, the clause were limited to communications relating to the whole of the commonwealth, no one could object to it.

Sir HENRY PARKES: The commonwealth cannot be separated from the states!

Sir JOHN BRAY: It is separated from them. At the present time we allow each state to make its own laws with regard to a great many subjects, without any interference on the part of the commonwealth, and why should we say to the states: "Although you possess the right to make certain laws without any regard to the commonwealth, still you must not send them home to the Queen for allowance or disallowance, except through the governor-general"? Although I do not attach the importance to this matter which some hon. members have attached to it, it seems to me to unnecessarily restrict the power, the freedom, and the authority of the governors and the governments of the several states, and I trust that the hon. the President, and other hon. members who think with him, while maintaining their own opinion as to the desirability, and perhaps the absolute necessity, for all matters relating to the commonwealth to go through the governor-general, will not say that it must be an absolute law under the constitution that no governor of any state is to communicate, under any circumstances whatever, directly with the Imperial Government. I trust that hon. members will see that this will settle itself as circumstances arise, and we shall, perhaps, provoke opposition to the bill if we insert in it a clause restricting the powers and privileges of the several colonies and of their governments.

Mr. KINGSTON: I agree with the criticisms to which the hon. member, Mr. Gillies, has subjected this clause. I consider that it contains the most mischievous provisions, and that, if passed, it would have the effect of throwing the most unnecessary difficulties in the way of the acceptance of the constitution by the people of the various colonies. Something has been said about the propriety of all communications from the home Government on matters which properly come within the sphere of the government of the general commonwealth passing through the governor-general and no one objects to that. If the clause only provided for that it would be utterly unobjectionable. But what it does provide is that it is impossible for a single act to be passed by a local legislature, even with regard to a matter which is purely local, without it being forwarded to the home authorities, so that they may exercise their power of disallowance, or consider whether they should or should not assent to it, through the governor-general. What does this amount to? Is it a matter of form or is it not? If it is a matter of form it is only productive of delay and inconvenience. Suppose in South Australia a law of purely local concern, in no way interfering with the powers of the commonwealth, or touching any matter within the jurisdiction of the commonwealth, this clause requires it to be sent to Sydney or to Melbourne for the consideration of the federal government before it is forwarded home for consent or consideration as to the exercise of the power of disallowance with regard to it. If this is a matter of form, it is objectionable on the score of inconvenience and delay, and if it is not a matter of form, and the federal government are to express an opinion upon these measures, the provision is still worse. It seems to me that when you provide in a constitution that an act must be forwarded through the federal government to the home authorities, you give to the federal government the opportunity and the right to express their opinions on a matter of local legislation, and with which, so far as the other provisions of the constitution are concerned, they ought to have nothing to do.

Mr. BIRD: But which they would exercise!

Mr. KINGSTON: And which they would exercise. If we desire that the federal government shall have control over local legislation, let us say so. But it has been our object from first to last to

mark out two different spheres in one of which the federal parliament shall be supreme, and in the other of which the local legislatures shall be supreme. Surely when we have done that we have done sufficient; and does it not appear to hon. members generally, that it is altogether indefensible to provide for requiring—for that is what it amounts to—the federal government to express an opinion upon a simple question of local legislation before it is forwarded for the approval of the home Government? I am thoroughly at one with those who say that in matters of Australian concern the Australian people should speak with one united voice; but whilst I assent to that proposition, I am altogether against giving the Australian people, as a whole, the right of unnecessarily interfering in a matter of purely local legislation. It is impossible to consider the clause without recognising that it must amount to a grant to the federal government of the power of veto.

Colonel SMITH: It is virtually a power of veto!

Mr. KINGSTON: Exactly. Any proposition to do anything of that kind will be resented by the people of the different states, and properly resented. As the hon. member, Colonel Smith, says, it approaches to the power of veto.

Sir SAMUEL GRIFFITH: Nonsense!

Mr. KINGSTON: The hon. member, Sir Samuel Griffith, dissents from that view. Surely, if the federal government are to express an opinion upon it at all, it will be entitled to some weight, and if they can recommend, surely they can also disapprove, and if a bill—a matter of purely local concern—is forwarded to the home authorities, with an expression of disapproval by the federal government, that appears to me to be a near approach to conferring on the federal government the power of veto, without stating it in express terms within the four corners of the bill. I shall be glad indeed if it is proposed to limit this provision to matters properly within the scope and the jurisdiction of the commonwealth. There can be no objection to that. If you wish to give the power to the federal government of reviewing the acts of a local legislature, say so; but do not let us have a clause such as that which is now proposed, which, it appears to me, will have the effect of doing what I do not think there is anyone in this Committee would attempt to justify.

Mr. GORDON: I have been unable to follow the arguments of hon. members who have advocated the retention of this clause. The hon. member, Sir Henry Parkes, who gave, perhaps, the most solid reasons for its retention, argued that it was desirable because it was necessary that Australia should speak with one voice on matters affecting its concern. Quite true, on matters affecting the concerns of Australia; but this clause touches purely local matters. On the question of an alteration, say, of the electoral laws of New South Wales, and the number of the members of its houses of parliament, it is absurd to say that the united voice of Australia is required. That is beside the question altogether. The true sentiment which lies behind the retention of this clause was shown by the hon. member, Mr. Deakin, when he gave the analogy of the lieutenant-governors of India, some of whom are required to communicate to the Queen through the governor-general. That is the sentiment lying behind the retention of this clause—to make the governors of the colonies lieutenant-governors, and that is just what the colonies will not put up with. It may be a matter of sentiment; but, after all, sentiments govern politics, and politics are largely sentiment. I am certain that the colonies will not permit their governors to be placed in the position of lieutenant-governors, and to be subsidiary in local concerns to the governor-general. I should be disposed to go further. I fail to see why the colonies should be required to make any reference to the home Government at all upon such purely local matters as a change of their constitution, and I think an amendment upon that point would save the necessity of further argument. With that view, and without detaining the Convention any longer, I may say that it is my intention to move the following clause:

That notwithstanding anything to the contrary contained in the constitution of any state, it shall not be hereafter necessary to refer to the Queen any proposal to change such constitution.

Dr. COCKBURN: I should like to justify the vote that I shall have to give on this matter, because it will be rather dissonant with the votes I have been giving throughout the sittings of the Convention. I shall vote for the clause as it stands, and also for the the amendment intended to be proposed by the hon. member, Mr. Gordon, because I take it to be essential to federation. It is the very definition of a federation that, as regards external affairs, the federation shall be one state, and only have one means of communication, and in regard to internal affairs the federation should be many states ——

Mr. GORDON: These are not internal affairs!

Dr. COCKBURN: These are internal affairs, and it is one of the principles of federation that, in internal affairs, there should be complete autonomy. In local affairs, why do you want to go outside the state at all? For the alteration of the constitution of a state, why should you go outside the boundary of that state?

Mr. KINGSTON: That is another thing!

Dr. COCKBURN: It is all wrapped up in the same thing. External communications should only be made on questions concerning the commonwealth generally, and the proper vehicle of communication for them is the governor-general. In questions of local affairs, such at the amendment of the constitution, to which the hon. member, Mr. Gordon, has alluded, electoral laws, and so forth, or even the abolition of the two chambers—as in the case of Ontario, where they are starting with one chamber—external authority has no concern whatever.

Mr. GILLIES: How would the bill be assented to?

Dr. COCKBURN: It would be assented to, of course.

Mr. CLARK: By the governor!

Dr. COCKBURN: The practice in the United States is that the states have sovereign power, and have absolute control over their own constitutions. The only authority to which they are subject is that of the judiciary, which interferes, and besides that, the states have reference to any of those authorities in framing their constitution which properly remain with the federal government. In Switzerland the states have complete power to change their constitution, only they send for ratification to the central government. In Canada, which is parallel with our case, the states have power to change their constitutions. There is no reference to any central power. It is essential in local matters that you should have autonomy without reference to external authority. In Canada, where, in addition to the tie of federation, there is also the bond under the Crown, there is no reference whatever to Downing-street if the state wishes to change its constitution. There the federal authority have power of veto, but it is recognised now in Canada that the power of veto is vexatious, and it is falling into disuse, and I do not think the power of veto will be exercised there much longer.

Colonel SMITH: You are giving the power of veto under this clause!

Dr. COCKBURN: Just as it is necessary, in every principle of federation, that there should only be one channel of communication to the outside world, so it is also necessary, in regard to strictly local matters, there should be complete autonomy. Therefore I shall vote in favour of the clause with the intent also of supporting the amendment of the hon. member, Mr. Gordon.

Mr. CLARK: Vote for both!

Dr. COCKBURN: Yes, vote for both—that is the proper thing. They are both essential principles of federation, and in my opinion they are the very principles on which federation should be founded. With regard to what has been said, that you may have interference on the part of the executive if all communications have to go through the governor-general on their way to Downing-street, I will ask whether you may not have that interference whether those communications go through that channel or not? If a state government does anything that the federal parliament does not like, will they be silent as regards Downing-street, and who will have the greatest voice—the governor of an individual state or the authority speaking in the name of all Australia? If hon. members think that they are going to get rid of friction in this way they are making a great mistake. They will certainly have a slender thread by which they can communicate with the imperial authorities; but on the other hand the federal authorities will have a much stronger tie, and if there is any desire on the part of the central parliament to tyrannise over the states, they will be able to speak to the authorities in Downing-street in a voice so much superior that in any case there will be friction. What we had better do logically is to pass this clause as it is, as being absolutely necessary if we are to frame a solid federation—that is to say, there should be only one voice as regards external affairs—and proceed further to say, what is also essential to federation, that, as regards local affairs, there shall be complete autonomy.

Sir GEORGE GREY: I would suggest to the Convention that the true mode of proceeding is to insert a clause in the bill which shall enact that the only laws which it shall be necessary to submit for the Queen's approval shall be those which the general legislature makes. Hon. members may be certain that we shall not give offence to the home Government. There is a provision, in the case of New Zealand, which exempts all laws from the Queen's assent except those passed by the General Assembly. I think that if we did that we should preserve the power of the federation in the highest possible way. I feel certain that our great object is to avoid all possible friction with the home Government, and every act withdrawn from their supervision—the people here being enabled to pass it without sending it home for approval—is really removing one stumbling-block in the way of non-interference with the affairs of this country. A clause to that effect could be inserted in a very few words indeed; and the clause we are fighting about need not be considered at all.

Question—That the clause as read stand clause 5 of the bill—put. The Committee divided:

Ayes, 22; noes, 16; majority, 6.

AYES.

Atkinson, Sir Harry	Hackett, Mr.
Baker, Mr.	Jennings, Sir Patrick
Barton, Mr.	Macdonald-Paterson, Mr.
Clark, Mr.	McMillan, Mr.
Cockburn, Dr.	Moore, Mr.
Deakin, Mr.	Munro, Mr.
Dibbs, Mr.	Parkes, Sir Henry
Donaldson, Mr.	Playford, Mr.
FitzGerald, Mr.	Rutledge, Mr.
Grey, Sir George	Suttor, Mr.
Griffith, Sir Samuel	Thynne, Mr.

NOES.

Bird, Mr.	Fysh, Mr.
Bray, Sir John	Gillies, Mr.
Burgess, Mr.	Kingston, Mr.
Cuthbert, Mr.	Loton, Mr.
Douglas, Mr. Adye	Marmion, Mr.
Downer, Sir John	Russell, Captain
Forrest, Mr. A.	Smith, Colonel
Forrest, Mr. J.	Wrixon, Mr.

Question so resolved in the affirmative.

Clause agreed to.

Clause 6. Subject to the provisions of this constitution, the constitutions of the several states of the commonwealth shall continue as at the date of the establishment of the commonwealth, until altered by or under the authority of the parliaments thereof, in accordance with the provisions of their respective constitutions.

Mr. GORDON: I rise to move:

That the following words be added to the clause:—"But it shall not be necessary to reserve any proposed alteration of the constitution of any state for the Queen's pleasure to be made known."

This position has been so eloquently argued by the hon. member, Sir George Grey, and other hon. delegates, that I do not intend to labour it now. I simply propose the addition of these words.

Sir GEORGE GREY: I want to move a further amendment, to the effect that it shall not be necessary to transmit any law made by a state for the Queen's approval.

The CHAIRMAN: The hon. member can move that after this question is decided; whichever way it is decided the hon. member can propose that.

Question—That the words proposed to be added be so added—put. The Committee divided:

Ayes, 11; noes, 27; majority, 16.

AYES.

Atkinson, Sir Harry	Dibbs, Mr.
Baker, Mr.	Gordon, Mr.
Bird, Mr.	Grey, Sir George
Bray, Sir John	Kingston, Mr.
Clark, Mr.	Playford, Mr.
Cockburn, Dr.	

NOES.

Burgess, Mr.	Loton, Mr.
Cuthbert, Mr.	Macdonald-Paterson, Mr.
Deakin, Mr.	Marmion, Mr.
Donaldson, Mr.	McMillan, Mr.
Douglas, Mr. Adye	Moore, Mr.
Downer, Sir John	Munro, Mr.
FitzGerald, Mr.	Parkes, Sir Henry
Forrest, Mr. A.	Russell, Captain
Forrest, Mr. J.	Rutledge, Mr.
Fysh, Mr.	Smith, Colonel
Gillies, Mr.	Suttor, Mr.
Griffith, Sir Samuel	Thynne, Mr.
Hackett, Mr.	Wrixon, Mr.
Jennings, Sir Patrick	

Question so resolved in the negative.

Sir GEORGE GREY: I rise to move:

That the clause be amended by the addition of the following words:—"But it shall not be necessary to reserve for the Queen's pleasure any law made by a state."

I wish to point out that we are asking for nothing which has not been done, and which has not been assented to unanimously by both houses of the Imperial Parliament. This provision is taken from the New Zealand Constitution Act, in point of fact, not in these very words or exactly this form, but hon. gentlemen will see that is all that is necessary, because we have not to reserve any power to the general legislature of the commonwealth. They have the power under previous clauses, so that the thing which is brought about is this: there are fewer subjects upon which differences can arise between Great Britain and the commonwealth of Australia. It will remove a great number of acts entirely out of the way of disputes taking place upon them, and, as I say, we are not asking for anything which has not been accorded cheerfully and willingly on a former occasion, and I feel sure that the greatest guarantee we can have of peace among ourselves, and peace with Great Britain, is by assuming powers which parliament will undoubtedly confer upon us if we apply for them in the proper form.

Question—That the words proposed to be added be so added—put. The Committee divided:

Ayes, 9 ; noes, 30 ; majority, 21.

AYES.

Atkinson, Sir Harry	Dibbs, Mr.
Baker, Mr.	Gordon, Mr.
Bird, Mr.	Grey, Sir George
Clark, Mr.	Kingston, Mr.
Cockburn, Dr.	

NOES.

Bray, Sir John	Loton, Mr.
Burgess, Mr.	Macdonald-Paterson, Mr.
Cuthbert, Mr.	Marmion, Mr.
Deakin, Mr.	McIlwraith, Sir Thomas
Donaldson, Mr.	McMillan, Mr.
Douglas, Mr. Adye	Moore, Mr.
Downer, Sir John	Munro, Mr.
FitzGerald, Mr.	Parkes, Sir Henry
Forrest, Mr. A.	Playford, Mr.
Forrest, Mr. J.	Russell, Captain
Fysh, Mr.	Rutledge, Mr.
Gillies, Mr.	Smith, Colonel
Griffith, Sir Samuel	Suttor, Mr.
Hackett, Mr.	Thynne, Mr.
Jennings, Sir Patrick	Wrixon, Mr.

Question so resolved in the negative.

Clause, as read, agreed to.

Clause 7. In each state of the commonwealth there shall be a governor.

Sir JOHN BRAY : It occurs to me that there is no necessity whatever for this clause. We retain the constitutions of the different colonies, and every one of these constitutions says that the governor is to exercise certain duties in regard to it. Why, then, should we say in this act that every state shall have a governor? I think it is exceedingly inadvisable to include the provision. We recognise that the constitutions are to remain as they are unless the various colonies themselves alter them. Why include in this bill a provision which might possibly prevent the colonies from altering their constitutions? Every constitution provides for a legislature and for a governor. Why, then, should we say that each state shall have a governor. If we say that there shall be a governor, why should we not also say that there should be a legislative council and a house of assembly? The Governor is, at the present time, part of the several constitutions, and it is absolutely necessary to carry out the provisions of any constitution act in Australia that there should be a governor.

Sir SAMUEL GRIFFITH: I do not remember the history of this clause in the Constitutional Committee. I am trying to recollect it; but I cannot remember that there was any particular discussion about it.

Sir JOHN DOWNER: There was!

Sir SAMUEL GRIFFITH: One reason for the clause, however, occurs to me. It is desirable that the states should know that the heads of the states are to be called governors, and not lieutenant-governors or administrators. There is a great deal of difference between them. Here we are now accustomed to the term "governor," but in olden days that was not the case. In Tasmania the governor was formerly called lieutenant-governor, while the governor of New South Wales was called the governor-general of Australia, all the other governors being, more or less, subordinate to him. My hon. friend, Mr. Kingston, reminds me that the governor in South Australia was formerly called lieutenant-governor. There is a considerable difference between the two things. It may be thought by some hon. members merely a matter of words, perhaps; but I have heard of a controversy going on of late when the question arose as to whether an admiral would take precedence of a lieutenant-governor when a lieutenant-governor is administering the government of a colony. That is a point that occurs to me now, and it may be of importance. We indicate by this clause that there are to be governors of states, and I think that that is the proper term to indicate that the states are sovereign.

Clause agreed to.

Clause 8. The parliament of a state may make such provisions as it thinks fit as to the manner of appointment of the governor of the state, and for the tenure of his office, and for his removal from office.

Mr. GILLIES : In the Constitutional Committee we had a lengthy discussion upon this question. As a reason for the insertion of this clause, it was contended that the people of any state or colony should have an opportunity to determine whether the governor should, or should not, be elected. It was argued, on the other hand, that there could be no objection to the insertion of this clause, because it did not lay down the provision that there should be an election, but merely gave power to the various states to determine whether a governor should be elected or not. This clause does a little more than that. No doubt the concluding portion may be said to be a corollary of the first portion :

The parliament of a state may make such provisions as it thinks fit as to the manner of appointment of the governor of the state, and for the tenure of his office, and for his removal from office.

I say that if that be done in any colony it completely changes the relations hitherto existing between the colonies and the Crown. The Crown at present appoints the governor and determines his tenure of office; it also determines, if necessary, his removal from office. The Crown may remove a governor from office whenever it thinks proper; but it is proposed to limit the power and authority of the Crown to do that. If the Crown once permitted any colony to adopt a provision such as is contained in this clause, that is, if any colony were to pass a law providing that the governor should be elected by the people, and the Imperial Parliament were to assent to that law, and the Queen's assent were also given, what would happen? As was pointed out on several occasions in the Constitutional Committee, the position would be a most inadvisable one. The party which for the moment was predominant in the province would support the election of a governor who belonged to their side. The governor would at once become a strong partisan, or he would not be elected, In addition to that the whole colony would be his constituency, and he would require to canvass it from one end to the other and solicit votes in the same way as they would be solicited by any gentleman seeking a seat in a legislative assembly. Now, for a gentleman proposing to take up the independent position of a governor, to see that fair play is given to both parties in the state, that is an extraordinary proceeding. A gentleman sitting below me contended the other day that if a premier asked a governor to dissolve parliament, the governor was bound to dissolve it at that minister's request. That would mean of course that if the governor were a friend of the ministers—who had absolutely helped to put him there—he would be under such obligations to them that he would naturally take sides with his ministers, and would give them as many dissolutions as he decently could. That would be an unfortunate position for the governor; nay, worse than that. As I have already told the hon. member, Sir Henry Parkes, without disrespect to him, if I were a citizen of a community which proposed to elect its governor, I would do all that I possibly could to prevent his election as governor. That hon. gentleman occupies a public position in this country which would make him far too powerful for the place of governor.

Sir HENRY PARKES : We have not reached that stage yet!

Mr. GILLIES : It is a stage we are asked to reach, and which I object to reach. The hon. member, if he aspired to the position of governor, would go through the length and breadth of the colony making some of those grand toned orations which touch the hearts of the people, and I have no doubt that he would be elected almost unanimously. After he secured his seat in the saddle it would be a most difficult thing to dislodge him.

Sir SAMUEL GRIFFITH: That is the trouble in Chili just now!

Mr. GILLIES: I do not think that we should create such troubles unnecessarily. If New South Wales passed such a law we should have a gentleman occupying the position of governor who is not supposed to manage all the affairs of the state, because that is supposed to be left to his ministers. His ministers would give him advice, and he would calmly tell his ministers that he would not take their advice, and he would dismiss them from office. In fact he might come to fighting parliament, and he might appeal to the whole of the electors of the colony for the purpose of maintaining himself in the position he had assumed. On the other hand, if his ministers were not sufficiently independent, and if they were prepared to bow the knee and worship the idol occupying the position of governor, what would they be? They would simply be puppets. My hon. colleague said the other day that the governor-general and all the governors were intended to be puppets and nothing else. However, if anyone elected under such circumstances possessed strong individuality and great force of character, what would be the result? His ministers would be puppets, and instead of working under constitutional government, we should be destroying our constitution. Instead of ministers being responsible to the state, they would be responsible practically to the governor, and the governor would be the power in the state, and not the ministers. Consequently we should be subverting our constitution, and with what object? What are we to gain by creating an autocrat, and by making the governor the president of the state during his term of office? If he is elected for four years, like the President of the United States, he may be maintained in office for the whole period in spite of his ministry. That would not be a desirable state of things. The first position of affairs would not be desirable. It is not desirable that a gentleman who is to occupy that position should be called upon to go through the length and breadth of the colony to solicit the votes of the electors. That is not the proper course for an officer who is intended to occupy a position of impartiality. A man who would be required to go through that ordeal is not the kind of governor who should be appointed in the interests of the people. What has been the objection to the present state of things? The Crown appoints the governors, and how many cases have occurred within our knowledge and experience in which the governors have not taken up a proper constitutional position? Very few indeed. The great body of them have acted strictly within their limits, and have, as a rule, accepted the advice of ministers when constitutionally given. If the governor declined to accept their advice they had the power of retiring from office, and the governor was obliged to take practically from parliament the men to occupy their position. I trust that the Committee will strike out the clause. It was never asked for by any of the colonies; it is not necessary to this bill; and the principle it proposed to lay down is not consistent with constitutional government as we know it.

Mr. PLAYFORD: I see nothing in this clause which in any way conflicts with the principles of responsible government. All that this clause says is that the people of the different states shall have the right of saying how their governors shall be appointed in future, and if the people of a state choose to make their governor an autocrat, I do not know that we need trouble our heads about that. They have a perfect right to choose their governor in future. There has been friction in the past with regard to the mode in which governors are nominated at home by the ministry, who know very little about the requirements of the colonies, and we know that the people appointed to these governorships have been objected to by different colonies, so that the home Government have been placed in a very awkward and disagreeable position through having, as in the case of Queensland very recently, to withdraw the gentleman first appointed, and to substitute another in his place. If the people in the colonies say that they desire to make an alteration in the mode of appointing their governors, I do not see why we should say that they will abuse it, and that they will make such an alteration in the law that it will work badly, and that all the evils which have been conjured up by the hon. member, Mr. Gillies, will result. It does not follow that if power were given to the people to appoint their own governors they would resolve that he should be appointed by the ministry of the day. It does not follow either that the governor would be appointed directly by the people, as was suggested by the hon. member, Mr. Gillies, when he alluded to the probability of the hon. member, Sir Henry Parkes, standing for election, being returned, and afterwards becoming a perfect tyrant or autocrat. They will take care to provide what shall be the powers of the governor, and we distinctly say in the clause that the people can provide for the removal of the governor from office in certain cases. I have not the slightest doubt that we can trust the people of the various states, if they do make an alteration in the mode of appointing the governor, to make provision which would prevent any man from becoming an autocrat or tyrant. All that we propose to do is to give a power which they have not at the present time in the states, and which, I think, it is very desirable should be given. In South Australia we have had trouble in connection with our governors. We have had to protest against persons being appointed whom rumour said were unsuitable. We have had to do more than that, and we consider that we have a right to require the home Government before anybody is recommended to her majesty for appointment to give us a quiet intimation about it, so that if we have a personal objection to him our voice may be heard.

Mr. BAKER: To whom—the ministry or the people?

Mr. PLAYFORD: The ministry on behalf of the people. I think it only right, because we know, from common rumour, that a most objectionable individual was likely to be foisted upon South Australia, and we had a right to object. I contend that by putting this clause in the bill we shall be giving power to the people to say whether they wish the present arrangement in regard to the appointment of governors to continue, or whether fresh arrangements shall be made, by which they shall have a voice in the appointment of governors if they wish it. I see no harm in allowing them to have it under the conditions here laid down.

Mr. MUNRO: I quite agree with my hon. friend, Mr. Gillies, that we ought when the time comes to oppose the election of our own governors. I do not believe in electing our own governors. But, at the same time, I do not see that this clause necessarily compels the colonies to elect their governors. It merely gives them the power to do as they think proper. I do not see any harm in the clause in that respect; but I say that the colonies have far too little power at the present time. For instance, we, in Victoria, went through an immense amount of suffering through the fact that a governor was removed because he took the constitutional advice of his government.

Mr. GILLIES: No. He claimed power to borrow money on behalf of the Queen, and she told him that he had no such power!

Mr. MUNRO: He took the advice of his ministers.

Mr. FITZGERALD: In a course which he knew to be illegal. He became a party man!

Mr. MUNRO: Let the hon. member put any construction he likes upon it, the fact remains that a governor who acted on the advice of his ministers was recalled.

Mr. GILLIES: He was not recalled for that, but for writing that letter without the advice of his ministers, and against their advice.

Mr. MUNRO: He was recalled because twenty-two executive councillors, who had no right to do it, petitioned against him. That is why he was recalled. Those executive councillors were blue conservatives.

Mr. DONALDSON: And his reply to that was that he could not work with them.

Mr. MUNRO: Of course not, after they had done such an improper act. Surely the people have a right to support a governor when he his acting on the advice of his responsible ministers. The hon. member says that the governor to whom I have referred acted illegally, and that he wrote a certain letter; but he was recalled because the petition of the twenty-two executive councillors went to the British Government asking for his recall. He was recalled against the will of the people, and the result was a fearful amount of suffering in Victoria for years afterwards.

Mr. FITZGERALD: And a lesson which they will not forget.

Mr. MUNRO: I trust that this clause will be passed: and that if such a lesson is ever taught them again the people will act upon their rights, and insist that a governor who takes a constitutional course shall not be removed by the action of any tories.

Mr. GILLIES: Wash your dirty linen at home; do not bring our quarrels here!

Mr. MUNRO: Who introduced the quarrel?

Mr. GILLIES: I did not. I never said a word about it!

Mr. MUNRO: I am referring to the historical fact that the governor was recalled because he took the advice of his ministers.

Mr. GILLIES: That is not an historical fact!

Mr. FITZGERALD: It is not a fact at all!

Mr. MUNRO: The hon. member says it is not, and he is introducing what he is calling dirty linen himself.

Mr. GILLIES: Who raised the question?

Mr. MUNRO: The hon. member raised the question by objecting to the clause and introducing matters which had nothing to do with it. The whole speech of the hon. member was in regard to something that might happen after the people had exercised their right under the clause, not in regard to the clause itself. His own statement was not with regard to the effect of the clause, but as to the effect of the law that might be made under it. I believe that the clause is properly in the bill, and I think that the people ought to have the power, if they are tyrannised over by anyone outside, to take steps to put themselves right.

Mr. McMILLAN: It seems to me that there is a great deal in the contention of the hon. member, Mr. Gillies, and a great deal of argument that has been used up to the present time has been quite outside the point to which he refers. We have heard a great deal about the maladministration of a certain governor; but what has that to do with the question? Suppose a bad appointment has been made on a particular occasion, is the whole system to be knocked out of existence because one foolish man has taken a certain course? This is one of the clauses in which we are going far beyond what I conceive to be the functions of the Convention. Let us examine the question of the position of the governor at the present time. All that any parliament up to the present time has said is, that the responsible minister of the day—that is, the prime minister or his cabinet—should be consulted with regard to the appointment of a governor. That is as far as ever we have gone. But to give to a colony the right to appoint its own governor—not to appoint a man from home, not to appoint a man ouside the politics of the colony, and outside a certain amont of interference which would be natural on his part, but to allow us to appoint a man in any way from among ourselves, or even by process of election, is simply against the whole scheme of the constitution that we are setting up We propose for the central government a constitution which will avoid all the trouble arising out of the election of a president which occurs in the United States of America. But having avoided that danger in the central constitution, we are now trying to make an opening, as an hon. member very ably put it, for the president in our provincial parliaments to be elected, and it seems to me that we are, in this case, absolutely erecting a different class of constitution for the provincial parliaments from the constitution which we have decided upon for the central government. And I certainly think that if this clause cannot be amended in such a way as to continue the present system by which governors are appointed from people outside our party politics, it will be far better to omit the clause altogether.

Mr. CLARK: Two of the speeches to which we have just listened were totally irrelevant. They might well have been delivered if the clause had said that hereafter the governor of each colony shall be elected by popular vote; but this clause says nothing of the kind. It simply says that each colony can do what they like with regard to the appointment of governor. The hon. member, Mr. Gillies, has posed here as a great advocate of state rights, and has deprecated warmly any interference of the central government, or of this Convention, with the internal affairs of the colonies, yet he would interfere most deliberately by saying that the people of the colony shall not have a voice in the way in which the governor shall be appointed. He held up a terrific picture of the consequences of popular election. But if this clause is passed it does not follow that any governor would be elected by popular vote.

Mr. GILLIES: Then what is the use of it!

Mr. CLARK: It says that if they do want to have the right to appoint the governor by popular vote they shall have it. And are we here to say that they shall not do what they like? The election of governors is not a thing unknown to the constitutional relations of the mother country with the colonies. A number of the original thirteen colonies of America elected their governors before the time of the revolution. Rhode Island and Connecticut did it, and in Maryland the office was attached to the families of the Calverts and the Penns. Those colonies were not amongst the most disloyal. The disloyalty and discontent in America arose in colonies where the governors were appointed by the Crown. I can quite conceive that the time may come when the appointment in England of governors for the colonies will be a source of irritation, and more likely to cause discontent than the system of appointing governors locally.

Mr. KINGSTON: It has caused trouble already!

Mr. CLARK: It is a possibility which the hon. member, Mr. Gillies, might well contemplate in his intense desire to keep up the connection with the mother country, fearful as he is of anything that may happen to change the constitutional relations of Great Britain with the colonies.

Mr. GILLIES: There is an intense desire on the part of some people to get rid of the connection!

Mr. CLARK: There is nothing of the kind in the present proposal. The simple object is that the people of each colony shall be allowed to govern themselves in whatever way they think fit. I have more faith in the general character, in the constitutional instincts and traditions, and in the wishes of the people of these colonies than to think they will adopt a mode of electing their governors with such consequences as the hon. member has predicted.

Mr. GILLIES: Why not leave them alone?

Mr. CLARK: We are leaving them alone. That is the very thing we wish to do, and not tie them down to the present system for all time.

Mr. McMillan: We are not here to propose amendments in the constitutions of the states!

Mr. CLARK: We are not proposing any such amendment. We have already taken away from the separate states so much of their power that their relations with the mother country will inevitably be changed hereafter. No man in his senses can say if this constitution is adopted that the relations of the separate colonies to the mother country and to the Crown will be anything like what they have been in the past. We have already altered the relations of the colonies to the Crown by what we have done, supposing this Constitution is adopted; and it is only a logical conclusion to our labours, only a necessary supplement to them, to add this clause, which says that in the changed relations which we have created, and which will necessarily arise under this constitution, the states shall have power to adapt the position of the executive to those changed relations.

Mr. BAKER: It appears to me that this clause, and also clause 7, are not only unnecessary, but altogether out of place. We came here to frame a federal constitution, and not to alter the constitutions of the states. I admit that we were obliged by force of circumstances to refer to the constitutions of the states in some particulars, and, perhaps, to alter them; but why should we make alterations further than is absolutely necessary? It seems to me altogether outside our warrant to do so. It is altogether outside the purpose for which we came here. The people of the different colonies are quite capable of looking after themselves, and if they want their constitutions altered you may depend upon it they will have them altered without any aid from us. I think it would be far better to strike the clause out.

Mr. ADYE DOUGLAS: I think it must be well known to many hon. members of the Convention that this is a fad of the hon. member, Mr. Clark.

Mr. Clark: Some people call them convictions; other people call them fads?

Mr. ADYE DOUGLAS: We know very well the opinions of the hon. gentleman on constitutional subjects; but the simple question before us is this: Is it necessary to insert a clause like this in the bill, when the people have the power under their existing constitution to do this thing if they like? As the hon. member, Mr. Baker, has said, we started on the principle that we would not interfere further than was necessary with state rights. We are now asked to interfere with these rights. It is like the Irishman going along with his coat trailing on the ground, asking, "Who will tread on my coat?" Is it desirable to throw out such a challenge? Or, it reminds one of the story of the Irishman who, seeing a stone lying by, said, "There is a stone; but don't throw it!" This is the same thing. There are several other clauses which have gained admission into the bill, and which, like this one, are simply the fads of the hon. member, Mr. Clark. I think the Convention should adhere to the intention with which it started, to insert nothing in the bill interfering with the rights of the states.

Sir THOMAS McILWRAITH: There is no doubt a great deal in the argument, that this does not necessarily bring about the election of governors in the different states. But I look upon it as a distinct hint to the states, that they may adopt the elective system if they like. It is an invitation, in fact, to the states to change the present mode of the appointment of governors. If any misfortune could happen to the colonies greater than another, it would be that they should have the power to elect their own governors. A greater blow could not be given to responsible government than by the election of governors by the peoples of the states. I thoroughly go with the hon. member, Mr. Gillies, in his proposal to strike out the clause, because if embodied in the constitution it would serve as an invitation to the states to act in a particular way, and I do not want the states to act in that way. What the hon. member, Mr. Gillies, has said about an elected governor, who has lived his life amongst us, is perfectly true. You cannot have two powers in a state. You cannot have a responsible ministry and a governor keeping his thumb on that responsible ministry and making them his servants. The ministry of the day are the governors of the country. I desire that matters should remain in that position. No doubt under the present system there are difficulties. The hon. member, Mr. Playford, instanced a case that occurred in Queensland. I remember that case very well. But did I draw the conclusion from all that took place at that time that it would be better to resort to the system of elective governors, or the appointment of a man whom we knew as a colonist ourselves? No. No man in the colony during the whole of that strife was more opposed to the system of elective governors than I was. All that took place on that occasion was significant enough. But it has had the effect of making the present mode of appointment possibly better than any other. All we object to is this. We saw from information obtained that the Government were likely to commit a great mistake and select a man as governor—very likely through ignorance, as I believe it was—whose appointment would violate the moral sense of the whole community, as it actually did. Then it became the duty of the Premier to telegraph to the home Government and say that if they were advised by people in the best position to advise them, they were making a mistake in sending out a governor to the colony whom the people considered unfit for the position. The Imperial Government could then take only one course, and that was to follow the advice thus tendered, which they did, and I believe they will always do so. I believe we ought to know who is going to be appointed as governor, so as to be able, if we wish, to make a protest.

Mr. Playford: They will not give it!

Sir THOMAS McILWRAITH: I do not believe we shall ever see a case in which they will refuse to do so. They did it in our case. They drew back as soon as they saw they had made a mistake; and I think if the home Government make a mistake in an appointment, they should have an opportunity of withdrawing. But do not let us do anything to raise a power in the state against the responsible ministers. We must keep the power of the latter intact; and although the present proposal may do no harm, as some suggest, I think it is an invitation to the people to act in a wrong direction, and for that reason I shall vote against the clause.

Mr. THYNNE: In listening to the arguments against this clause I have been struck with the want of trust displayed in the good sense of the people and those who lead them. The inhabitants of the colonies, guided as they have been by such leaders as Mr. Gillies, Sir Thomas McIlwraith, and others, are not likely to rush without reason into any sudden change in the mode of appointing their governors. I would venture to point out a very important consideration in dealing with this clause. We have had from the remarks of the hon. member, Sir Thomas McIlwraith, an illustration of the functions which the ministry of the federation are likely to have to perform in the future. I think they will be the ministry whom in the future the Crown is most likely to consult, and on whose advice the Crown is most likely to act in the selection of the governors of the different colonies, and it is necessary for the protection of the states, if at any time it should happen that the power of nominating the state governors should be abused, that they should have power to prevent the abuse from continuing. That is my reason for believing that the clause is absolutely necessary for the protection of the states, and as we have gone, I am afraid, rather far in th

opposite direction hitherto, I trust that the Committee will leave the slight protection afforded to them by the clause in the bill.

Mr. MACDONALD-PATERSON: I should like to say a few words before the question goes to a division. I think it was very unwise to insert this clause in a draft bill for the constitution of a commonwealth at all, and I think it was unwise on the part of hon. members to advocate the election of the governors of the different states, as some hon. gentlemen have done during the last few weeks. There was no mandate given to the members of the Convention to introduce the question here; and I believe that if it had been mooted at all as one to which we were invited to give our attention, and to be embodied in the clause such as this, many of the delegates here now would not have come at all, because the people of the states have never asked a higher authority than this delegation to discuss and decide the question. Why should we take upon ourselves the duty of providing for the execution of the functions embodied in the clause when the people of the different colonies have never referred the question to their own parliaments? To be consistent, we should embody in the bill a provision giving the people permission to elect the governor-general. But the hon. member, Mr. Clark, asked, "Why should the people not have this power?" My answer to that is, that no state in Australia has ever asked for it. I say emphatically that we are going altogether outside our functions in attempting to discuss or deal with this question. There is another point to which I wish to draw the attention of the hon. member, and that is, are we not here to do everything we can to introduce into this bill all matters that will forward federation in the eyes of the people, and to exclude every item that will promote dissention and perhaps disaster? But I hold that if we pass the clause we shall set the people by the ears, because there are in every colony doubtless people who advocate such a clause as this; but there are, on the other hand, those who desire to leave things as they are, and we shall endanger the acceptance of the bill, the fulfilment of our aspirations for federation, and the consummation of our hopes, if we do not exclude the clause, which will result in the strongest dissension in the different colonies. I sincerely trust that the division, if it takes place, will emphatically indorse the observations of the hon. member, Mr. Gillies, and others, and show to Australia that we have no desire whatever to disintegrate their existing constitutions even in this respect.

Sir SAMUEL GRIFFITH: Various objections have been made to this clause, some of which seem to me, speaking with great respect to the hon. members who expressed them, somewhat imaginary. The hon. member who has just sat down seems desirous to leave things as they are. So do I; but I do not desire to compel things to be left as they are. I do not wish that we should insist that there is so much wisdom with us that we should compel everything to remain as it is. I contend that we should give every facility to others to alter their arrangements if they think fit.

Mr. J. FORREST: They can do that now!

Sir SAMUEL GRIFFITH: Yes, but how? With the assent of the Parliament of Great Britain. But have we not maintained that we shall not want the help of the Parliament of Great Britain when this constitution is agreed to?

Mr. GILLIES: We shall require the Parliament of Great Britain to pass it!

Sir SAMUEL GRIFFITH: Yes; and after that we do not want them to interfere any more, and those who think with me are following a consistent view when we take up that position. That being so, what are we to do with the different states? We do not want the parliament of the commonwealth to interfere with the states' constitutions, nor do we want the Parliament of Great Britain to interfere with them. What is the alternative? They must either allow their constitutions to remain stereotyped, or have the power of altering them themselves, subject to the Queen's veto.

Mr. DEAKIN: Have they not that power now?

Sir SAMUEL GRIFFITH: Not without the assistance of the Parliament of Great Britain.

Mr. DEAKIN: What will be the effect of this clause?

Sir SAMUEL GRIFFITH: To render it unnecessary for them to go to the Parliament of Great Britain to obtain an alteration of their constitutions.

Mr. GILLIES: If they did it for one, they would do it for all!

Sir SAMUEL GRIFFITH: Exactly; but the hon. member cannot get rid of the idea that we are still to be in leading-strings and not go alone.

Mr. GILLIES: That is what you are asking in the bill!

Sir SAMUEL GRIFFITH: Once and for all. There are only two ways of getting rid of the interference of the Parliament of Great Britain: either by revolution, or by asking the British Parliament to give us leave once and for all to manage for ourselves.

Mr. GILLIES: Revolution is very well introduced, and in great taste!

Sir SAMUEL GRIFFITH: The hon. member would retain for the Imperial Parliament the power to deal with these questions. But the constitution will be imperfect if we have to go to the Imperial Parliament to obtain permission to do anything. On the other hand, it is not proposed that the state should ask the commonwealth for permission to act as they choose in the matter, because that would interfere with state rights. As to the election of governors being inconsistent with responsible government, does the hon. member know that responsible government has been going on in Europe for years with an elective president?

Mr. GILLIES: A totally different state of things!

Sir SAMUEL GRIFFITH: Not at all in principle. The question is whether elective governors are inconsistent with responsible government No doubt there are great difficulties with every system of government; but all the South American republics have responsible government with elective governors.

Mr. GILLIES: Are they not nicely governed?

Sir SAMUEL GRIFFITH: That is another example of the hon. member's style of argument. Because the people of the South American states from their disposition and history do not govern themselves very well, that is put down to the fact that they have elective presidents and responsible ministers; but it is absurd to put the two things down as effect and cause, especially when we see the same form of government in operation on the continent of Europe. And, as the hon. member, Mr. Clark, pointed out, elective governors were found in America, before the Declaration of Independence, to be quite consistent with loyalty to the Crown. Hon. members seem to think that the instances that have come under their own notice are the only instances in history; but history shows us that loyalty does not depend upon the form of government. Loyalty is a sentiment which will exist quite irrespective of the form of government, so long as there is connection between us and the Crown. For these reasons I say that the constitution would be incomplete without a provision of this kind, because it would be necessary to have recourse to the Parliament of England to provide a change.

Mr. FITZGERALD: Notwithstanding what the hon. member, Sir Samuel Griffith, has said, I consider that it would be diametrically opposed to the best interests of this country if we sanctioned or invited, as we do by this clause, the parliaments of

the various states to elect their own governors. I do not think it necessary, to gentlemen of common sense, to give at length the reasons why danger would follow that method of appointment. We all know that the case which has been referred to is an exceptional one which ought to be a warning to us. The American republics and the American states are on a different platform to that of these colonies. We know that powerful families exercised commanding influence in those states. We know that the representatives of those families, as has been stated by the hon. member, Mr. Clark, really keep the governorships as heirlooms. There is really little danger to popular rights so long as appointments of that kind are made. Here, however, we absolutely give an invitation to the various states to alter their method of the appointment of governors, and to proceed at once to election. Election by what? By popular vote! Election at certain recurring periods, to throw the whole country into confusion, for the appointment of whom? For the appointment of a governor-general, who ought to be above party politics, whose best efforts ought to be devoted to reconciling party divisions, who ought not to be, as in the case to which the hon. member, Mr. Munro, referred, a man who came down from his lofty position, and, enamoured of the applause of the people, became, during a wave of cyclonic fury which swept over the country at the time, instead of a governor, a partisan. The home Government recognised in a just manner the grave fault which that governor committed, and removed him from his high position. The effects of that man's mistake have not yet been wiped away from that colony. It is one of those unhappy remembrances which I am sorry have been referred to; but it points a moral in this case. It shows us that if the states were to appoint a governor the same feelings would probably actuate him. Probably he would forget, in the old fire of party feeling, his position of independence, his position of impartiality, and take sides with one party or the other, and continue the existing unhappiness instead of doing his best to get rid of it. The invitation contained in the clause appears to me to amount almost to a direction. I hold that there is a tendency in these colonies, to which we cannot close our eyes, of advancing further and further in a democratic direction; and it is undoubted that some of the most populous of the colonies would choose this form of the election of their governors. I can imagine nothing which would be more prejudicial to the future interests of the country. I sincerely hope the advice of the hon. member, Mr. Gillies, will be taken, and that the clause will be expunged. It seems to me to be the one blot upon the bill. As the hon. member, Sir Samuel Griffith, has stated, we give no direction; we merely leave the matter open. Amongst men of common-sense we know what this invitation amounts to, and the manner in which it will be availed of. Let us go to the Imperial Parliament for any change in the method of the appointment of governors. If the will of the people preponderates in favour of a change, the Parliament of England will not object. Let us not, however, excite party feeling; but let us continue in the path which has brought us happiness, and which has not interfered with the freedom of the people of the colonies.

Mr. DIBBS: The clause, as it stands in the bill, is a necessary sequence of the clauses which precede it. The Convention has deliberately taken away the rights of the states one by one. We have denuded the individual colonies of their rights and liberties, and have reduced various states, if the bill becomes law, to the position of municipalities. Surely we should have the right to elect our own mayors, because that is what the governors will be. They will not, indeed, hold such a responsible position as does the Mayor of Sydney at the present time. The hon. member, Mr. Gillies, was very hard upon the hon. member, Sir Henry Parkes, in the satirical speech which he delivered.

Mr. GILLIES: I paid him a great compliment!

Mr. DIBBS: I know the hon. gentleman paid him a compliment; but it was a left-handed one. The idea of trotting out the hon. member, Sir Henry Parkes, as a candidate for the office of governor of a state is a downright outrage on that gentleman's feelings. He has no idea, if I can judge his character aright, of occupying such a position as the governor of a state, who, by the preceding clauses of the bill, is reduced to a position of utter insignificance. I fancy, if the hon. gentleman aspires to anything at all, he aspires to the position of governor-general. I think I am near the mark in gauging the feelings of the President of the Convention when I say that nothing short of the position of governor-general will suit his high ambition. Of course we know very well that there is another appointment which, in due time, he will go for, and that is the position of president of the new republic; but to taunt him in the meantime with aspiring to the position of governor of a state, a position which will be rendered exceedingly paltry by the removal of the whole of the rights of the states, is an insult for which I think the hon. member who committed it ought to apologise. I trust the hon. President will accept in sincerity my gauge of his character, that he aspires to the highest position this country will ever give, and that he will take office, in due time, as governor-general, with the title of Baron Hampton.

Captain RUSSELL: There is one point to which I should like to draw attention. I thoroughly disagree with those delegates who have spoken of the clause as a logical sequence of the previous clauses of the bill. It seems to me, as the hon. member, Sir Samuel Griffith, who has an equally-balanced mind, has said, that if it is desirable that the states should elect their own governors, the governor-general of Australia should also be elected. I venture to say that this is an indication to the people of the various colonies that the method of appointing governors at present is unsatisfactory, because, if it is satisfactory, what is the necessity of drawing the attention of the people to that which they have already in their power, if they choose to exercise it?

Sir SAMUEL GRIFFITH: No, they have not!

Captain RUSSELL: I am one of those who see no objection to referring important matters to the Imperial Parliament: but I cannot help thinking that it is undesirable that we should be obliged to refer many matters to the Imperial Parliament. It seems to me that if we are to remain a part of the great British Empire, it is undesirable that we should by any means weaken that respect for the Queen, which I believe must come about by our seeking to elect her representative; because, if we are to elect our own governors, the fountain of honour and power will be removed from the Queen and centred in the people of the various colonies; and I, for one, do not believe that that is the wish throughout the colonies. In the colony which I represent, and probably throughout Australia, there is a fervent belief in the principle of one man one vote; but if we proceed in the direction of electing the governors by the people, we shall, according to my idea, make a distinctly retrograde step. Any advantages which may accrue—and I do not say they will be all advantages—from the adoption of the principle of one man one vote will be distinctly imperilled if, in addition to that principle, we have one dictator into the bargain. So sure as we have, under the ordinary system of responsible government, a governor elected by the whole of the people, he will cease to be a governor in the sense in which we now regard the word, and he will become, in a short time, an absolutely irresponsible dictator, who will override the wishes of the people, and who

will, I believe, sooner or later, bring about a disturbance of that true government of the people by the people which is so desirable.

Question—That the clause, as read, stand clause 8 of the bill—put. The Committee divided:

Ayes, 20; noes, 19; majority, 1.

AYES.

Bird, Mr.	Griffith, Sir Samuel
Bray, Sir John	Jennings, Sir Patrick
Clark, Mr.	Kingston, Mr.
Cockburn, Dr.	Munro, Mr.
Deakin, Mr.	Parkes, Sir Henry
Dibbs, Mr.	Playford, Mr.
Donaldson, Mr.	Rutledge, Mr.
Downer, Sir John	Smith, Colonel
Gordon, Mr.	Sutton, Mr.
Grey, Sir George	Thynne, Mr. W. D.

NOES.

Atkinson, Sir Harry	Hackett, Mr.
Baker, Mr.	Loton, Mr.
Burgess, Mr.	Macdonald-Paterson, Mr.
Cuthbert, Mr.	Marmion, Mr.
Douglas, Mr. Adye	McIlwraith, Sir Thomas
FitzGerald, Mr.	McMillan, Mr.
Forrest, Mr. A.	Moore, Mr.
Forrest, Mr. J.	Russell, Captain
Fysh, Mr.	Wrixon, Mr.
Gillies, Mr.	

Question so resolved in the affirmative.

Clause 10. A member of the senate or house of representatives shall not be capable of being chosen or of sitting as a member of any house of the parliament of a state.

Mr. BIRD: I should like to raise the question whether a member of either the senate or the house of representatives ought to be disqualified from being chosen as a member of the parliament of a state. It is all very well to say that he shall not sit; but I do not think that we ought to prevent him from being chosen whilst holding a seat as a member of either the senate or the house of representatives. Desiring a seat in the local parliament he might think it desirable to offer himself as a candidate, and I do not think that we ought to prevent him from doing so. It will be quite sufficient, I apprehend, if we provide that he shall not at the same time sit as a member of both houses. I therefore move:

That the clause be amended by omitting the words "being chosen or of."

Sir SAMUEL GRIFFITH: This matter was discussed by the committee, who were of opinion that members of the senate and the house of representatives ought not to become candidates for seats in their own local legislatures.

Mr. PLAYFORD: I think not!

Sir SAMUEL GRIFFITH: That is how I understood the opinion of the committee. My own individual opinion does not agree with this provision at all; but that is neither here nor there. I am going to stand by the bill. It is provided by the next clause that if a member of a state parliament is elected to the parliament of the commonwealth with his own consent his seat is to become vacant. The theory is that he, being a member of the parliament of the commonwealth, may not offer himself as a candidate for a state parliament. You cannot prevent a man from being nominated. If a man, with his own consent, were put up as a candidate and were elected, that would be inconsistent with his retaining his seat in the state parliament. But it is proposed by the amendment to allow a member of the senate, nevertheless, to be chosen as a member of one of the houses of parliament of the state. What will happen then?

Mr. BIRD: He resigns his seat in the senate, and takes his seat in the state legislature!

Sir SAMUEL GRIFFITH: There is nothing to say that he shall do so.

Sir JOHN BRAY: He will not be allowed to sit!

Sir SAMUEL GRIFFITH: He would not be allowed to occupy both seats. If he were incapable of sitting, there would be a petition against him, his seat would be declared vacant, and the election would simply be wasted. I am arguing, of course other people's views, for I do not believe in this restriction at all.

Mr. PLAYFORD: So far as I recollect, the committee did not intend to prevent a man, simply because he was a member of either the senate or the house of representatives, from standing for a constituency of a state parliament or *vice versâ;* but that when he was elected he would have to resign his position as a member of either the federal or the local parliament. If hon. members read the clause which has just been quoted by the hon. and learned member, Sir Samuel Griffith, they will see that that idea is certainly carried out in that clause, which says that if a member of a house of the parliament of a state is with his own consent chosen as a member of the parliament of the commonwealth, he must resign his former position. The clause was worded purposely in that way, so that a man should not be compelled to give up his position in the local legislature until he was elected to the federal parliament; and I understood that clause 10 was intended to carry out the same idea—that is, that if a man who happened to be a member of either the senate or the house of representatives chose to stand for election to the parliament of any state, he should not be compelled to resign his position in the senate or the house of representatives, as the case might be, until he was elected to the state parliament; but that when so elected he would be compelled to resign his other seat.

An HON. MEMBER: This clause compels him to resign his seat in either the senate or the house of representatives before being chosen as a member of a state parliament!

Mr. PLAYFORD: Yes. But if the hon. gentleman will look at clause 11, he will see that the member is not compelled to resign his seat until chosen as a member of the federal parliament, and clause 10 should be worded similarly. As a member of the committee, that is what I understood was the wording of the clause. We did not intend him to compel him to give up one position until he was elected to the other, but that when elected to the state parliament he should give up his position in the senate or the house of representatives; or, if elected to the federal parliament, he should give up his position in the local parliament.

Mr. ADYE DOUGLAS: I think the hon. member, Mr. Playford, is confounding the two clauses. One clause relates simply to the senate and the house of representatives, and the other to the local parliament only. It was discussed a good deal in the committee, who came to the conclusion that if a man is in the senate, or the house of representatives, he must resign his seat in that house before he can contest an election for a seat in a state parliament, and if he is chosen without his consent he will have to resign the other seat. The two clauses are entirely separate and distinct from each other; one does not infringe in any shape or form on the other.

Sir SAMUEL GRIFFITH: If it is proposed that the election of a senator, or member of the house of representatives, to a local parliament, shall turn him out of the senate or the house of representatives, the proper place to put that in is in the part dealing with the parliament of the commonwealth—not here at all. The intention of this provision is plain enough—that a member of the parliament of the commonwealth shall not become a candidate for a seat in a state legislature.

Mr. BIRD: Why should he not?

Sir SAMUEL GRIFFITH: I feel a difficulty in arguing this question, because I do not believe in the principle at all; but still the committee were almost unanimously of that opinion, and I want, therefore, to make the bill consistent. If we are going to make that a disqualification—and it is really a dis-

qualification—of members of the senate or house of representatives, this is not the place to do it. The proper way would be to strike out this clause, and put in a clause in that part of the bill corresponding with clause 11. The words should be the same in both cases, if that is what we mean, and the proper language is that in clause 11; but then a clause similar to that should be put in in Part I of the bill, if that is what is intended. I can look upon it impartially. I do not believe much in these restrictions; but if they are to be in, I believe the way we have it is the fairest—that a man who is chosen from a state parliament to the federal parliament loses his seat, and cannot get his seat back until he ceases to be a member of the federal legislature.

Mr. PLAYFORD: We never intended that!

Sir SAMUEL GRIFFITH: That is what I understood was the intention.

Mr. GILLIES: There are two questions involved, one is the idea contained in clause 10, which sets out that a member of the senate shall not be allowed to become a member of a state legislature so long as he is a senator. The idea was that they should not go down—that they might go up; but if they did go up, and were elected to the senate, they should cease to be members of the state parliament.

Sir JOHN BRAY: It seems to me that it might prevent a member of the senate, whose time is just expiring, from offering himself as a candidate for the house of representatives. Supposing there are two elections coming on almost together, and he is a little doubtful as to whether he will be elected to the senate again, and he decides to offer himself for the local parliament, why should he not be allowed to do so? I think that if the hon. member, Sir Samuel Griffith, will consent to make the clause read in the same form as clause 11 it will meet all we wish.

Sir SAMUEL GRIFFITH: It should be in the other part of the bill!

Sir JOHN BRAY: We cannot put it in there very well.

Sir SAMUEL GRIFFITH: We shall have to recommit the bill!

HON. MEMBERS: No!

Sir SAMUEL GRIFFITH: This is not the place for it. This is dealing with the states!

Sir JOHN BRAY: If the hon. member, Mr. Bird, will withdraw his amendment for a time I shall propose to make the clause read in the same form as the other.

Mr. FITZGERALD: Postpone the clause!

Sir SAMUEL GRIFFITH: I would point out that this clause is dealing with states and state legislatures, and that to put in a disqualification of senators here would be absurd. We have dealt with that in one part of the bill. Anyone looking to the constitution to see the disqualification of senators will look to that part of the constitution, and not here.

Sir JOHN BRAY: Under the circumstances, I think it would be best to strike out the clause altogether.

Mr. CLARK: No: postpone it!

Sir JOHN BRAY: No; it would be better to strike it out. Then, on the understanding that the hon. member, Sir Samuel Griffith, will take an opportunity to recommit the bill, a new clause can be put in. If we are going to strike it out afterwards, what is the use of postponing it? None of us agree to it as it is, so we had better strike it out.

Mr. BAKER: I hope we shall have no recommittal of the bill, because if we do we shall not get home for another month.

Sir SAMUEL GRIFFITH: I wish to know what the Committee want? I really do not know what the opinion of the Committee is. One or two want no disqualification, others want a member of the house of representatives to be eligible for election, but that if elected he shall lose his seat, while another view is that he shall not be eligible at all. Which is it to be?

Sir JOHN BRAY: We shall soon test that!

Sir SAMUEL GRIFFITH: We had better test the question on the words "chosen or."

Mr. PLAYFORD: Personally I do not believe in any disqualifications at all. I am quite willing to excise both clauses, and to let the people of the states elect them if they think fit as members of one house or the other.

Mr. GILLIES: And be members of both houses?

Mr. PLAYFORD: Yes, if the electors choose to elect them. Failing that, this is what I want to do. I do not want to disqualify a man from standing while he is a member. All I want to say is that now you have been chosen you shall resign the former position you held as a legislator for the whole country. I want to limit the effect of it as much as possible. Personally, I am quite willing to vote against this clause, and the succeeding clause.

Sir JOHN BRAY: In order to test the feeling of the Committee, as the hon. member, Sir Samuel Griffith, suggests, I shall move, if the hon. member, Mr. Bird, will withdraw his amendment, to insert the word "If" at the beginning, with a view to make the clause read as follows:—

If a member of the senate or house of representatives shall be chosen as a member of the parliament of a state, his seat in the senate or house of representatives shall become vacant.

Mr. BIRD: I am quite willing to withdraw my amendment, because I believe that in order to attain the object we have in view it will be better to have clause 10 read in harmony with clause 11. If the hon. member, Sir Samuel Griffith, is agreeable to put it in in the proper place, I think it will make the bill more harmonious, and secure the objects which I think the majority of this Convention have in view.

Mr. MUNRO: No!

Mr. BIRD: The hon. member says no.

Mr. MUNRO: I am going for the bill as it stands!

Sir JOHN BRAY: It is wrong!

Mr. BIRD: I should be sorry to think that the hon. member would prevent a man who may have one or two years still to run as a member of the senate from standing as a candidate for a seat in the local legislature if he desired to change his position.

Mr. MUNRO: Let him resign if he wants to go into the other!

Mr. BIRD: He may hold some position in the government of the commonwealth or of a state, and be unwilling to give up one until he secures the other.

Mr. MUNRO: Why should he? You give him double pay!

Mr. BIRD: Double pay! He cannot hold the two offices together. As the hon. member, Sir John Bray, is asking for the very same thing as I am, and as the method he has adopted will I am sure secure that end better, I ask leave to withdraw my amendment.

Mr. GILLIES: May I be allowed to say that the hon. gentleman does not take another view of the case which it appears to me is worthy of consideration? A gentleman who may be a member of the senate may not desire or care to go in for a seat in the lower branch of the legislature; but somebody else may be standing who he is determined shall not have a walk-over, and so he retains his seat as a member of the senate, and contests the other. I do not believe in that proceeding. If they really desire to descend from the high position they occupy in the senate, and think they can be of greater use in one of the state legislatures, let them resign their seats.

Sir SAMUEL GRIFFITH: I think the bill as it stands will give the greatest satisfaction; that is the conclusion at which I have arrived.

The CHAIRMAN: Is there any objection to the withdrawal of the amendment of the hon. member, Mr. Bird?

Mr. GILLIES: I object!

Amendment negatived.

Question—That the clause as read stand clause 10 of the bill—put. The Committee divided:

Ayes, 25; noes, 10; majority, 15.

AYES.

Baker, Mr.	Griffith, Sir Samuel
Burgess, Mr.	Jennings, Sir Patrick
Clark, Mr.	Loton, Mr.
Cuthbert, Mr.	McIlwraith, Sir Thomas
Deakin, Mr.	McMillan, Mr.
Dibbs, Mr.	Moore, Mr.
Donaldson, Mr.	Munro, Mr.
Douglas, Mr. Adye	Parkes, Sir Henry
Downer, Sir John	Russell Captain
FitzGerald, Mr.	Rutledge, Mr.
Forrest, Mr. A.	Smith, Colonel
Gillies, Mr.	Thynne, Mr.
Grey, Sir George	

NOES.

Bird, Mr.	Gordon, Mr.
Bray, Sir John	Hackett, Mr.
Cockburn, Dr.	Kingston, Mr.
Forrest, Mr. J.	Marmion, Mr.
Fysh, Mr.	Playford, Mr.

Question so resolved in the affirmative.

Clause 11. If a member of a house of the parliament of a state is, with his own consent, chosen as a member of either house of the parliament of the commonwealth, his place in the first-mentioned house of parliament shall become vacant.

Mr. KINGSTON: I must protest against the passing of this clause. We have hitherto professed an anxiety to avoid any unnecessary interference with the constitutions of the states, and this clause seems to me to err in the direction of interfering with those constitutions without any cause whatever. The clause provides that if a member of one of the local houses of parliament is chosen a member of either house of parliament of the commonwealth, his seat shall become vacant. As far as South Australia is concerned, we have specified in our Constitution Act various circumstances leading to the disqualification of a member. These are common to similar provisions in other constitution acts of the Australian colonies. We declare that if a member of either branch of the legislature shall become bankrupt or insolvent, or shall become a public defaulter, be attained of treason, be convicted of felony or any other infamous crime, or become of unsound mind, his seat in the legislature shall thereby become vacant. It is proposed by this clause to declare, in addition to these various disqualifications, that of the election of a member to the parliament of the commonwealth. Why should we do that? Where is the necessity for any such interference? If the states desire, let them make the amendment themselves. We have given them the fullest powers with reference to alterations of their constitutions. Why should we prevent them from exercising those powers in such a way as to them shall seem fit? For my own part, I think it would be a great pity if we were to do anything which might have the effect of preventing members of the local legislature from sitting also in the parliament of the commonwealth.

Mr. BAKER: Or being elected governors besides!

Mr. KINGSTON: There are objections perhaps to that course which do not apply to the matter now under discussion. We surely do not wish to reflect in any way upon the status hitherto occupied by members of the local legislatures. I have heard on various occasions in this Convention expressions of an anxiety to keep the local legislatures and the parliament of the commonwealth in touch. I believe that was the chief reason which led to the adoption of the plan whereby the senate is to be elected by the two houses of the local parliaments. Surely if you are desirous of keeping the parliament of the commonwealth and the parliaments of the states in touch you are not adopting a provision which will have that effect when you say that no man shall sit in the two parliaments. If the local legislatures are satisfied that their members should be elected to the parliament of the commonwealth, why should they not? Why not leave it to them to determine the question from time to time as to them may seem most desirable? As our Vice-President has from time to time put it, why should we assume to ourselves all the wisdom necessary for finally deciding this question? Why should we in a matter that can fairly be left to the decision of the states, say that we, in this Convention, have considered it to such an extent that we shall not permit the states to deal with the question; but shall lay it down once and for all that any member of a local parliament who may be elected to the parliament of the commonwealth shall thereby vacate his seat. Surely it is a matter in which the local legislatures are chiefly interested, and why should they not have the power of dealing with it? I hope the clause will be rejected. If the states parliament consider that election to the commonwealth parliament shall be a disqualification they can pass a law to that effect, as they have already done in the case of certain other events which are held to disqualify a man from sitting in a local parliament. Why should we say, without consulting the states, that the mere fact of an additional honor being conferred on a member of a local parliament, by his election to the parliament of the commonwealth, shall disqualify him from sitting in the state parliament, and that during the whole term of his office the state shall be prevented from availing itself of his valuable services in the direction and management of their local affairs.

Clause agreed to.

Clause 14. A state shall not, without the consent of the parliament of the commonwealth, impose any duty of tonnage, or raise or maintain any military or naval force, or impose any tax on any land or other property belonging to the commonwealth.

Sir SAMUEL GRIFFITH: My attention has been called by one of my colleagues to the fact that there are no corresponding words in the bill prohibiting the commonwealth from taxing state lands. In order to remove that objection, I move:

That the following words be added to the clause:—"nor shall the commonwealth impose any tax on any land or property belonging to a state."

Mr. GILLIES: Is it contemplated that in the case of Crown land belonging to the states, that land may be taxed?

Sir SAMUEL GRIFFITH: It will prevent that being done.

Amendment agreed to; clause, as amended, agreed to.

Clause 18. Full faith and credit shall be given in each state to the laws, the public acts, and records, and the judicial proceedings of every other state.

Amendments (by Sir SAMUEL GRIFFITH) agreed to:

That the words "in each state" be omitted with a view to insert the words "throughout the commonwealth," and that the words "every other state" be omitted with a view to insert the words "the states."

Clause, as amended, agreed to.

CHAPTER VI.—NEW STATES.

Clause 1 (Admission of existing colonies to the commonwealth).

Colonel SMITH: Is it not desirable that the parliament of the commonwealth should have the power to state the conditions upon which any colony that does not join now may join hereafter? I would suggest that words be added at the end of the clause to the effect that if any colony does not think proper to join the federation at first, it should only be permitted to come in afterwards on such terms and conditions as the parliament of the commonwealth may determine. The condition of affairs may be altogether altered when other colonies may wish to join, and if they stand out now to suit their con-

venience, it is only fair that the federal parliament should have power to impose conditions in future. I would suggest for the consideration of the hon. and learned member, Sir Samuel Griffith, whether we should not add at the end of the clause the words "on such terms and conditions as parliament may determine."

Sir SAMUEL GRIFFITH: The proper way would be to leave the clause out altogether; then the next clause would govern the matter. But I think we understand that we are dealing with all the existing colonies of Australia. That all will accept the constitution at once is not to be expected. I recognise the force of what the hon. member says; but if it is desired to impose a limit, we had better say ten years, or something like that.

Mr. GILLIES: And impose new conditions?

Sir SAMUEL GRIFFITH: And impose new conditions. I think it would be a mistake.

Clause agreed to.

Clause 4 (Alteration of limits of states) verbally amended and agreed to.

CHAPTER VIII.—AMENDMENT OF THE CONSTITUTION.

The provisions of this Constitution shall not be altered except in the following manner:—

Any law for the alteration thereof must be passed by an absolute majority of the senate and house of representatives and shall thereupon be submitted to conventions, to be elected by the electors of the several states qualified to vote for the election of members of the house of representatives. The conventions shall be summoned, elected, and held in such manner as the parliament of the commonwealth prescribes by law, and shall, when elected, proceed to vote upon the proposed amendment. And if the proposed amendment is approved by conventions of a majority of the states, it shall become law, subject nevertheless to the Queen's power of disallowance. But an amendment by which the proportionate representation of any state in either house of the parliament of the commonwealth is diminished shall not become law without the consent of the convention of that state.

Sir SAMUEL GRIFFITH: Some doubt has been expressed whether the words, "proportionate representation of any state in either house of the parliament of the commonwealth is diminished," sufficiently cover the case of the minimum number of members for any state. I am not quite sure that they do. We say that the minimum number for any state shall be four. The point should not be left open for argument. It may be advisable to put in the words, "or the minimum number of representavies of a state in the house of representatives." I suggest, however, that the words, "or minimum number of representatives of any states in the house of representatives," be inserted after the word "commonwealth," line 16.

Mr. MUNRO: I should like to call attention to the manner in which the constitution is to be amended. First of all, there must be an absolute majority of the two houses. That is right enough; but when the matter is referred to the conventions it is a majority of the states. That gives the states on two occasions the power of vetoing the action of the representatives of the people. The people are represented as a whole in the first chamber only. The states in the senate can veto the action of the house of representatives, and when you go into conventions you treat them as states again. I do not think that that is a proper principle. I think that in a matter of that sort numbers ought to have some weight in the federal convention. According to this clause it will not be so. My attention has been called to the matter by a communication from my learned colleague in Melbourne, who points out that by this proposal a minority will have the power of veto twice.

Mr. GILLIES: The question as discussed in the Constitutional Committee was that an amendment of the constitution was a very serious matter. Each state comes into the constitution on a basis contained in the constitution to be agreed to by the various colonies, and subsequently passed by the Imperial Parliament. Any alteration of that constitution may be a very serious thing to one or more of the states, and the states would naturally contend that as they had made a bargain, entered into an agreement—a written agreement, without which they would not have entered the federation at all—no part of that agreement ought to be lightly set aside, and that it ought to require the greatest consideration, not only of the majority of the people as represented in the conventions, but a majority of the state representatives as representatives, otherwise a state might say, "You are proposing an amendment to the constitution of such a serious and important character affecting us, that we never would have joined this federation if we had known that such a course would have been taken." I think that amending the constitution is a most serious matter, and that no state ought to be compelled to submit to an amendment of the constitution when it has not a right to withdraw from that constitution, certainly not to amendments which would really press improperly upon its state rights. The committee felt every precaution ought to be taken that before an amendment, it may be of a fundamental character, affecting two or three states, was permitted, the sanction should be obtained of a majority of the states which had come into the Convention under a certain written agreement—that that agreement should not be overturned without a majority of the states affected concurring in the course adopted. That was the view which obtained in the Constitutional Committee, and I think it is not unfair.

Mr. MUNRO: Whilst it is not unfair to give the states power of veto in this direction, under this clause we are giving them the power twice.

Mr. BAKER: Each state gets the same power twice!

Mr. MUNRO: Yes; but the people as a whole only get the power once. Suppose that an amendment of the constitution is proposed in the house of representatives, and by a bare majority, which happens to be the number that is present at the time, a certain amendment is carried.

An HON. MEMBER: It must be an absolute majority of the House!

Mr. MUNRO: They may have an absolute majority of the members present.

An HON. MEMBER: No; of the whole house!

Mr. MUNRO: What I want to point out is this: Suppose that an amendment which seriously affects the larger colonies is made inadvertently. They have no power to protect themselves, because once the amendment goes to the other chamber a majority of the states decides the matter, and then when it comes to be referred to the people it is referred to conventions, in which they vote as states again, so that the power of numbers does not tell; if a mistake is made in the first instance, the people have no power to remedy it.

Mr. CUTHBERT: Who appoints the conventions?

Mr. MUNRO: The conventions, it is true, are appointed by the electors; but they count as states only.

Mr. CUTHBERT: But they are chosen by the people!

Mr. MUNRO: What I want to point out is this: that in dealing finally with an amendment of the constitution, Western Australia, with 45,000 people, will have an equal voice with New South Wales, with a population of 1,250,000, and it will have an equal voice also in the senate.

Mr. GILLIES: The hon. gentleman overlooks this part of the clause:

The conventions shall be summoned, elected, and held in such manner as the parliament of the commonwealth prescribes by law, and shall, when elected, proceed to vote upon the proposed amendment.

He will see that the whole matter is to be determined by the federal parliament.

Mr. MUNRO: But the clause provides further on, that the conventions shall vote by states. It does not matter how the conventions are appointed, the final result is that the states vote as states on any amendment of the constitution.

Mr. GILLIES: Passed by a majority of the two houses—the house of representatives and the senate, in which is contained representatives of the states!

Mr. MUNRO: That is what I am pointing out. There is no referendum, such as exists in Switzerland—that is, a reference to the people—but there is to be a majority of the states in two instances. In the first instance I admit the house of representatives has power to deal with the matter; but that chamber can only vote once on the question, whereas the states vote twice.

Mr. GILLIES: There must be a clear majority!

Mr. MUNRO: I admit that in the first instance there must be a majority of the representatives of the people; but the states have a clear majority in the senate, and again they have a clear majority in the decision of the matter by the conventions. So that the states as states vote twice and the people only once.

Mr. GILLIES: The hon. gentleman forgets that the people represented in the commonwealth as electors vote in the first instance in the house of representatives, and there must be a clear majority!

Mr. MUNRO: I quite admit that there must be a clear majority in the house of representatives in the first instance; but surely the hon. gentleman must see that while the clear majority of the people vote only once, the clear majority of the states vote twice. I really cannot understand why the hon. gentleman cannot see that the referendum is not to the people of the commonwealth as a whole, but to the states.

Mr. GILLIES: In the first instance, through the house of representatives, it is!

Mr. MUNRO: I admit that. But suppose a mistake is made by the house of representatives, then the states vote once in the senate and again by conventions.

Mr. KINGSTON: The hon. gentleman wants a reference to the whole of the people of Australia in one convention!

Mr. MUNRO: Yes.

Mr. BAKER: "'Come into my parlour,' said the spider to the fly"!

Mr. MUNRO: Surely, in an amendment of the constitution the same power ought to be given to the people as a whole as is given to the states separately.

AN HON. MEMBER: The reference is only for ratification!

Mr. MUNRO: I admit that; but I contend that it should be a reference to the people, and not to the states. If hon. members are willing that the clause should go as it is I shall not interfere. I am only calling attention to what I conceive to be the injustice of the proposal to refer the question to the people and not give them the power of deciding it.

Mr. DEAKIN: I do not think the Committee attaches to the argument of my hon. friend the weight to which it is entitled. The clause as it stands enables the states to pass a verdict twice upon any proposed reform of the constitution, and they have therefore any advantage that may arise from a second voice in addition to their first voice. That is to say, the question being as to whether it is in the interests of the states as states to pass a particular reform they have first their vote in the state house, the senate, and they have also their vote in the state conventions.

Mr. PLAYFORD: Which are elected by the people!

Mr. DEAKIN: That does not affect the issue. The conventions are elected by the people, but according to this clause their votes only count by states. What the Premier of Victoria suggests is this: that suppose seven colonies join the federation, and a certain amendment of the constitution is carried in the house of representatives against the will of three of the most populous colonies. It is true that cannot be done without the consent of the majority of the representatives, including a large number of representatives of those three colonies; but my hon. friend supposes an instance in which a reform is carried through the house of representatives with the consent of a certain number of representatives of the larger colonies, but against the will of the people of the larger colonies. It then passes to the senate, which accepts it with satisfaction. Then it goes to the conventions, and the four smaller states approve of the amendment, perhaps by very small majorities, while the three larger states, by overwhelming majorities, endeavour to reject it. My hon. friend says that in such a case the numerical majority is altogether ignored; that not only might the number of votes recorded against the amendment be immensely greater in the larger states, but the majorities by which it was negatived in those states might be more than all the votes cast in its favour in the other states, and yet the amendment would be carried. Desiring as we do to protect state rights in every possible way, it is fairly open to argument as to whether this is not a little too much safeguard. How to adjust the balance it would be hard to say on the spur of the moment. It might be suggested—though it is only a suggestion on the spur of the moment—that if a proposal for an amendment of the constitution originated with the house of representatives, the present plan that gives the states two opportunities of rejecting it might be adopted; but if, on the other hand, a reform originated in the senate it would only be fair to enact that, in addition to the safeguard of the house of representatives, the numerical majority of votes recorded should decide the issue, and not the number of states. I do not think the suggestion is worth very much, but the plan would be more equitable than that which is at present proposed, because as the clause stands a reform originating in the senate in the interests of states-rights party—if there ever is a states-rights party—antagonistic to the larger colonies, if it could run the gauntlet of the house of representatives, would be sure to be carried by the conventions, while, on the other hand, a reform which the house of representatives desired to see passed, after it had run the gauntlet of both houses, would be rejected by the conventions of the states. The point is worth considering.

Mr. DONALDSON: I think the best remedy for this would be to make the majority two-thirds in the first instance. That is the principle laid down in the American Constitution. Not only must a reform of the constitution be carried by a majority of two-thirds of each house, but also by a majority of the states.

Mr. DEAKIN: That would not help this point!

Mr. DONALDSON: The illustration given by the hon. gentleman just now is most improbable, and it is hardly worth our while, at this late hour, to discuss the question at any great length.

Mr. DEAKIN: It is very improbable!

Mr. DONALDSON: Therefore I think it is hardly worth our while to take up time with it in this way. For my own part, I wish to make the amendment of the constitution as difficult as possible. When the states have once entered into federation in good faith, I think their interests ought to be safeguarded, so that no amendments may be made in the constitution in the future which would prejudice them. At the same time, I am prepared to take the bill as it is, believing that any amendment in the future will be desirable, and not detrimental to the interests of any state.

Mr. PLAYFORD: The clause does not carry out what I think was agreed upon in the Constitutional Committee, namely, that before any amendment of the constitution could be made we should not only have a majority of the states, but also a majority of

the people in its favour. I understood that that principle was embodied in the clause; but, on reading the clause through I find that it is not contained in it. It appears to me worthy of consideration whether we should not insist that before any amendment of the constitution shall be made, there must be, in addition to a majority of the states, a majority of the people in its favour.

Mr. FYSH: Does the hon. member mean the people of each state?

Mr. PLAYFORD: No; a majority of the whole of the people. The people of the states are always agreed to what the house of representatives may determine on their behalf, and if you had no doubt about the mind of the people, there would be no necessity to refer the question from the house of representatives to the people themselves. But in the remission of the question to the people of the commonwealth, you want to get the view of the people of all the states, and not the views of their representatives in the house of representatives.

Mr. GILLIES: And the hon. member would sacrifice the colony!

Mr. PLAYFORD: I am not prepared to sacrifice any colony, but I desire to look after the interests of the people quite as much as to look after the interests of the states.

An HON. MEMBER: This is a double check;

Mr. PLAYFORD: Yes, and I want to hold the balance equal. I think my action here has shown that I am not led away by any desire to unfairly protect the interests of the smaller as against the larger states. I want also to protect the interests of the larger as against the smaller states, and it appears to me that the double check is necessary.

Mr. GILLIES: The danger is all the other way!

Mr. PLAYFORD: I do not think it is. The Swiss Constitution, which has worked exceedingly well, provides that any alteration in it shall be effected only by an expression of the views of the majority of the states, and also of a majority of the people. But this clause certainly does not carry out that idea. It leaves it entirely to the Convention or the states to say whether the constitution shall or shall not be altered. I think with the hon. member, Mr. Munro, that the Swiss provision ought to be embodied in the clause, so that in addition to a majority of the states there might also be a majority of the people.

Mr. DEAKIN: I trust the clause will not be passed without some little further consideration. The proposition of the hon. member is one which I should have made myself, or, rather, which I was considering, but for the obvious objection to me that it fulfils too much the idea of the hon. member, Mr. Donaldson, of making reform almost impossible. I take it that one of the first principles of the constitution is that we present it to the several colonies, not as a complete constitution, but as one which they can make complete; not as a constitution necessarily adapted to their needs and desires, but one which they can themselves adapt to those needs and desires. The amendment of the hon. member, Mr. Playford, is fair, and the only possible objection that can be raised against it is that it makes the carrying of amendments in the constitution extremely difficult. But the question is whether that is not desirable in order that the amendments that are carried may be equitable. The proposal that was carried in the Constitutional Committee, and commended to the Convention, was, that first a majority of the states, and then of the whole of the people, be required before any amendment be carried. The matter ought not to be lightly passed over, nor should there be an acceptance or a rejection of the clause without debate.

Mr. GILLIES: There is some misapprehension about this matter. It is said that there shall be a majority of the states, and then of the people; but in the house of representatives there is a majority of the people.

Mr. MUNRO: No. Representatives very often vote against their promises. We want to refer the question to the people!

Mr. GILLIES: The people elect their representatives. We ought to remember that they are not delegates. They are elected by the people to do the people's work in the way they think advantageous to the commonwealth. And who are the others that are to be elected to the convention? Are they not in the same position—elected by the people? Does the hon. member desire to apply the same observation to them as he does to the members of the house of representatives? But are they more the representatives of the people than the members of the house of representatives? Not at all. They will represent the people in the same way and to the same number, neither more nor less.

Mr. MUNRO: No; the hon. member does not understand the position at all!

Mr. GILLIES: We shall never understand the hon. gentleman's position. A man is elected to the senate on one subject only, while a member of the house of representatives is elected on several subjects, though he represents the people just the same. The second representation to the convention is no different. The members all represent the people who are on the electoral roll and qualified to vote for the election of members to the house of representatives.

Mr. MUNRO: The people vote as states!

Mr. GILLIES: In addition to this, the people vote as states.

Mr. MUNRO: They only vote as states!

Mr. GILLIES: There are not two elections so far as the states are concerned; there is only one election, that is to the senate. The other is a distinct election to the house of representatives, and to conceive that the representatives of the two large states are going to combine together for the purpose of ruining one of the other states is ridiculous. They will represent such a tremendous majority in the the house of representatives that it is inconceivable that they would adopt such a course.

Sir GEORGE GREY: I think the hon. member, Mr. Gillies, has entirely misunderstood the question.

Mr. GILLIES: I have misunderstood all the hon. member's questions!

Sir GEORGE GREY: And I have misunderstood all those of the hon. gentleman—or rather, I believe I have not misunderstood them, but have fathomed them. I deny that those in the Chamber of Representatives in New Zealand represent the people there, and the hon. member knows in his own heart that that is so in Victoria. He cannot deny it.

Mr. GILLIES: I do deny it!

Sir GEORGE GREY: The hon. member would deny anything if he denies that!

Mr. GILLIES: I return the hon. member's compliment!

Sir GEORGE GREY: I assert that in point of fact the system of plural voting prevailing—

Mr. GILLIES: At it again!

Sir GEORGE GREY: Yes; I am endeavouring to destroy what I believe to be one of the greatest abuses in existence. Every opportunity has been taken to cover it from the Parliament of Great Britain. The hon. gentleman stated here one day that nothing could exceed the liberality of the constitution of Victoria—that it was impossible to conceive of anything more liberal. Well, I can conceive of something more liberal, and I contend that it is most illiberal, and that the people are not represented in any way whatever. I stand up here and say that to claim that in the young commonwealth of Australia the persons in the chamber of representatives will represent the people is an unfair way of

putting the statement before the public, because they represent only capital in point of fact. It is well known to all hon. gentlemen present that in some of the states there is no fair representation at all. It approaches it more nearly, perhaps, in Victoria, in Van Diemen's Land, in South Australia, and in New Zealand, than it does in any other place; but, still, in Victoria, there is no fair representation of the people at the present day. Some persons can exercise seven or eight votes at an election as against one vote of another man. Can it be said that the people are fairly represented under such circumstances? It is property that is represented; not people, not individual living men, not individual interests of families, of wives, and of children, but the bare soil of the earth. That is what is represented—that is to say, territory is represented; the land is represented.

Mr. GILLIES: That statement is not well founded.

Sir GEORGE GREY: Then there is no solid foundation of anything in the world. I say that the representation is a representation of the dry and senseless soil; and that human beings, who have such great interests at stake, are not represented at all. The term "chamber of representatives" is used, but they represent the soil of the earth, and do not represent real living human beings, upon a fair scale. That is the point, and I contend that we ought not to be led away by statements of that kind, but that we ought to face the actual difficulties, tell the actual truth to the people of the commonwealth of Australia, and not lead them to believe they are fairly represented, and that they have one of the most liberal constitutions in the world. It is quite evident that when the chamber of representatives is got together upon the basis of property, or upon the basis of small pieces of land, of which one individual holds a great many, and has a vote for each, that what is actually represented is property.

Mr. GILLIES: That is not so!

Sir GEORGE GREY: Well, one is confounded absolutely. Here is a plain, certain fact in existence. Does the hon. gentleman deny that what gives the vote is property, and not human beings? Can he deny that?

Mr. GILLIES: Certainly!

Sir GEORGE GREY: Well, I maintain directly the opposite, and I will maintain it against the hon. gentleman upon his own ground in Victoria. I will maintain it against him at a public meeting, and I will guarantee to a certainty that I will carry the whole meeting with me to a man, and no one will have the audacity to stand up and say that it is human beings alone that are represented, and that the dry soil of the earth is not the true thing which is represented. I contend that we ought always to fairly put that point before the people of the country, and especially before the British Parliament. Let them know the true state of the case here. Let the whole thing be fairly put before them by the people of New Zealand, if the representatives of the people of New Zealand will not do it. The only reason why they will not do it, if they do not do it, is because New Zealand is not fairly represented. I contend, therefore, that what we are now asking for is not to oppress the states; but to deliver the states from the dominancy of capital—to let the people of the states walk forth as free men—to let each man have the right to one vote; and, being thus truly represented, let us do that which a large number of us are anxiously trying to do in this bill; but do not let us conceal from the people what the actual facts are. I shall certainly support the clause as it is. I do not think it is perfect by any means; but I believe it is fairer to the people of New Zealand than the contrary proposal would be.

Sir SAMUEL GRIFFITH: I think there is a great deal of force in the contention of the hon. member, Mr. Munro. There is a possibility that an amendment of the constitution might be carried against the wish of a majority of the people of Australia.

Mr. PLAYFORD: It was never intended, though!

Sir SAMUEL GRIFFITH: It was never intended. How would this form of words meet the difficulty?

> And if the proposed amendment is approved by the conventions of a majority of the states, and if the people of the states whose conventions approve of the amendment are also a majority of the people of the commonwealth, the proposed amendment shall become law.

Mr. DEAKIN: One objection to that might be that the hon. member has fixed a majority of the people of the commonwealth. Is that necessary? The hon. member, I presume, means a majority of those who vote. Is it necessary to require a majority of the people of the commonwealth? If the occasion is considered to be one of sufficient importance to send a majority of the commonwealth to the polls, it would certainly be equally satisfactory and equally in accordance with the rule of the majority if, instead of the last words of the amendment, the hon. member substituted "a majority of those who vote at the polls."

Sir SAMUEL GRIFFITH: The hon. gentleman will see that what he suggests is mixing up the idea of a plebiscite with the idea of a representative body. Nobody might oppose it, and in some of the states all the members of the Convention might be elected unanimously. How would you deal with the matter then?

Mr. DEAKIN: Does the hon. member mean that a majority of the people of the commonwealth must vote on one side or the other?

Sir SAMUEL GRIFFITH: As the clause stands, it means the conventions of the majority of the states. Say there are four states. If these four states comprise a majority of the people of the commonwealth then the amendment becomes law; but if these four states are the four smaller states, and the conventions of the larger states disapprove, then it would not become law, and I do not think it ought.

Mr. DEAKIN: Does the hon. member think that form of words is quite clear?

Sir SAMUEL GRIFFITH: It counts simply the number of people in the states; that is the basis of representation in this bill altogether. The words I have suggested meet the objection, I think.

Mr. PLAYFORD: They meet the objection in a clumsy manner; because hon. members will see that the convention, which may absolutely approve, so far as an individual state is concerned, or disapprove of the proposed alteration, as the case may be, may have only a majority of one, and may comprise only an exceedingly small majority of the people of that state. I maintain that this clause is based on a mistake altogether. It would have been a great deal better to adopt the Swiss mode of referring alterations of the constitution to the people than to adopt this mode of convention, because in this mode of convention you can never ascertain correctly the views of the people. You only ascertain the views of the men who have been elected members of the convention. The Swiss system is a far preferable one. Under that system you must have a majority, in the first instance, of the people of all the states combined; and you must have a majority of the electors in more than half the states with you at the same time. Thus, on the one hand you have state interests conserved, and on the other hand you have the interests of the people as a whole conserved. If you refer such matters as an alteration of the constitution to a convention, you are met at once with this difficulty; that you cannot tell exactly how your people vote; because, in one state, the proposal may be carried by a very small majority, which, with a large minority added by another state, may altogether upset your calculations. With regard to conventions, you never can calculate as to the number of

the people; but only as to the majority of individual states. That is all you can do. You, therefore, cannot combine the two principles that are combined in the Swiss mode of deciding these matters. The whole clause, as I contended in committee, is founded on a wrong principle. The principle of having conventions to decide whether an alteration of the constitution should, or should not, be adopted is not nearly so good as the system which they have in Switzerland, where the alteration must be submitted to the vote of the people, and also to the vote of the majority of the states, and there must be a majority of the states as well as a majority of the people. You cannot do that with a convention. We shall have to do away with this clause so far as the convention is concerned, and by referendum remit the question to the people, who will say either "yes" or "no" to the proposal, and who will have to decide by a majority of the states in the one case, and by a majority of the people in the other.

Mr. GILLIES: You will never carry a constitution with that proposal in it!

Mr. PLAYFORD: With a referendum?

Mr. GILLIES: Not at all!

Mr. PLAYFORD: A great deal more easily than you would carry this proposal under which the majority of the people cannot express their views, but a majority of the states can. I wish we could arrive at such a mode of deciding on any alteration of the constitution that, on the one hand, the voice of the states could be effectually heard, and on the other the voice of the people. I do not want to propose anything that would have the effect of letting the voice of the states be paramount, and the voice of the people practically nowhere. That is, no doubt, the position. You want the two principles combined, as in Switzerland, or you will never have a satisfactory reference.

Mr. GILLIES: We will not have the Swiss system!

Mr. PLAYFORD: We shall have to have what the people of the country agree to.

Mr. GILLIES: They will not agree to that!

Mr. PLAYFORD: I think they will. I think that the people, taking them as a whole, and I am sure that the smaller states will say, "It is only fair that the voice of the whole people should be considered as well as the voice of the states. If we in the states have the power to put a stop to a proposal because the majority of the states are opposed to it, so the states with the largest number of people should have the power when the majority of the people of the commonwealth are against it, and it shall not become the law of the land." No one in his senses will argue that it is fair that the minority of the commonwealth shall be able to make an alteration of the constitution of the commonwealth. If that is not fair, the people are quite willing to say, "If we cannot carry a majority, first of the people, and secondly of the states, no alteration of the constitution shall be made." I say that this is fair on the one hand to the states, and on the other hand to the people. The states have no more right to say that, simply because they have a majority, though not of the people, they will override the people, than the people, on the other hand, have a right to say, "Because we have a majority of the people we will override the states." Let us deal fairly in both cases. That is all I want. I do not care how it is brought about, so long as it is thoroughly understood that the people, on the one hand, shall not override the states, and that the states, on the other hand, shall not be able to override the people.

Dr. COCKBURN: I cannot agree with everything said by the hon. member who last spoke. I think that majorities will always take care of themselves; but I do most heartily agree with what he said with regard to conventions, which I think are altogether an error in theory, and useless in practice. They were proposed in America as a barrier against the popular will. Those who advocated and established conventions meant them to be a direct check on the popular will. On any question so vital as the amendment of the constitution the people have a right to be consulted directly, without any conventions whatever. In conventions the issue is obscured by personal considerations, and people pronounce a decision quite different from what is required—that is to say, whether they approve of the proposed alteration of the constitution, apart from all side issues. I suppose it is pretty well admitted—I should be surprised if any objection were taken—that before this constitution becomes a fact it will be referred to the people themselves directly. I should like to know if any hon. member of the Convention holds a different opinion?

Mr. GILLIES: Certainly; dozens do!

Sir SAMUEL GRIFFITH: I do, for one; I think it is absolutely impossible!

Dr. COCKBURN: I am surprised. This is such a complete alteration of the conditions under which people are now living in the colonies that it is an absolute revolution—the measure is thoroughly revolutionary. It is no reform; it is such an alteration of the present constitution that it amounts practically to a revolution, and surely in a case of this sort, where there is such a complete alteration of the conditions under which the people are now governed, they are entitled to speak directly, without any convention whatever to express their will through their own votes, and not to have to delelgate their power of voting to any individuals whatever. I maintain that whatever the opinion of some hon. members may be now, they will find that when they propose this constitution in their parliaments and to their people, the people will insist on this right. I am inclined to think that, just as they will insist on this right in the establishment of the constitution, so they will in regard to any alteration of the constitution. What possible objection can there be to referring the issue directly to the people? There can be no objection unless we are afraid of the verdict of the people.

Sir SAMUEL GRIFFITH: Why should the people not make laws direct?

Mr. DONALDSON: What is the use of parliament at all?

Dr. COCKBURN: One thing is certain: in America the conventions were established for the one purpose which I have mentioned.

Sir SAMUEL GRIFFITH: I deny that; they were established for a directly opposite purpose!

Dr. COCKBURN: I only take the authorities that we have. Take Bryce.

Sir SAMUEL GRIFFITH: Does he say that?

Dr. COCKBURN: He says that the conventions were established as a check on the popular will, and democracy has ridden right over them. I say that you can impose what barriers you like; but you will, sooner or later, find the popular will prevail.

Sir JOHN DOWNER: That is no argument against it!

Dr. COCKBURN: It is; and I say that it is no use trying to thwart the popular will.

Sir JOHN DOWNER: That is another matter!

Dr. COCKBURN: You cannot stop its current, and it is well not to attempt to divert it. By making the people, either in approving of the constitution at its initiation, or in approving of any alteration, pronounce their opinion through any mediator whatever, you confuse the issue. It is better to go direct to the people and ask them to say aye or nay; that is government by the people.

Mr. GILLIES: What does the hon. member mean by going to the people of the commonwealth and asking them to say aye or nay?

Dr. COCKBURN: I mean going to each elector individually, and asking him, "Are you in favour of this proposed constitution, or of this proposed amendment

of the constitution under which you live?—say 'yes' or 'no' directly, without any confused issue—without saying whether you wish this man or another to be your exponent." The doctrine of the wise man elected to the convention and exercising his judgment cannot altogether be depended on. The people will take care, no doubt, in most instances to know how he is going to vote before they elect him, and if they could do so in every instance it would be all right; but you only defile the stream by diverting its direction. Anything that stands in the way of the popular will I take to be a misfortune in government by the people. It can only be a check which causes the waters to accumulate, and what is a gentle flow becomes a torrent. As the hon. member, Mr. Playford, with whom I agree, does not propose an amendment, I move :

That the words "conventions to be elected by" be omitted.

Mr. GILLIES : What does the hon. member mean by the electors of the state ?

Dr. COCKBURN : I certainly do not mean such a pure body of democracy as I should have liked to see when first we started with this constitution.

Mr. GILLIES : What does the hon. member mean ?

Dr. COCKBURN : I mean what I say—the electors of the several states.

Colonel SMITH : By a majority of each state !

Dr. COCKBURN : By a majority of the people of each state, from whom this constitution originated. I mean that they and no others shall be consulted ; that the appeal shall not be to the convention, but to the people themselves.

Colonel SMITH : I wish to ask the hon. member, Dr. Cockburn, if he carries out his amendment, whether it will not mean, in fact, a majority of the majority of the states ?

Dr. COCKBURN : Hear, hear !

Sir SAMUEL GRIFFITH : The amendment fairly raises the question of conventions as against a plebiscite. I certainly challenge the accuracy of the hon. member's statement as to the history of conventions. I do not believe the historical view is correct as to the object for which conventions were introduced; but certainly the purposes for which they have been used have been absolutely in the interests of democracy. It is an institution thoroughly used in America. No amendment of the constitution is made without a convention. The people of that country, who are practical people, recognise that millions of people are not capable of discussing matters in detail; they deal with general principles, and select men whom they trust to deal with details. That is the principle of conventions. That is why I think they are far preferable to a plebiscite. If the question were to be simply a kingdom, or a republic, there might be a plebiscite upon that. But suppose the question were settled in favour of a kingdom, what would be the basis ? How many other questions would you have to put ? You must have a complicated document, and in order that the electors may exercise an intelligent vote they must be thoroughly familiar with every detail. Is that a practicable state of things ? Will you ever get the electors to vote under those circumstances ? I think not. Those are the reasons why I think a convention is better than a plebiscite. I should like personally to see it left to the federal parliament to determine in what way the question shall be submitted, but I am quite content that the clause shall be adopted. I believe that on the whole it is the best way, and I recommend the Committee to take that view.

Mr. DEAKIN : I do not propose to enter into this question at length, because I have had an opportunity already of arguing it in the Constitutional Committee, where the advocates of the referendum were in a comparatively small minority. But, surely the hon. member, Sir Samuel Griffith, has misled the Committee in the view which he has put forward with reference to conventions. What does this clause say ? It says that for any proposed amendment of the constitution to become law a majority of conventions or the conventions of a majority of states must agree to it. How ?

Sir SAMUEL GRIFFITH : By vote !

Mr. DEAKIN : Will they agree to it as deliberative bodies, one amending it in one particular, and another amending it in another particular ?

Sir SAMUEL GRIFFITH : No !

Mr. DEAKIN : Exactly. The conventions are simply to be called together to say yes or no. The hon. member says that the electors themselves cannot say yes or no to these complicated propositions, or to the complicated propositions which may possibly be proposed as an amendment of the constitution ; but they can elect men who will only be able to say yes or no, with just as little reason, or with just as little opportunity of amending, or shaping a particular proposal to their wishes, as the original electors. Surely the conventions, with their hands tied as they are tied by this clause, and as, in my opinion, they ought to be tied, if they are there at all, can only give exactly the same answer as the electors. For my part, I would much prefer to go to the electors in the first instance. The amendments of the American Constitution have been made on such broad lines, they have involved such simple propositions that they have come readily within the grasp of every elector who has been called upon to give judgment on them. I believe this bill which the hon. member has drawn is sufficiently comprehensive to form the basis and the framework of the future constitution of the commonwealth for generations to come, and that any amendment which may require to be made in it will be made in short, succient propositions for an alteration of its principles, which can be submitted with ease to the people of the country, and on which the people of the country can give their judgment with certainty and with knowledge. The intermediary conventions, such as the hon. member proposes, gives none of the advantages of a deliberative body. They can only say aye or no, and therefore you simply introduce between the amendment of the constitution and the people, a body of men who are elected to say simply yes or no, and not to exercise their reason in any way. I ask the Committee in what respect is that any better than asking the electors themselves, in the first instance, to say yes or no ? The electors will only vote for a man who says yes, if they wish yes, or for a man who says no, if they wish no, and there is an end of the business. Why cannot the electors write yes or no on ballot papers ? To enter into the whole question of the proper relation of the referendum to representative government would be to unduly trespass on the attention of the Committee. But I protest altogether against the doctrine that the referendum in any way interferes with representative government or lessens the dignity of parliament. In Switzerland the people have the power of demanding a referendum and obtaining it when they so desire; but in the majority of cases it is exercised after the houses have already legislated, and as a check upon the houses. On the floor of this Chamber I have not hesitated to state again and again that though as between the two chambers I am glad to see any proposal which strengthens that in which the people are best represented, still as between the chambers and the people there is no choice, and the power of general review and of general judgment should be left as far as possible with the people as it is now by our general elections, by sending ministers to their constituents, by our adoption of the principle in local option clauses. We are adopting the principle of the popular vote more and more

into the present framework of representative and responsible government. It is not in the least foreign to it, but can be grafted upon it as an assistance to Parliament if they desire to obtain distinctly and without the introduction of foreign matter the verdict of the people on any particular question. I shall vote for the amendment, and trust we shall see this clause so amended as to substitute in each case a direct referendum on all proposed amendments of the constitution so as to obtain the opinion of a majority of the people in the majority of the states.

Mr. BAKER: The hon. member, Mr. Deakin, has asked what is the use of the people electing persons to say "yes" or "no" to any proposition when the people themselves may say "yes" or "no" without having an election at all. I will tell him one use, at all events. If people have to be elected to these conventions they will go before the electors and explain both sides of the question to them. For how otherwise are the people to understand the question?

Mr. DEAKIN: That will be done in any case!

Mr. BAKER: Why will it be done?

Mr. DEAKIN: It will be done by those who desire the amendment and by those who oppose it!

Mr. BAKER: Who are the persons who will take the trouble to canvass the country from one end to the other and explain to the people the object of the proposed amendment?

Mr. DEAKIN: Their representatives in parliament?

Mr. BAKER: It is all very well to say it will be thrashed out in parliament; but how many persons go to parliament to hear the debates?

Mr. DEAKIN: It will be thrashed out before the people!

Mr. BAKER: By whom?

Mr. DEAKIN: By those who are advocating and are responsible for the suggestion!

Mr. BAKER: What I understand by a referendum is this: The federal parliament will pass a bill to alter the constitution, and the alteration will not come into force until it is referred to the people. If it is to be referred to the people, whose duty is it, whose interest is it, to go before the people all over the colony, in different localities, and explain directly to them the object of the proposed amendment?

Mr. DEAKIN: The interest of the party that brought it in!

Mr. BAKER: The members of the federal parliament will not do that.

Mr. DEAKIN: Yes they will!

Mr. BAKER: If they do then, I say their nature will be different from the nature of ordinary members of parliament. They will not do so. But if there is a direct election one party will take one side and one party the other side, and under the stimulus of a contested election both sides of the question will be put to the people, who will be able to understand it, and thus be in a far better position to say to their representatives in the convention, "You shall or you shall not vote for this proposition." It appears to me to be one of the fundamental objects of conventions to induce persons to come forward and make the round of the constituencies, explaining to the people that which they are asked to vote upon. If that course is not pursued, I do not know of any other persons who would carry out the duty. We are told that if we pass this amendment we shall agree to the Swiss system of referendum. But that is not correct. Under that system the question is, in many cases, referred to the people twice. There are two referendums, so far as an alteration of the constitution is concerned. First of all, the people, by referendum, say to parliament that it is desirable to make the alteration.

Mr. MUNRO: That is the initiative—not the referendum!

Mr. BAKER: What I say is, that so far as an alteration of the constitution is concerned, there is often a double referendum. The initiative is not necessarily connected with it. There is a compulsory initiative so far as an alteration of the constitution is concerned, and there are two referendums. If we adopt the Swiss system we shall have to go a great deal further than the amendment goes. I shall vote for the clause as it stands. I prefer it to the proposed amendment of it.

Question—That the words proposed to be omitted stand part of the clause—put. The Committee divided:

Ayes, 19; noes, 9; majority, 10.

AYES.	
Baker, Mr.	Jennings, Sir Patrick
Bird, Mr.	Loton, Mr.
Clark, Mr.	Macdonald-Paterson, Mr.
Donaldson, Mr.	McMillan, Mr.
Downer, Sir John	Munro, Mr.
Forrest, Mr. A.	Parkes, Sir Henry
Fysh, Mr.	Russell, Captain
Gillies, Mr.	Rutledge, Mr.
Griffith, Sir Samuel	Wrixon, Mr.
Hackett, Mr.	
NOES.	
Bray, Sir John	Kingston, Mr.
Cockburn, Dr.	Playford, Mr.
Deakin, Mr.	Smith, Colonel
Dibbs, Mr.	Suttor, Mr.
Grey, Sir George	

Question so resolved in the affirmative.

Amendment (by Sir SAMUEL GRIFFITH) agreed to:

That the word "the" be inserted after the word "by," line 15.

Sir SAMUEL GRIFFITH: I move:

That the following words be inserted in place of the word "it," line 12:—"and if the people of the states whose conventions approve of the amendment are also a majority of the people of the commonwealth, the proposed amendment"

Those words provide for any amendment being approved by a majority of the people.

Dr. COCKBURN: Does that mean a majority of the people who vote?

Sir SAMUEL GRIFFITH: No.

Mr. MUNRO: It means a majority of the population of the states, apart from the convention!

Dr. COCKBURN: I do not think it is necessary to make the amendment, because I think popular majorities can always take care of themselves.

Amendment agreed to.

Mr. KINGSTON: I would ask the hon. member, Sir Samuel Griffith, whether it is intended by the bill to provide that an assent on the part of the Queen's representative shall be necessary to an amendment of the constitution if it receives the approval of the various conventions? As the clause stands, it provides that the proposed amendment, if approved by the conventions,

shall become law, subject nevertheless to the Queen's power of disallowance.

The words would warrant the suggestion that no royal assent was intended, and I should like to know if that is really the intention of the hon. member in charge of the bill?

Sir SAMUEL GRIFFITH: The words in the clause are not the right ones, and the hon. member's criticism is quite correct. I move:

That the words, lines 13 and 14, "become law subject nevertheless to the Queen's power of disallowance," be omitted, with a view to insert "be presented to the governor-general for the Queen's assent."

Amendment agreed to.

Sir SAMUEL GRIFFITH: A doubt has been raised as to whether the concluding words of the clause are sufficiently explicit as to the minimum number of representatives, and I doubt whether they are. I move:

That after the word "commonwealth," line 16, the following words be inserted:—"or the minimum number of representatives of a state in the house of representatives."

Amendment agreed to; clause, as amended, agreed to.

CHAPTER I.—THE LEGISLATURE.

Part IV.—Provisions relating to both Houses.

Postponed clause 49 (Place to become vacant on accepting office of profit).

Sir SAMUEL GRIFFITH: It was pointed out when we came to this clause that the proviso excepting officers of the military and naval forces is insufficient, and in fact it is. I move:

That the proviso, "But this provision does not apply to officers of the military or naval forces who are not in receipt of annual pay," be omitted with a view to the insertion in its place of the following proviso:—"But this provision does not apply to a person who is in receipt only of pay, half-pay, or a pension, as an officer of the Queen's navy or army, or who receives a new commission in the Queen's navy or army, or an increase of pay on a new commission, or who is in receipt only of pay as an officer or member of the military or naval forces of the commonwealth, and whose services are not wholly employed by the commonwealth."

Mr. DIBBS: I would ask the hon. member why naval and military officers should have a special privilege which is not proposed to be granted to officers of the civil service of a colony who may have rendered good service to the country, and have retired on pensions? Why should they be debarred from becoming senators or representatives? I do not think that the hon. member has in this amendment followed the direction of the consensus of opinion manifested by the Convention a few days ago. He proposes to make the clause clear so far as naval and military officers are concerned, but he ignores altogether the undoubted right which the civil servants of the various states should possess when they leave the service if they can find constituencies which will elect them. I should like to make an amendment in the clause in the direction I have indicated, if I could see a chance of obtaining the support of hon. members. If hon. members are tired of discussion, I would let the matter go; but it is rank injustice to our own people to disqualify them, while we are conferring favours on imperial officers.

Sir SAMUEL GRIFFITH: The hon. member asks me why it is so; and my answer to him is that it is not so. The hon. member asks why a distinction is made; and my answer is that a distinction is not made. There is nothing in the clause to disqualify civil servants who have retired on pensions.

Mr. DIBBS: I believe that the hon. and learned member proposes to omit only the last two lines of the clause; but the other portion disqualifies our own people.

Sir SAMUEL GRIFFITH: No!

Mr. THYNNE: They hold pensions under an act, not during pleasure!

Sir SAMUEL GRIFFITH: The only pensioners during pleasure are military pensioners!

Mr. DIBBS: I want to know why a civil servant who has served his country for twenty years and honestly earned his pension should lose his civil rights?

Sir SAMUEL GRIFFITH: He will not!

Mr. DIBBS: Under the clause as I read it a civil service pensioner is debarred from the privilege of becoming a member of the parliament.

Amendment agreed to; clause, as amended, agreed to.

Sir SAMUEL GRIFFITH: I intend to propose a new clause, dealing with the mode of reckoning the population. The clause was in the bill as prepared by the drafting committee, but the general committee struck out the clauses to which it referred. Those clauses having been reinserted, it is necessary that this clause also should be reinserted. I move:

That the following new clause be inserted, to stand clause 3 of chapter VII:—"In reckoning the number of people of a state, or other part of the commonwealth, the aboriginal natives of Australia shall not be counted."

New clause agreed to.

Sir SAMUEL GRIFFITH: I will now move, sir, that you leave the chair, and report the draft bill to the Convention with amendments. There are verbal amendments required in some of the clauses, however, and the bill will have to be recommitted for the purpose of dealing with them.

Bill reported with amendments.

Motion (by Mr. ABBOTT) proposed:

That the report be now adopted.

Amendment (by Sir SAMUEL GRIFFITH) agreed to:

That all the words after "That" be omitted, with a view to insert the following:—"the bill be recommitted for the reconsideration of clause 8; chapter I, clause 52, paragraphs 21, 22, 29, and 30; clause 53, and chapter VII, clause 1."

In Committee (Recommittal):

The following clauses were verbally amended:—Preliminary clause 8; chapter I, clause 52, paragraphs 21, 22, 29, 30; clause 53.

CHAPTER VII.—MISCELLANEOUS.

Clause 1. The seat of government of the commonwealth shall be determined by the parliament. . . . .

Mr. DIBBS: I move:

That the words "determined by the parliament" be omitted, with a view to the insertion in their place of the words "Sydney, New South Wales."

I am perfectly satisfied that this Convention has no right to close its proceedings without giving an expression of opinion as to where the capital of the future commonwealth should be. I should fail in my duty as a representative of New South Wales if I did not ask the Convention to unanimously record their vote in favour of the amendment. Hon. members made very light of the matter when they heard this notice of motion being given, and the hon. member, Mr. Munro, made the remark "We want it in Melbourne," and another hon. member said, "We want it in South Australia," and so on. There is one place alone which the people of New South Wales will accept as the capital. If they are to give up all their privileges and a large portion of their liberties, which this bill will take from them, they must, at least, have some regard to their antiquity, and their natural advantages, to the fact of their being centrally situated, and, above all, to the fact that New South Wales is practically the mother of all the other colonies. I will divide the Convention on the matter. Those members who represent New South Wales will be traitors to their colony, and the representatives of the other colonies who vote against me will be ungrateful to the colony from which they sprang, and will be neglecting the interests of the whole of the commonwealth, if they do not give me the full measure of their support on this motion.

Sir GEORGE GREY: I understand that in order that a division may be taken it is necessary that a seconder should be found for the motion. I am so desirous that every possible consideration should be bestowed on any claim that the colony of New South Wales may put forward that I have undertaken on this ground to second the motion. I take this opportunity of saying that in former days, when all was at stake in New Zealand in the dangerous position in which the native war had placed us, the first colony to give us assistance was New South Wales. The Governor, Sir George Gipps, helped by the people of New South Wales, gave us every assistance in his power to bestow in the shape of money, troops, arms, and ammunition—in fact, all the munitions of war; and, in addition to that, by his own advice and counsel, he afforded great assistance indeed to the colony of New Zealand. Now, I have an opportunity, to some extent, of repaying the debt of gratitude that I contracted so long ago. I shall always feel grateful in the extreme. I second the motion.

Question—That the words proposed to be omitted stand part of the clause—put. The Committee divided:

Ayes, 26; noes, 4; majority, 22.

AYES.

Baker, Mr.	Jennings, Sir Patrick
Clark, Mr.	Kingston, Mr.
Cockburn, Dr.	Loton, Mr.
Cuthbert, Mr.	Macdonald-Paterson, Mr.
Deakin, Mr.	Marmion, Mr.
Donaldson, Mr.	McMillan, Mr.
Downer, Sir John	Munro, Mr.
FitzGerald, Mr.	Parkes, Sir Henry
Forrest, Mr. J.	Playford, Mr.
Gillies, Mr.	Rutledge, Mr.
Gordon, Mr.	Suttor, Mr.
Griffith, Sir Samuel	Thynne, Mr.
Hackett, Mr.	Wrixon, Mr.

NOES.

Atkinson, Sir Harry	Forrest, Mr. A.
Dibbs, Mr.	Grey, Sir George

Question so resolved in the affirmative.

Clause, as read, agreed to.

Bill reported with further amendments.

A PLEBISCITE.

Sir GEORGE GREY rose to move:

That previously to the bill "to constitute the commonwealth of Australia" being laid before the British Parliament, it should be submitted to and adopted by a majority of a plebiscite of the people of Australia, at which each voter should give a single vote.

He said: I maintain that where a great event is to be brought about in a country, the greatest probably which can ever occur in its history, it is right that before such a new form of constitution as has been proposed is forced upon the colony of New South Wales a plebiscite of the people should be taken for the purpose of determining whether or not a majority of those who vote on the occasion are in favour of that constitution being adopted by Australasia. It is needless, sir, for me at present to press on this motion at great length. I believe it is a self-evident proposal that I am making, and that probably it will be assented to without difficulty—that at least is my hope. I shall have an opportunity of replying to any arguments urged against it. Saying, therefore, simply this—that I believe every man, especially every head of a family, has an absolute and just right to give a vote upon so great and momentous a question—I submit the motion to the Convention.

Question proposed.

Dr. COCKBURN: I move:

That the question be amended by the insertion after the word "Australia," line 4, of the words "and a majority of the people of the several colonies."

We require not only a plebiscite of the people as a whole, but a plebiscite of each colony. This provision I think the hon. member has omitted from the motion, which I shall have much pleasure in supporting as proposed to be amended.

Sir GEORGE GREY: I believe that when a plebiscite is taken it is a majority of the whole voters which is considered. If hon. gentlemen desire it in the way proposed I shall raise no objection; but I understood that the other is the usual way.

Mr. GILLIES: This amendment will defeat the motion, because it will be a majority of the people of the states instead of a majority of the people.

Dr. COCKBURN: A majority of both!

Amendment proposed.

Sir SAMUEL GRIFFITH: I think it is consistent, at any rate, with the view we have taken throughout our labours on the constitution to hold that it should be adopted by the states separately, and not by the people of Australia as a whole, because a majority of the people of Australia as a whole might be comprised within two states, so that the motion in the form in which it is moved would certainly be entirely inconsistent with the whole lines which we have adopted from the beginning of our proceedings to the end. With respect to the adoption of the constitution by a plebiscite, that matter was discussed at an earlier period of the day in the Committee, and the conclusion then adopted was that, with respect to amendments of the constitution, they should be submitted to conventions. I gave notice just now of a motion for to-morrow proposing that the mode in which the different colonies should adopt the constitution be left to them. I have my own idea as to which is the best way; other people may have different ideas as to which is the best way. I am disposed for my part to think that it would be wiser either to leave it to the states themselves, by their parliaments, to say in what way they will take the opinion of their people, or else to adopt the plan of conventions. But I do not think a plebiscite of the people is the best way of ascertaining their opinion upon a complicated matter like this. I do not know any instance where so complicated a matter as a new constitution has been submitted to a plebiscite. I do not purpose at any length to give the reasons for coming to that conclusion, but it is sufficient, I think, to point out that a very large proportion at least of the electors would not have made themselves thoroughly acquainted with the constitution before they voted upon it. There would be no one specially interested in making them acquainted with it. The ordinary influences that operate and secure a full vote on matters of moment would be to a great extent wanting. There would be wanting the personal interest of candidates. For these reasons I believe that a plebiscite with respect to a constitution like this would not result in obtaining the deliberate opinion of the majority of the people of the continent, and being of that opinion of course I cannot vote for asking their opinion in that manner.

Mr. DEAKIN: So far as the affirmation of the principle goes, I should be compelled to vote for the motion, if it were possible to give it effect consistently with the constitution to which we have already agreed. I simply wish at the outset to indicate a difference of opinion from my hon. friend, Sir Samuel Griffith, believing, as I do, that the electors would be made fully acquainted with the merits or demerits of the constitution, and feeling certain that there would be no want of representatives of the people holding views favourable and unfavourable to the constitution, who would come forward on public platforms and in the press to discuss it. But my difficulty is that agreeing with the amendment, I can scarcely see my way to agree to the motion, cordially as I indorse its principle, for this reason: the constitution as it stands contains a provision that it is to be adopted if any three colonies will consent. We may not unreasonably suppose that the legislatures of all the colonies would be willing to remit the question of the acceptance or the rejection of the constitution to a vote of their people. The consequence may easily be that four states may agree by majorities to accept it, and three states may agree to reject it, and yet if this motion were carried the fact that there was a majority of voters in those three states which had decided to remain outside the union, would operate as a bar to the four states which desired to take advantage of the constitution, and would thus directly defeat the object which we have in view. I am perfectly well aware that this resolution is only an expression of opinion by the Convention, and that we have no means of enforcing it. But it involves this inconsistency. I am thoroughly with the hon. gentleman in the opinion that this constitution should be submitted to the people, and that it should be submitted by plebiscite or referendum, and that each voter should give a single vote. Upon all these matters, I am in accord with the hon. gentleman. As the resolution stands, it might seem to indicate

that a majority of the people in the colonies which do not intend to join in the federation might prevent its adoption by the people of the colonies willing to accept the constitution. I am sure that is not the hon. member's intention; but, as the resolution stands, it does seem to involve that inconsistency, and, unless it be removed, I shall feel unable to vote for it.

Mr. MUNRO: It appears to me that there is another and still more fatal objection to the resolution than that just pointed out by my hon. colleague. We received from our various parliaments a mandate to come here for the purpose of considering and reporting upon a constitution; consequently when we have done that our mission is ended, and for us to say in what way the colonies are afterwards to deal with the matter appears to me to be a piece of impertinence. We are sent here to do a particular work. I am happy to say that that work has, to a large extent, been done, and that it has probably been done successfully. But for us now to dictate to our masters who sent us here would be, it appears to me, to make a great mistake. I should object to any resolution of the kind, no matter how much it might be in accord with my views. My desire is that we should not exceed the authority given to us.

Mr. FITZGERALD: I presume that if this question were submitted to the vote of the people at all, it would have to be upon the broad question as to whether we should have federation or not. It is opposed to all common-sense to ask for a vote of the people upon a constitution involving complicated details such as are contained in this bill. How could a simple "yes" or "no" apply to such a constitution as that we have adopted? A portion of it might, in the opinion of certain people, be very desirable, and one clause might be very undesirable. Is it suggested that the whole scheme of federation should be thrown aside because there is a single point in it which does not receive the support of a majority of the people? It appears to me that the answer given to the resolution by the hon. member, Mr. Munro, is complete. We are here to do a specific work, which we have accomplished. And it is not for us to dictate to the various parliaments what action they should take to ascertain the feeling of the people of the respective states. I apprehend, with the hon. member, that in so doing we should be going outside the limits of our commission. A plebiscite may be a very desirable thing in the abstract; but I fail to see why on every possible occasion those who favour that principle of ascertaining the people's will should advocate its adoption. In my opinion we should be making a great and signal blunder if we were to adopt this resolution.

Mr. DIBBS: I intend to vote for the resolution, and to endeavour so to amend it that it will more clearly express the views of the mover. Hon. members are probably aware that a plebiscite is the fairest way in which the people of these colonies could be asked to express their opinion upon the question. Before this constitution is finally adopted, it will have to go before the people.

Mr. MUNRO: Through the parliaments!

Mr. DIBBS: It will have to go before the people.

Mr. DEAKIN: It will be adopted through both the parliament and the people!

Mr. DIBBS: It will have to go before the parliaments first, and if the parliaments accept it, it will be necessary to ascertain the opinion of the people. Nothing can be more simple than to ask the people. the plain question whether they are in favour of the constitution as passed by their parliament or not. Where is the complication, as suggested by the hon. member, Mr. Fitzgerald? What complication can arise in asking the people this simple question?

Mr. MUNRO: Parliament will decide in what way the matter is to be put before the people.

Mr. DIBBS: They will decide by approving of, disapproving of, or amending the constitution.

Mr. MUNRO: Why dictate to the parliaments as to what shall be done?

Mr. DIBBS: It is merely an expression of opinion.

Mr. DEAKIN: Hear, hear; it is not binding!

Mr. DIBBS: And it will have the effect of showing to the people of the various colonies the fairness of this Convention—that its members are anxious that the people should honestly join with them in establishing a federation. Now, if the question of federation or no federation be submitted to the various constituencies—I speak now of New South Wales—the question will be mixed up with the question of free-trade and protection, or with some sectarian cry, and the people will not honestly and clearly express their opinion with regard to federation. Nothing can be more simple or easy than for the various parliaments to deal with the constitution as it has been framed here. If it be approved of by the various parliaments, then let a plebiscite be taken, let the people be asked whether they are in favour of or against the federation as approved by their parliament. I have no desire to complicate the question, and I should like to move an amendment to the effect that the constitution should be submitted to and adopted by a majority of plebiscites of the people of the several colonies.

Dr. COCKBURN: I ask leave to withdraw my amendment.

Amendment, by leave, withdrawn.

Mr. DIBBS: Then I move:

> That all the words after the word "by" be omitted with a view to insert the words "majorities of the plebiscites of the people of the several colonies."

Mr. FITZGERALD: What does the hon. member mean by "majorities of the plebiscites"?

Mr. DIBBS: That there shall be a plebiscite in each colony.

Sir GEORGE GREY: I accept the amendment of Mr. Dibbs.

Motion amended accordingly.

Mr. GILLIES: It appears to me that, notice of motion having been given by the hon. member, Sir Samuel Griffith, to consider this question to-morrow, it is scarcely fair that we should be forced to consider it to-night. It is a very important question, and we ought not to hurry it. It will require all our consideration to enable us to arrive at a conclusion which will be satisfactory to all the colonies as to the way in which this question is to be submitted, and I think we are scarcely prepared to decide upon an arbitrary motion of this kind, and, so far as the amendment now proposed is concerned, we have had no notice of it,

Sir SAMUEL GRIFFITH: I think we ought to adopt the constitution ourselves before we decide upon the manner in which that constitution is to be accepted by the states, and before we ask the parliaments to adopt the constitution in a certain way.

Sir GEORGE GREY, in reply: This motion has been on the order-paper for a long period of time, and whatever may be the form of constitution which we adopt to-morrow, it will not in the least interfere with this resolution. It is almost essential before we adopt the proposal to be made to us to-morrow that we should know the exact manner in which the people will have an opportunity of deciding this question. This is a step preliminary to the other, instead of one that ought to follow it. I feel that my proposal is so fair, so just, that I cannot imagine any objection can be made to it in its present form. I fear myself that the proposal which will be made will be that each state shall be made to adopt the constitution by the legislature of each colony adopting it. I fear that is the intention, and I say, in point of fact, that the legislatures of the several colonies at present in no way represent the people. We have here a very anomalous form of

constitution put upon us by the British Parliament without any of us being heard—at least that was the case in most instances—or without our being represented in the Parliament which gave us those constitutions. I think that now we should affirm that we will not accept any constitution except upon the condition of its being submitted to the people in the manner proposed in this motion. We have a perfect right to propose that. If any other form be adopted it would be a great injustice to New Zealand; that is to say, if it is left to the state legislatures to decide whether or not the constitution shall be adopted, because the constitution is to my mind absolutely unfair to the people of New Zealand. We have not provided any fair form of representation for the people which is at all consistent with the advanced views of the present time. I feel certain that it would be an unjustifiable act on our part to attempt to force this constitution on New Zealand by resolving that the question of the adoption of the constitution is to be settled by the parliaments of the several colonies as they now exist. I shall, therefore, press the resolution, and I think I am dealing justly with the whole of the people in proposing that if they desire to have this constitution at all, every man who pleases may vote upon that question upon the principle of one man one vote. I feel certain that if that is not acceded to the probability is that the people of New Zealand will absolutely reject the constitution. Let every man express his opinion. That would be a means of educating the people on political questions. I believe that the discussions which have taken place here have exercised already a very great influence upon the people of Australasia. They begin to look at matters in a very different light from what they formerly did. I feel confident that if allowed to express their opinion upon the constitution from one end of the country to the other, the people will become fully instructed on every question connected with it, and they will, in fact, be better able to judge as to what will be for their own interests than we possibly can be. Unable as we are to sympathise with many of their views, ignorant as we are of many of their sufferings, their wants, and the troubles which they have to undergo, I say we are not fair judges whether they ought to be subjected to a certain constitution or not. It is our duty to obtain for them such privileges as I now stand up to claim.

Question put. The Convention divided:

Ayes, 8; noes, 21; majority, 13.

AYES.

Atkinson, Sir Harry	Gordon, Mr.
Cockburn, Dr.	Grey, Sir George
Deakin, Mr.	Smith, Colonel
Dibbs, Mr.	Suttor, Mr.

NOES.

Abbott, Mr.	Jennings, Sir Patrick
Baker, Mr.	Loton, Mr.
Clark, Mr.	Macdonald-Paterson, Mr.
Cuthbert, Mr.	Marmion, Mr.
Downer, Sir John	McIlwraith, Sir Thomas
FitzGerald, Mr.	McMillan, Mr.
Forrest, Mr. A.	Munro, Mr.
Forrest, Mr. J.	Playford, Mr.
Gillies, Mr.	Rutledge, Mr.
Griffith, Sir Samuel	Thynne, Mr.
Hackett, Mr.	

Question so resolved in the negative.

Convention adjourned at 5·17 p.m.

THURSDAY, 9 APRIL, 1891.

Addresses—Commonwealth of Australia Bill (Adoption of Committee's Report)—Adoption of the Constitution—Establishment of the Constitution—Report of the Proceedings and Debates—Votes of Thanks—Officers of the Convention—Dissolution of the Convention.

The PRESIDENT took the chair at 11 a.m.

ADDRESSES.

The PRESIDENT: I have received an address from the Sydney Chamber of Commerce. I should explain that this address is dated 11th March last; but I have no recollection of its being received. A copy of it has been made, which the secretary will now read, and also an address from the Chamber of Commerce at Suva.

The following addresses were read by the secretary:—

Sydney Chamber of Commerce,
Sydney, 11th March, 1891.

The Hon. Sir Henry Parkes, G.C.M.G., President Australasian Federation Convention, Sydney, New South Wales.

Sir,—I have the honor to inform you that at the first meeting of the committee of this convention since the opening of the Australasian Federation Convention (held this day) the following resolution was unanimously adopted:—

That the Sydney Chamber of Commerce cordially welcomes the delegates of the Australasian Federation Convention, watches with profound interest their deliberations, and hopes their labours may eventuate in the increased commercial prosperity of Federated Australasia.

I have, &c.,
HENRY CHARLES MITCHELL,
Secretary.

Chamber of Commerce, Suva, Fiji,
1st April, 1891.

Gentlemen,—I have the honor, on behalf of the Suva Chamber of Commerce, to offer my and their sincere congratulations to you, as members of a convention assembled for a purpose so important to the welfare of the whole of the Australasian group.

Although Fiji has no representative among you, yet no less is she included amongst the colonies of Australasia. My chamber, cognisant and proud of that fact, desire therefore to add their testimony to that of the other colonies to the importance of the work you have undertaken, and to mark its sense of the efficient manner in which it is being conducted.

Wishing you all success in your onerous undertaking. I have, &c.,
HENRY H. MARKS,
Chairman, Suva Chamber of Commerce.

COMMONWEALTH OF AUSTRALIA BILL.

ADOPTION OF COMMITTEE'S REPORT.

Sir SAMUEL GRIFFITH: I rise to move:

That the draft bill reported from the Committee be adopted by this Convention.

I do not propose to make any lengthy speech in support of this motion. In bringing up the draft bill from the Constitutional Committee, I had the opportunity to explain briefly its provisions, and they have since been very fully considered in the Committee of the whole Convention; but the alterations made in the bill have not in any way affected its principles. They have left me nothing new to add, and I do not feel disposed to make a speech merely for the sake of speaking. I only desire, if I may, to offer my congratulations to the Convention upon having proceeded so far in their work. I, for one, believe that the constitution which we have framed, although it probably does not meet exactly the views of any member of the Convention, will probably commend itself to a large majority of us. Indeed, the probability is that it is the best constitution that could be framed with any chance of acceptance by the people of the colonies. I am satisfied that the more it is considered by them the more they will be inclined to come to that conclusion. Without further preface I submit the motion to the Convention.

Question proposed.

Mr. DIBBS: I do not rise with the view of offering any lengthy remarks, but to elicit certain information. I would like the hon. member who has had charge of the bill, and who so largely helped in its preparation, and so ably carried it through Committee, to offer some explanation which would make one or two of the clauses a little clearer. I would first direct the hon. gentleman's attention to chapter I, clause 52, sub-clause 3. By this sub-clause power is given to the commonwealth to raise money

> by any other mode or system of taxation; but so that all such taxation shall be uniform throughout the commonwealth.

Then, if the hon. member will turn to chapter V, clause 1, he will find these words:

> All powers which at the date of the establishment of the commonwealth are vested in the parliaments of the several colonies, and which are not by this constitution exclusively vested in the parliament of the commonwealth, or withdrawn from the parliaments of the several states, are reserved to, and shall remain vested in, the parliaments of the states respectively.

It seems to me that some little explanation is required as to whether the powers of which the colonies now stand possessed of raising money by any mode of taxation which they think fit, is taken out of their hands, and left absolutely with the proposed commonwealth parliament.

Sir SAMUEL GRIFFITH: No; the federal parliament has power to make laws on certain subjects, and until it does so the powers of the states remain.

Mr. DIBBS: I know that; but when the commonwealth has dealt with customs and excise, the sole power of dealing with customs and excise will remain in the hands of the commonwealth, and not of the states. It is about clause 52, sub-clause 3, that I particularly want information, and I am sure the people of the colony will be very glad to have some explanation of the matter from the hon. member. This sub-clause will give the commonwealth exclusive power of raising money by any form of taxation.

Sir SAMUEL GRIFFITH: No; concurrent power!

Mr. DIBBS: Where is the word "concurrent?" I failed to gather from the debate that there was any means of raising money except by taxation. The clause says that, "so that all such taxation shall be uniform throughout the commonwealth" it shall be left in the hands of the commonwealth. I feel sure that hon. members will be glad to be perfectly clear on this point, because the bill will be discussed in the various parliaments, and we shall have to face our constituents upon it. It is therefore necessary for us to have the fullest information, so that we may be able to place it before the people through the parliaments. I want it to be clearly understood that the states have not forfeited their rights of taxation by allowing the 3rd sub-clause of clause 52, part V, relating to the powers of the commonwealth to raise money, to pass as it stands in the bill. To make my meaning clear, I will put a case: Take the case of New South Wales. This colony requires to raise, in round numbers, something like £2,000,000 for the annual payment of interest on our public debt. We shall require, in all probability, to go to the country for a land-tax and an income-tax, and what I wish to arrive at is as to whether the states will be able to look to land and income as sources of revenue when this constitution becomes law, and when the 3rd sub-clause of clause 52 stands as portion of the law of the land.

Sir SAMUEL GRIFFITH: Yes!

Mr. MUNRO: Certainly!

Mr. DIBBS: Then let the explanation be made known. Let it be understood that the people of Australia will be liable to two forms of taxation in the shape of income-tax and land-tax; that the commonwealth may agree to a land and income-tax, and that the states will have left to them the power of also agreeing to an income-tax for state purposes. If the hon. member, Sir Samuel Griffith, will make that perfectly clear, we shall know how we stand. Whilst the hon. gentleman is making the explanation, I trust he will also make another explanation. This bill has been framed in a remarkably short space of time, and has been passed in a shorter time than any such important bill has been passed in any other part of the world.

Mr. ABBOTT: It only took nineteen days for the American people to form their constitution!

Mr. DIBBS: The hon. member speaks from his knowledge of history, which he has read with his eyes and understood with his elbows!

Mr. ABBOTT: That is the hon. gentleman's usual courtesy!

Mr. DIBBS: When the hon. gentleman makes a statement which is at once corrected by those around him, he might apologise for the interruption. We are here, not to deal with matters of courtesy, but to perform a solemn duty; and we have a right to obtain all the information we possibly can. After to-day there will be no opportunity of asking questions and obtaining information, and we shall only have the *ex parte* statements of the strong advocates of federation, or the strong opponents of federation. The hon. gentleman who has prepared this bill is the proper person to give us any information which is required, and I know he will cheerfully do so. Another point on which I desire information—and not myself alone but other members of the Convention—is in regard to what is termed the inspection law. On page 20 of the revised copy of the bill, and in clause 13, it is stated:

> A state shall not impose any taxes or duties on imports or exports, except such as are necessary for executing the inspection laws of the state; and the net produce of all taxes and duties imposed by a state on imports or exports shall be for the use of the commonwealth; and any such inspection laws may be annulled by the parliament of the commonwealth.

If the hon. member, Sir Samuel Griffith, will add to his other obligations to the Convention, and to myself personally, by giving some information as to the meaning of the expression, "inspection law," I shall esteem it a favour. I only ask these very important questions because the public will require to know whether, by adopting this constitution, they are granting to their own state parliaments the power of taxing land and income, and whether they are giving an equal power to the commonwealth parliament—whether each parliament will have that power, or whether it is reserved to the commonwealth to make one uniform system of land-tax and income-tax throughout the country.

Sir SAMUEL GRIFFITH: If the members of the Convention will allow me to answer the hon. gentleman I shall be very glad to do so. The hon. gentleman asks whether the powers of taxation, other than those relating to customs and excise, will be exclusively vested in the federal parliament, or whether the other parliaments will also possess those powers. There is no doubt that all the parliaments of the states will have precisely the same powers of taxation as they have at present, with the sole exception of the right to impose customs and excise duties, after a uniform tariff has been established. It is possible that both parliaments might impose taxes on the same thing. That cannot be helped. I am sure the federal parliament would never impose direct taxation excepting in a case of great national urgency. The other question the hon. gentleman asks is as to what is the meaning of inspection laws. Import duties might be imposed under the guise of inspection laws. For instance, a stock-tax might be imposed, and it might be termed an inspection tax; the cattle might be inspected with the object of seeing whether they are suffering from pleuro-pneumonia, and 10s. a head for the inspection might be charged. The clause dealing with that matter is the same as the one contained in the Constitution of the United States, to

prevent states imposing import duties under such pretences. They may very properly pass inspection laws for instance in the case of stock suffering from disease, or in the case of tea, kerosene, explosives, or articles of that kind; but if they have the power to do that it should be for the purposes of inspection only, and they ought not to use the power to place a restriction on trade.

The Vice-President took the Chair.

Sir HENRY PARKES: I hope I shall have no need to offer apologies for saying a few words at this stage of our business. I naturally must have, in some measure, a special interest in the event which has taken place. It is only some seventeen months ago since the proposal for holding this Convention was first made, and I think I may say with all sincerity I never in my most sanguine moments, expected that we should reach this great and important stage at so early a date. It is a pleasure to me to recognise the voice of the hon. member, Mr. Munro, as the first definite voice that gave me encouragement. About the time when my letter to the hon. member, Mr. Gillies, was sent at the end of the year 1889, the hon. member, Mr. Munro, made a speech to his constituents at Geelong, and I noticed, naturally enough, that in that speech he emphatically and unreservedly expressed his concurrence in the proposal then made. Another gentleman here was the second to give me a word of concurrence and encouragement, very soon after what fell from the hon. member, Mr. Munro—that is, Sir Thomas McIlwraith. I could not for a moment suppose that events would march so rapidly as they have done, and a few months afterwards I was most pleasurably surprised by the cordial support to this proposal offered by the late premier of Victoria, the hon. member, Mr. Gillies, and also by the hon. member, Mr. Deakin. Since then things have gone on with increasing speed, until we have arrived at the conclusion of the work of this Convention. I have no more to say in words of that character; but I desire now to offer my most sincere congratulations to the delegates from the different Australian colonies, not simply on the result of their labours, but also on the admirable tact, the untiring perseverance, and the disposition to consider each others' views, which have characterised the whole of the proceedings of this Convention. Naturally in an assembly of forty-five gentlemen, many of them leaders of public opinion, it could not be otherwise than that there would be strong differences of opinion; but, however strongly marked those differences of opinion have been, they have never sunk into what could be called vituperation, or even distrust—not in one single instance to my knowledge. We must make fair allowances for men's feelings and for their different modes of giving expression to those feelings; but, on the whole, the proceedings of this Convention have been marked by a regard for each other, and by a disposition to reach the great end we have had in view with as much harmony as possible, which, I think, is in the highest degree creditable, and I think that the work which we have performed, taken as a whole, may be considered a great and valuable work. I can speak very freely of the constitution bill prepared, because I have had no direct hand in the preparation of it, nor any hand at all, beyond stating my reasons in the committee appointed for that purpose, and offering such suggestions as occurred to me. I venture to think that it would be very difficult to find any document of the same character, which, in the manner in which it has been reasoned out, and the clearness with which its principles are expressed, would be very superior to the document which we have produced, and I venture to think that all these colonies may, and I dare to prophesy, although it is rather a dangerous thing to prophesy, that they will be quite satisfied with the result of these labours. There have been points of dissent and contention, naturally enough, in coming to our conclusions; but again I venture to think that those points of dispute, as time rolls on, will be found to have been best treated in this bill. I allude specially to the powers of the senate, to the position of the governor-general, and to the status of the governors of the colonies. I venture to think that experience will show that the compromise arrived at has been, considering the adverse opinions held by hon. gentlemen, a wise, temperate, and successful compromise. The more the bill is discussed, I feel persuaded the better it will be for it, and I am certain that in the light of discussion all those compromises will appear to have been wise and just. I do not think that I ought to be restrained from making some reference to the opponents of federation outside this Convention. We may be sure that the bill will meet with perhaps virulent opposition. We know with what violence of feeling, with what violence of expression, every great work at every period of history has been assailed by those who were opposed to it, and still more by those who assailed it for no reason at all, and under no guidance that could be intelligible. We know that at all times in the mother country when great constitutional changes have taken place—not less in America—the most violent and unscrupulous expressions of opinion and exhibitions of conduct were indulged in by persons who manifested them not so much from their opposition to some particular constitutional change as from their disposition to do mischief. I was reading in a book, which I think, lies on the table, that during the administration of Washington a rabble which filled the streets of Philadelphia cried out that Washington should be dragged out of his house and dealt with by the populace; and in the same book it is stated that the second President of America was held in such detestation by some persons that when a mother brought her infant son to the baptismal font and desired him to be christened "Thomas Jefferson"—Thomas Jefferson Jones, for example—the minister peremptorily refused to christen him, and stated that he would rather christen him Beelzebub. I read in the same book of one pious old gentleman who raised his head from his dying pillow and cried out that he believed in Jesus Christ and the resurrection, but that he had a wholesome hatred for the devil and Tom Jefferson. When such manifestations of feeling as that have been excited against the men who are now regarded as public benefactors, we also may expect to meet with abuse. The first class who will adversely criticise the work of this Convention will be the uninformed and the reckless. They are always ready to denounce any work which they cannot comprehend, and they exist everywhere—in New South Wales, in Victoria, in South Australia, and in all parts of these colonies; but it is worthy of remark, and I think I am quite entitled to point out at this moment that, of all those who so far have criticised in adverse terms the work of this Convention, there is not one that has given a clear reason for the course he has taken, nor one that has stated the case with any degree of veracity and truth. I will give examples. We have been accused of giving away the liberties of New South Wales, and no doubt the hon. gentleman opposite, Mr. Gillies, and the hon. gentleman behind me, Mr. Munro, will hear that we have given away the liberties of Victoria. I have no doubt that my athletic friend, Mr. Kingston, will hear the same thing in South Australia. But I want to ask what liberties we have given away? I suppose the liberties of a free people consist in the protection of their possessions, their lives, their property under the laws of the country, and the protection of their free exercise of the franchise which they enjoy under the constitution. Have we touched either? Have we given away any security under the

laws of the country? Have we given away, in any degree whatever, the liberties enjoyed under the political institutions of this country? We rather—not rather, but in a marked degree—extend the province of law, and endeavour to make it more accessible and more completely satisfactory to all classes of the country; and, in regard to the liberties of the people of this country, so far from giving away any particle of these liberties, our efforts tend to vastly extend them. The people of New South Wales, for example, enjoy every atom of liberty which they enjoyed before, but their liberties will be circumscribed only by the shores of Australia as a whole. Now they have liberty and political power confined to a very small space on this continent—then they will have liberty and power extended over the whole of the colonies. How we can be accused of giving away the liberties of the people when the direct contrary is the case—when we have greatly and benevolently and justly extended the liberties of all classes of the people—passes understanding. Then we are accused of giving away the lands. I will take New South Wales again, though of course, the case might be stated in connection with any one of the other colonies. We are accused of giving away the lands of New South Wales. That is so incorrect that I think I shall be pardoned if I characterise it as a shameful perversion of the truth; for, so far from giving away one inch of the lands of New South Wales, we have taken special care to guard the lands, and the territorial rights, as they stand at the present moment. And this remark applies to all the other colonies. Then, again, we are told—and this, especially, is aimed at New South Wales—that we have given up the control of our inland rivers, the Murray and the Darling. We have done nothing of the kind. What we really have done in this bill is to allow the federal government to so regulate these rivers that their navigation and traffic shall be best promoted in the interests of all the conterminous colonies. Is not that simply just? If, in regard to the Murray and the Darling, this is done, what becomes of the Murray which I believe flows fully 200 miles through the territory of South Australia? Would not that be in our interest? Does not New South Wales, does not Victoria desire to use the Murray for all the purposes of trade? And if the Murray and the Darling in New South Wales are controlled in the interests of all Australia, in the interests of all the neighbouring colonies, is not the Murray in its flow through South Australia, with South Australian land on both its banks, and no other, equally conserved in the interests of New South Wales? So that I think I am fully justified in saying that the persons who have set up to denounce our work have no case whatever, and they attempt to put forth no case which is not based upon gross misrepresentation of facts, and which cannot be supported by reason. It is proper, at this stage of my observations, to point out that if we are going to federate, if we are in earnest in our desire to make an Australian nation, we must to a very large extent, look to the whole of Australia. I, as a citizen of New South Wales, so far as I may have influence, must look to Victoria, to South Australia, to Western Australia, to Queensland, and to the new colonies which are sure to come into existence just as much as I look to New South Wales, when I am viewing any matter in a federal light and as a federal transaction. No doubt it will be our duty to see that our respective colonies are not injured in the administration which may follow, and very possibly at no very distant date, upon our work of the last five or six weeks. No one can complain of that. So far from complaining of it, the man would be hardly fit to have a home in any one of the colonies who did not guard his own particular state from intrusion, from trespass, and from wrong. But we must look beyond all that; and we must look to the national powers, the national rights, and the national progress of the government which we are about to erect, and this government would be imperfect indeed if it had not a voice in the determination of how our inland navigation, let the question arise in whatever colony it may, is to be controlled for the benefit of these congeries of states—for this new nation made out of five or six hitherto separated colonies. Now it is very unpleasant to dwell—and I do not intend to do so—upon a subject of this character; but when we find persons endeavouring to awaken animosity in the public mind against the work of the Convention, who give no reason for what they are doing, who cannot, apparently from some defect in their intellectual structure, state any case with accuracy, we may well, I think, state how ill-founded their accusations are, and may well be pardoned for stating the naked truth. I think I have exhausted the category of anathemas hurled at us by certain people out of doors. I think I have pointed out that in every case these vituperative attacks are based either upon ignorance or upon a wilful misrepresentation of the real facts. We have arrived now at the finish of this bill, in which I think every delegate may justifiably take a clear pride. This bill, I have no doubt whatever, will be ratified by the people of these colonies. I have no doubt whatever in my mind that the large colonies will ratify this bill. I see nothing in it which can possibly germinate into a valid ground for withdrawing the popular assent from its provisions. I see as much as we could possibly expect in the measure to commend it to the approval of nearly all classes of the people in these free states. I offer these observations on the motion for the adoption of this report, because it appears to me the proper time. Looking to the future from the point at which we have now arrived, I feel that I only state the plain truth in stating that this bill, for the preparation of which my hon. friend, Sir Samuel Griffith, deserves so much praise, will be a document remembered as long as Australia and the English language endure. That is a bold expression, but not an extravagant one. The colonies must federate, or, in other words, they must come together, and be one some day or other. I will assume for a moment that that day has not arrived now. If that be the case, it cannot be far off; and whenever the time comes this admirably drawn bill, so clear, so instinct with the true spirit of well-ordered liberty, so instinct with a true appreciation of stable and sober laws, so pervaded by the very spirit of toleration and mutual consideration—that come whenever that day may, this bill must be in the foundation of the edifice of federal liberty. It can never be forgotten, it can never be depreciated, it can never be made less than it is to-day; and supposing another constitution should be framed by other men, to a very large extent the provisions of this bill must be embodied in that constitution, so that this Convention has breathed into this bill the breath of an immortal life. As long as these colonies exist, as long as the language we speak exists, this will be one of the great foundation stones in raising towards heaven the temple of the nation's liberties. We may well then be satisfied. I must say my own attendance here has been somewhat exacting. I think the attendance of my hon. friends, the delegates from Queensland, must have been equally so. All must have made great sacrifices; but we may well be satisfied with what we have done. Under any circumstances, no body of men could have done much more, and I, for one, do not think that misrepresentation will have much power in diverting the attention of the public from the true merits of our labours. I support the motion for the adoption of this report with every possible feeling of concurrence. I have no doubt the motion will be carried unanimously, and I have no doubt whatever that our approval will be re-echoed by the best portions of the population of all these

colonies. Our labours, under our commissions, are so far at an end. But some of us will have to fight the battle of the bill in the parliaments, and before the peoples of these countries. I shall enter upon that task with a light heart, and a conscience that tells me we have done well, that we have done our best, that we have not been diverted by any inferior object, and that, almost without exception, we have engaged in our work with a wholeness of soul and the exercise of our best thoughts. The result of our labours, I say unhesitatingly, will be generally approved by all the most thoughtful of the population, by all those in fact who are most competent to form an opinion on so difficult, so complex, and so hazardous a labour as ours has been. I give my support to the motion of the hon. member, Sir Samuel Griffith, and I have no doubt whatever that the support I give will fairly represent the support the bill will receive from the people of this country.

Mr. MUNRO: I do not think it is necessary for me to say much on the present occasion. In fact, the time has now arrived when we must be departing for our colonies, the work we undertook having been completed. I quite agree with the hon. member, Sir Henry Parkes, that, under all the circumstances, we ought to be satisfied with the work that has been done. Personally, I must say that the present position of affairs is altogether better than that I expected to see about ten days ago. Coming together, as we did, from the various colonies, under a mandate from our parliaments, to frame a constitution, each of us coming with life-long convictions, and with a determination to do what we could to make the constitution the best one possible, of course it was to be expected that there should be a large amount of difference of opinion, and that our opinions should be very strongly expressed. But I am happy to say, with you, sir, that while that was the case there was little or no personal misunderstanding amongst us. I, for one, feel that it is a high honor to have been a member of this Convention. I shall feel, for the rest of my life, the pleasure of having met the hon. gentlemen sent here as representatives of the various parliaments on an occasion like this, to exchange views and consider this great question. To all of us, I think, that is a pleasure we shall not forget. Of course we knew a number of these hon. gentlemen by name from the important positions which they occupy in their various colonies, but we have now met face to face, and I, who have expressed my views as strongly as anyone as to what the constitution should be, feel that each one who has addressed the Convention, from the first day until now, has done so with an honest intention to get the best constitution possible for the various colonies. Some have differed very materially from me in their views, but I am bound to acknowledge that they felt as strongly as I did that their own views should be given effect to. We feel, of course, that in the bill before us none, perhaps, has obtained all he would like to get, and it may be that we would all like to get a great deal. I quite agree with you, sir, that the best thanks of this Convention are due to the gentleman who drafted the bill, and who managed in such an excellent manner to put the various compromises in such words that we could easily understand what they meant, and so that we could feel that justice had been done to all of us. I was very glad indeed to hear you refer to the fact that I was among the first to give in my adhesion to your views when you announced that we must have a federal parliament. I remember the circumstances very well. I had the honor of meeting the late Governor of New South Wales, Lord Carrington. He felt very strongly with regard to this matter, and he asked me what my views were. I told him that he could convey to the hon. member, Sir Henry Parkes, my congratulations on the position he was taking up, and that I believed as far as Victoria was concerned we should assist to the best of our ability in carrying out federation. I then had to address my constituents, and of course gave expression to my views in that direction. I am sure we all feel, as you, sir, feel, that our work is not finished; that it is practically only begun. We have now a constitution of which we may well be proud, but we have to go back to the various colonies and constituencies and put the question before them. I do trust and hope that the aspirations, especially of the rising generation of Australians, for a united Australia will be given effect to under this constitution. I hope that the little difficulties of adjustment that may arise at the initiation of this constitution will not prevent any of the colonies from joining. I know, for instance, that our friend from New Zealand, the hon. member, Sir George Grey, feels greatly disappointed because we did not depart from our instructions so far as to insist upon an alteration of the constitutions of the various colonies.

Sir GEORGE GREY: What instructions?

Mr. MUNRO: Our instructions were to frame a constitution for the Australian colonies that would be just to all the colonies; and I venture to say that no man would assert that it would be just to the colonies for us to insist here upon an alteration of their electoral system before we framed a constitution. I venture to say that gentlemen who represent the various constituencies in the colonies have a perfect right to exercise their own judgment with a view to carrying out the views of their constituents, and we have no right to interfere with them in that direction. I am thoroughly with the hon. gentleman in his views on the question of one man one vote, and believe that principle should be given effect to in our laws. But that is not our business here. It is not our business to interfere with local legislation. We must allow the various colonies to do what they think fit in that direction. I trust that the result of the debates here will be to incite all of us in the various colonies to see that that principle shall be carried into effect at the earliest date possible; but to have any dispute on that point now would be entirely out of place, because this is not the arena for it. We came here for a very different purpose, and I feel that we have done good work. Of course we are told that we have given away the rights and privileges of the people. I feel, on the contrary, that we have enlarged all the privileges of the people—that we have enlarged the scope of the enterprise of all the colonies. We shall have opened the country from one end to the other to every man in it as soon as this constitution shall have been adopted, so that we shall all form one people. I shall not feel, for instance, in voting for representatives to the federal parliament, that my power is limited by the Murray on the one side and the sea on the other. I shall feel that the power of that vote extends to Carpentaria in one direction, and, if Western Australia joins us, to Freemantle in the other. If that be so, surely, instead of giving away our rights and privileges, we are enlarging them. We are enabling our friends in Western Australia, who are at present cooped up in one-third of the continent to vote in such a manner that their power will extend from one shore of Australia to the other, and enabling them to feel that instead of being part of a small colony they are part of a powerful commmonwealth, of which we may well be proud. I have great pleasure in supporting the adoption of the report.

Mr. DEAKIN: While I do not desire to detain the Convention, it yet appears possible to add one or two words of a general nature upon the final stage which we have now reached. It is rather too early for us to separate ourselves from our work and its details so as to be able to regard it dispassionately as a whole. The task on which we have been engaged for the last six weeks has been onerous and arduous to an almost unparalleled degree. Critics who look to

the record of our debates, admirably rendered as they have been by the *Hansard* staff of this colony, will not derive even from that excellent statement a full view of all the circumstances which have been operating upon the minds of hon. members. There is much unstated in that record, because the delegates to this Convention have practically lived together for six weeks in private as well as in public intercourse, and from the natural action and reaction of mind upon mind have been gradually shaping their thoughts upon this great question. The bill which we present is the result of a far more intricate, intellectual process than is exhibited in our debates; unless the atmosphere in which we have lived as well as worked is taken into consideration, the measure as it stands will not be fully understood. And now the hour has struck for our departure, and the work, so far as we can shape it, is about to leave our hands. The time for construction has passed, and the time for criticism has begun. So far from presenting ourselves as a phalanx resisting criticism from the public outside, we have courted it from the outset. Every important step, and every practical step in shaping the constitution has been taken in the full light of day. We send it to the people of Australia, not only informing them of the reasons in favour of the particular provisions we have adopted, but with information contained in the record of all the reasons that could be urged against them. If there are enemies of federation, if there are hostile critics, I undertake to say that none of them will be able to present arguments against these proposals which may not be found in some form already embodied in our debates. We come before the public, not in an attitude of resistance, but of confidence. The whole process of constitution-making has, as far as possible, taken place under their eyes, and they will form their judgment on the whole of the facts. Those who turn to the pages of this *Hansard*, recollecting the report of the meeting held in Melbourne twelve months ago, will surely be struck by one important circumstance, and that is the immense distance which has been travelled since the Conference of 1890. A reader of the speeches delivered on that occasion must be struck by their obvious and their necessary generality. Federation was then in the air, and only in the air; even after the conference it still remained to a large extent with but a phantasmal existence. To-day it has taken form, and shape, and substance. It is reduced to type; and one form of federation, at all events, is presented for the criticism of the whole continent. Every member who was present at that Melbourne Conference, with the solitary exception of Sir John Hall, an able representative of New Zealand, is a member of this present Convention. One other, whose presence we were fortunate enough to enjoy at both meetings, whose ability we all appreciated, and whose upright public spirit we all revered, the late Mr. Macrossan, has been unfortunately taken from us during our proceedings. But, with one exception, the whole of the members who took part in the Melbourne Conference have joined in this Convention, and although they may be supposed to have exercised a natural influence on the course of the debates, yet the actual product—the actual result of the practical working of this Convention is something very different from what even the wisest of those persons dreamed of twelve months ago. You, sir—and who more competent to pass a judgment?—have said that the celerity with which this movement has advanced has taken even you by surprise, and those who feel called upon for historical and political purposes to gauge it by its public records will re-echo and reiterate your verdict when they compare the excellent but shadowy work done by that conference twelve months ago with the solid practical outcome which we are presenting to-day. I take it that we may remit this bill to our constituents with some confidence, since it is a natural outgrowth of the constitutions already existing in Australia, of which we ourselves have had experience, striking its roots back to that British Constitution from which the free institutions of our race have sprung. It does not present the same features as the constitution of the mother country, nor yet is it identical, by any means, with any single constitution which can be found in Australia; but it ought to be a source of confidence to note that it has proceeded on the same well-grounded lines and well-proved methods which have received the sanction of our people in all these colonies. This constitution will not present itself to them as something strange, foreign, or abnormal; but as something which their own experience will have prepared them to understand and appreciate. The work of our hands, although it will bear traces of the study of the constitutions of the United States and of Canada, and of constitutions even more remote, is yet distinctly an Anglo-Saxon, saturated through and through with the spirit and confidence of self-government, which has been characteristic of the race. This may encourage us to hope that our constituents will extend to it the same consideration which they require to give to all political expedients. They will not have expected as the outcome of our deliberations a scheme which any particular section or party would consider perfect; without deifying compromise, they should admit that the very fashion in which it has been shaped offers one of the best guarantees for its future harmonious working. If those who occupy the proud position of representing the people of Australia under this new constitution, meet and deliberate on the many difficulties left for their solution, and to which we have only opened the doors, in that same spirit of moderation which has been exhibited in these discussions—with the same tolerance, fair-mindedness, and anxious disposition to arrive at a reasonable compromise—and surely we are entitled to expect more rather than less from them—then the people of these colonies need feel no hesitation whatever in setting their seal to the draft bill which we have had the honor of preparing. Without entering upon details, which have been sufficiently dealt with for practical purposes during the debate, let me add that for my own part I should have preferred to see the second chamber no antithesis of the first in any respect, but simply a body for the securing of that permanence and stability which are necessary for good government, gifted with authority to discuss and powers to delay sufficient to make it certain that no popular measure could find its way to the statute-book unless it were proved to have have been well reasoned upon and approved of by the people in the maturity of their judgment. Though I should have preferred to see the upper chamber more strictly limited to functions of that kind, yet I cannot conceal from myself the fact that it will be elected by select constituencies—constituencies which will keep the central government in touch with the local governments of the various states, and which should produce harmony between the working of the state parliaments and the central parliament. A body of this dignity, and charged with such important functions, may reasonably be awarded a higher position than that of the upper house of any single colony. I should have preferred to see the fiscal question dealt with in a different fashion; not by way of imposing any policy on the future parliament of Australia—I am perfectly satisfied as to what that policy will be—but by way of giving confidence to those who have invested capital in our manufacturing industries. Although I should have preferred this, yet my confidence is unabated in the ultimate result of the fiscal liberty conferred. I do not believe that there is any real danger to protection from that source. What I desired to do was to allay the fears—not altogether unreasonable, if not sufficiently well founded—of

those who look forward with apprehension to the passing of a uniform tariff, possibly a lower tariff than that at present in force in some colony upon some articles. And, finally, on the question of the amendment of the constitution, it appears to me that the proposition which I think the hon. and learned member, Sir Samuel Griffith, had in his mind when he spoke of preparing amendments of the constitution by conventions—the practice which obtains in the separate states of the American Union, where the question of the amendment of the constitution is remitted to conventions, and the several amendments prepared by them are then submitted to a direct vote of the electors. That would, in my opinion, have been a more satisfactory manner of providing for future changes of the constitution than that which has found its place in the bill, and which bears a closer analogy to the provisions in the Constitution Act of the United States Central Government. These are, however, comparatively minor points, and I think we should all be prepared to defend this constitution before our constituents on the ground that in its spirit, its form, and its character it is thoroughly liberal and thoroughly democratic. The hon. member who appeared to fear the electoral provisions of this constitution most, the hon. member from New Zealand, Sir George Grey, has, I feel sure, not yet sufficiently acquainted himself with the accurate facts with regard to plural voting and its influence in these colonies. Neither in this colony nor in Victoria does the influence of that vote exist to the extent which he supposes. I am confident that in our own colony, out of its ninety-five seats, not more than ten seats are materially affected by plural votes. For all that, I am cordially and thoroughly at one with the hon. gentleman in his opposition to the principle and practice. The Victorian Assembly has already passed a measure for the abolition of the system. That measure forms part of the government programme for next session. I believe it stands an equal chance of being adopted in the great colony in which we now are. Consequently, the probability is that in the two most populous colonies of Australia the principle of "one man one vote" will be established at a very early date—long, I trust, before the foundation of this constitution. That being so, I fancy that the fears to which the hon. member, Sir George Grey, has given expression in many ways in regard to this subject are not well founded. South Australia and New Zealand have already adopted the principle, and I believe that New South Wales and Victoria, if not Queensland as well, are on the eve of adopting it. The bill as it stands does not embody all that some of us desired in the matter of powers. In the Constitutional Committee it was contended that under the heading of statistics there was sufficient authority to establish an agricultural department, such as exists in the United States; and it was thought premature at this stage to endeavour to take any federal step in the all important question of water supply, or in the equally important subject of the consolidation of the debts of the colonies. It was thought inadvisable to attempt to make any movement in these directions, although there are, I believe, a large majority of the members present who trust and believe that in the early future the federal parliament will see its way, with the consent of all the colonies, to add these to the list of powers which this constitution confers. It might be possible, were it necessary, to attempt to answer by anticipation some of the contentions which are certain to be urged against this bill by the opponents of federation. That is a task to which we shall probably have many opportunities of addressing ourselves in other places. It may reasonably be said, however, that imperfect as this measure is, it contains within itself the essential principles of popular government; it contains within itself the power which will permit the people to modify and shape it in accordance with their future needs; it provides for that free and full discussion of public affairs, that reasonable consideration of them by the public at large, and that close criticism of them by the chambers charged with that special duty, which is the best guarantee for the passing of wise laws. Those who oppose it, disparage, in the first instance, their own people, and in the second instance the people of the neighbouring colonies. They disparage their own people if they fear that meeting on a fair and equal field, and, appealing to the judgment and reason of the whole commonwealth, they will not be able to securefor their state all the just consideration which is its due in every matter in which its interests are affected. They disparage themselves in the first instance if they put forward any such plea of personal feebleness, and they also disparage the people of the neighbouring colonies if they contend that they are not equally fitted with themselves to enter into the discharge of the duties devolving upon the citizens of a free commonwealth. What is the fact at the present time with regard to the political condition of these colonies, entirely independent, as they have been, of one another? Is it not manifest and remarkable, that though each colony has been left to follow it own course, without any regard to its neighbours, the laws of all are governed by exactly the same principles? One of the most familiar features of colonial politics is that any law which has been passed by one colony is almost immediately afterwards adopted by its neighbours, if it is found to be successful in its working; and the consequence of this has been that though some may have been quicker and some slower, every colony has advanced upon the same road. Their institutions have been shaped in the same spirit, and in the same direction. Taking statute-book by statute-book, and comparing one with the other, the differences sink into insignificance, while the main general features of likeness assert themselves on every page. Do we need a stronger demonstration than this of the natural unity of the people of Australia with regard to all the political questions which have agitated them in the past, and are agitating them in the present; and do we need a better guarantee than this for those who apparently fear that the instant they step outside the ring-fence of their own colony they will be committing the destinies of their people to alien races, with other aspirations and other ideals? On the contrary, to pass the artificial boundary of one colony and enter another, involves no change in the political atmosphere. The one has just the same quality as the other, and one finds among the people across the border identical aims, and even identical means employed to gain them. I trust that these considerations will be sufficiently obvious to commend themselves to the electors of this country, whose judgment, in the first instance sought through their parliaments, and then directly will ultimately decide the fate of this bill. Let them note that this constitution has been framed in no spirit of haggling; that it was impossible to measure the territory of one by the territory of another inch to inch; that it was impossible to gauge the possibilities of one against the possibilities of another to an ounce; that it was a matter of practical impossibility to obtain a division of the financial responsibilities to a penny or a farthing. What has been done has been to secure substantial justice for all the colonies of Australasia. It will not be by any consideration of bargain and sale, or purchase and arrangement, that the people of this country will be governed. On the contrary, I believe they will rise to the height of this great crisis. They will see in this proposal for union the first pulse-beat of their national life. They will behold in it possibilities which even the most sanguine will not dare to pourtray. They will realise that if this is not the best of all possible constitutions it is the best that can be framed and

ERRATUM.

Page 445 (2nd column), omit words beginning with word "between" (line 7) down to word "interests" (line 14), and substitute the following:—"a system intended to make all Australians from every colony really the people of one country—to so arrange their fiscal matters that each colony will, in the future, have to exercise the greatest watchfulness to properly safeguard its own interests as against the rest."

accepted at the present time. They will admit that it has been wrought by representative men of all the colonies in a spirit of equity, with all the ability and in the light of all the experience they possess, and they will rely with confidence upon its results. They will feel that the national spirit can now embody itself in this commonwealth in a higher, a broader, and a nobler form than has ever been possible in the past. They will welcome it as an enlargement of their political, their social, and their commercial life, as a gift of new ideals, and will recognise that by taking this first step upon the path of national development they have entered upon a new career, which promises much in the future, in addition to what may be achieved individually by the still powerful states within their own borders. Let them estimate how rich the harvest of union may be by recalling the fruits of their independent exertions in the past.

Sir JOHN DOWNER: It would seem rather a graceless and unthankful thing to introduce into an atmosphere of such perfect harmony even one single note of discord; but, while I intend to support the motion now before the Convention, and in the future to do all I can to assist the cause of Australian federation, I fear now, as I feared during the time the bill was in Committee, that we have not in every instance adopted the best method, that we have not risen to that lofty sphere from which the hon. member, Mr. Deakin, addressed us just now; but that we have voluntarily, with our eyes wide open and understanding exactly the difficulties we were creating, introduced propositions into our new constitution which, up to the present time, have created much misunderstanding, and must inevitably in the future produce discord. The two great questions which were so much considered and discussed in Committee were the questions as to the position of the individual states and the fiscal question. As to the first, I can only say that having listened most attentively to all that has been said by the hon. gentlemen who advocate the bill as its stands at present, and having had the advantage of constant private intercourse with them, and so of hearing both publicly and privately the arguments in support of their contentions, I still say unhesitatingly that the clauses referring to what have been called the state rights are distinctly intended and understood by one portion of the Convention in one direction, and as distinctly intended and understood by another portion of the Convention in another direction; and I say that it is not a good thing to begin that which ought above all to be founded on perfect good faith and perfect mutual understanding with the introduction of a system which we know perfectly well is differently interpreted by different minds, and which we know equally well is intended to be worked out differently by different members of the Convention. If, as the hon. member, Mr. Deakin, says, the larger colonies who supported the view which is contained in the bill as it now stands do understand that the senate, selected so carefully, exalted so greatly, is, apart from the question of the numbers of the people who elect it, or of its members, to have a lofty position equal to the other branch of the legislature—if that is the general understanding, whatever the words may be, I care very little, because there can be no doubt that the interpretation of the constitution will be governed at least as much by the general understanding of its meaning as by the precise words in which that meaning is expressed. I do not think that it is possible that the constitution is after all sufficiently elastic to enable the senate to be all that, personally, I would desire it to be, and to exercise all the authority I would desire it to exercise; but, unfortunately, the words used are sufficiently elastic to be interpreted by one portion of the Convention in one way, and by the other portion in another direction. I sincerely hope that no trouble may come out of this. The difficulty which we have was met by a commonwealth which has stood the test of time, and their compromise we might, I think, have well adopted in this instance. As to the fiscal question, there again I fancy, if I may be allowed to say so, provincialism was not displayed upon our side. It was displayed rather on the side of some of the larger colonies, and it will not be a good beginning to a perfect system of federation between the colonies for the destruction of customs-houses, to make all Australians, whatever the colony to which they may belong, really the people of one country, and to provide against the necessary watchfulness and sometimes conflict that I think must happen between the states in properly safeguarding their own individual interests. I am sorry to obtrude these considerations at this stage of the Convention. Although disagreeing with much that has been said, and having serious fears as to the difficulties which may arise from some of the provisions of the bill, I intend to support the motion, and no doubt I shall be found in the future, as in the past, a consistent advocate for everything which may ultimately result in the union of Australia.

Mr. BAKER: I wish to say as little as possible on this occasion, because the strong feelings that have been engendered by debate and collision may perhaps lead me to take a view which, on calmer consideration, I should not take. I would, however, like to put it on record that I express no opinion at the present time, but hold myself open upon calmer consideration of the provisions of the bill to take such action as it appears to me the interests of the people of Australia and South Australia should induce me to take. I do not wish to discuss, and I shall not discuss, the matters which have been brought forward by the hon. member, Mr. Deakin; but I wish to put upon record the position which I now take, because I am afraid that unless I do so, if I afterwards come to the conclusion, which I hope I shall not come to, that it is not my duty to advocate this constitution, I shall be placing myself in a false position.

Dr. COCKBURN: I join with the hon. gentlemen who have already spoken in my appreciation of the way in which the work of the Convention has been done, reflecting as it does great credit upon those responsible for its management. No doubt the bill represents the will of a large majority of the Convention, though, as one who has pretty generally been found voting with a minority, I cannot join in approval of all its provisions. On the other hand, I recognise that it has very valuable features, though I fear that it has also very great faults. It appears to me to tend more to unification than to federation, and, to a great extent, to be founded on a distrust of the popular will. However, I can only say that I hope a calm and dispassionate view of the whole of the events may lead me to the conclusion that these flaws may not be of so vital a nature as at present I am bound to regard them.

Mr. J. FORREST: I should like to congratulate the Convention, and also you, Mr. President, upon the result of our labours. Although this draft bill may not meet with the approval of all of us—in fact, some portions of it have been carried by very narrow majorities, when, I believe, the result would have been the reverse in some important instances had all the members of the Convention been present—still, I feel that it is a very valuable production, and one that cannot but be of great benefit to those who are to consider this question; and it seems to me that a fair result has been obtained. I quite agree with you, sir, that the federation of these colonies must come sooner or later, and the question arises in my mind whether this is the most favourable time, or whether some future time would not be more favourable. I unhesitatingly say that, so far as I can judge, the difficulties which surround the question now will not be less as time goes on; and therefore, if any one is of opinion that the

federation of the colonies is necessary, I am convinced that no more appropriate time can be chosen for it than the present, because, as the colonies grow larger, and as our interests become more diverse, the difficulties now existing will be increased many fold, and no more opportune or convenient time will be found in the future than in the present. Our work is about completed. It will be for the people of the different portions of Australia to say whether they will accept or reject the constitution which has been framed. It will be my duty to place the bill before the people of the colony I represent in its proper and true light. It will be my duty, and the duty of those associated with me, to explain the features of the bill to the people of Western Australia. It is not for me, at the present time, to say what their decision may be. As far as I can judge, the terms of the bill are, to the larger colonies, which are connected by several means of communication, and especially of railway communication, sufficiently good. Even if the bill does not meet with their entire approval, the conditions laid down in it are sufficiently fair and just to those colonies to enable them to federate. As far as I am able to judge, the colony which I have the honor to represent seems to be in the worst position, the principal reason for this being that we have no means of communication with the other great colonies. Before we can have communication, excepting by sea, with any part of these colonies, 1,500 miles of railway will have to be constructed over a country at present uninhabited.

Mr. MUNRO: Federation would hasten that!

Mr. J. FORREST: The one great obstacle which I see in the way of our joining the federation, the one great obstacle which it will be difficult for us to overcome when we place the matter before the people of Western Australia, will, I hope, soon be removed. I sincerely congratulate the Convention on the result of our labours; and I especially thank those gentlemen who have given so much time to the preparation of the bill. Foremost amongst them I must mention the name of the hon. member, Sir Samuel Griffith. I feel sure that without his assistance, and the able and willing assistance of other legal gentlemen, we should not have been in the position in which we find ourselves to-day, of having passed the bill through the Convention. I also desire, before concluding, to thank you, Mr. President, and the hon. member, Mr. McMillan, and the Government of New South Wales, for the extreme hospitality and kindness which have been extended to us during the Convention. Although our labours have been arduous, and we have had a great deal to do, and have been kept very closely at work, they have been very much lightened by the great hospitality and kindness which we have received from you and members of your Government, and in fact, from all the people with whom we have come in contact in New South Wales.

Sir THOMAS McILWRAITH: I have no intention of adding to the very eloquent perorations which have been made upon our month's work by the different speakers who have preceded me; but I should feel myself to be ungrateful if I sat down without expressing my gratitude to one hon. member who has been of immense benefit to myself. I mention him now, because his labour commenced long before ours in the Convention—I mean the hon. member, Mr. Baker. I am glad to hear, from the manner in which my remarks have been received, that hon. members of the Convention so cordially agree with me.

Mr. PLAYFORD: I think that all that is necessary to be said on the present occasion as to the quality of the work that we have turned out has been said by the President. As we have all been more or less engaged in the perfecting of this measure, it seems very much like self-praise on our part to compliment ourselves upon our labours. The work we have accomplished will have to be criticised by the people outside. They will very possibly look at it with different eyes to ours, and we shall have to meet their criticisms when the proper time arrives, and defend our work in the best way we can. One thing which I trust will be brought about throughout the colonies in connection with federation is this: that the question of federation will not be put before the people mixed up with party politics.

Mr. DIBBS: It certainly will in New South Wales!

Mr. PLAYFORD: I trust that we shall endeavour to separate it distinctly from party politics. I can say for the opposition in South Australia, and for the ministry and their supporters, that that is what we intend to do. We intend to keep the question of federation altogether distinct and separate from questions of party politics; and I am sure we shall find in South Australia, when the question is remitted to the people for decision, ministerial supporters taking one side, and opposition supporters taking another, in certain cases, and *vice versa*, we shall find them acting not in accord so far as party politics are concerned. I may say, personally, that, taken as a whole, although the constitution does not meet with my approval in a great many particulars, I look upon it as one to which we can fairly ask the people of South Australia to agree. It must necessarily be a compromise. We have had to compromise on many points; but, taking the bill as a whole, I shall only be too pleased to do all I possibly can to get the people of South Australia to agree to it, because we have made provision that if it is the wish of the majority of the people of the colonies to alter the constitution in any one particular, it can be so altered with considerable facility. There is only one other point to which I wish to allude, and that has been alluded to by the leader of the Opposition in South Australia, the hon. member, Sir John Downer. The hon. member has not expressed himself definitely as to whether he will be able to agree to recommend this constitution to the people of South Australia, because of that one point in particular. I hope the hon. member will consider the matter again, and I trust that when he does make up his mind he will be found agreeing to recommend the adoption of the bill to the people of the colony. The point to which the hon. gentleman alluded was the one upon which we arrived at—a compromise in regard to the powers of the senate. I would say to him that, considering the compromise which was arrived at was the compromise which was arrived at in South Australia over twenty years ago, between the Legislative Council of that colony and the House of Assembly, and that that compromise has worked so exceedingly well for that period, we, in making the compromise contained in the bill, have not departed from any powers we possess; that is, we have not gone outside the colonies to adopt a mode by which we may get over the difficulties of co-ordinate powers between the two houses. We have, however, adopted a system which has been in operation in one of the colonies for many years, with very happy results. Therefore we have just as much right to say that by adopting the South Australian compromise, which has worked so well for so many years, we have adopted a compromise which will work well for the commonwealth of the future, as we have to say that if we had adopted the American system, which I contend exists under different conditions and apart from responsible government, it also would have worked well. I do not know that I need say anything more on the subject. I only trust that it will be found that within the next four or five years at the outside the federation of the colonies, either on the basis that we have laid down here, or on a somewhat similar one, will become the law of the land for all Australia.

Mr. RUTLEDGE: In rising to support the adoption of the report, I do not think that many words are necessary. You, sir, in the address with which you favoured the Convention this morning, gave expression to the feelings that were uppermost in my own mind, and it would be an impertinence on my part if I were to attempt, in my humble way, to repeat the sentiments to which you have given such happy expression. I think, sir, that the introduction of matters of detail into the discussion that is now going on is rather unfortunate, and I hope that, on this, the last day on which we are to assemble together, we shall have as few references as possible to the matters which have separated us in opinion during the time we have been together. I am sure that, as men, we are separating with feelings of high mutual regard. As has already been said by one hon. gentleman, most of us have been familiar with each other's name and reputation for a long time; but we have lacked the inestimable advantage of personal acquaintance with the men with whose names and doings we have so long been familiar. I confess, for my part, that I have undergone a process of education whilst I have been in the Convention. I came here with my ideas pretty rigidly formed on certain subjects; but I have found that, whilst my mind has been operated upon by the influence of superior minds around me, I have been forced to modify some of the views which I have heretofore held. I came here, for example, as a strong advocate of state rights, of which my hon. friends, Mr. Baker and Sir John Downer, are such able exponents; but, whilst I have been here, I have come to see that in order to accomplish the great object which we all have in view it is indispensable that some of those views on the subject of state rights should be modified. I do not think that we are chargeable with adopting any unworthy compromise in what we have done. I recognise the fact that we are here as reasonable men. We are, as far as possible, bound to respect the views which each holds on questions on which men may be expected to hold different opinions. I have, from the first, recognised the fact that without the inclusion of New South Wales and Victoria the federation of these colonies would be a gigantic farce. I have also recognised that without a modification of some of the views that I held on the subject of state rights it would be impossible for those colonies to become members of the federation; and I have, therefore, not only felt the force of the position in which I have found myself under these circumstances, but, by the force of the arguments which have been employed in support of the position taken up by those large colonies, I have also felt myself compelled to acknowledge that, to a certain extent, the views which I held ought to be very considerably modified. I think that we ought, as far as possible, to separate now with the feeling that in this Convention we have set an example which we may well hope the constituencies throughout Australia will follow. Those to whom we shall have to appeal for the ratification of our work are men with divergent views, such as we ourselves have entertained; but, inasmuch as we in our position here have endeavoured to meet each other's views in a spirit of compromise, and in a true federal spirit, so we have set an example which we may hope those to whom we shall have to address ourselves hereafter will follow; and I am quite sure that, by reason of the example which we have endeavoured to set in this respect, we shall ensure the adoption of this constitution throughout these colonies by immense majorities everywhere. I was glad, sir, to hear what you so well said with regard to the document which now embodies the constitution of Australia. I have marvelled at that document. When I remember that only a few days were at the disposal of the gentlemen to whom was assigned the important duty of preparing that document, I am constrained to ask myself which I admire most—the skill with which the work has been done, or the immense industry expended, in so short a time, in producing such a document. It is a document of which we all may well be proud, and I am quite sure that we are proud of it. I depart with feelings of gratitude to the people of New South Wales for the admirable manner in which they have treated us while we have been here, with feelings of admiration for all those who have been associated with me in this Convention, and for the manner in which the gentlemen upon whom has devolved the responsible duty of reporting our proceedings have done their work. I leave with the belief that I shall be a better man, and that my colony will derive some advantage from the benefit which I have received by my association with the eminent men who have formed this Convention.

Sir GEORGE GREY: Sir, I cannot but join cordially in the opinions expressed by every hon. member as to the manner in which this constitution has been prepared, and I say that we owe the hon. and learned member, Sir Samuel Griffith, a debt of deep gratitude. He was courteous to all; he was as industrious as a man could possibly be; he was as free to acknowledge any mistake that he had made in a proposal offered as the most innocent child could have been—so fairly, so freely, did he at once say, "I am wrong, I see it." I saw in him qualities which would adorn any statesman, and I formed the highest possible opinion of what he will ultimately attain to in Australasia. To the hon. and learned member, Mr. Clark, the Attorney-General of Tasmania, we also owe a very great debt of gratitude. He was equally industrious, equally patient, equally skilled almost in law I will say, and I felt that throughout to those two hon. gentlemen we were very greatly and deeply indebted. Now, upon this bill itself it is not necessary for me to say very much. I cannot help feeling that it has partly been wrongly put before us to-day. Everybody who differed from the bill has been found to be wanting in some qualities—sometimes in temper, sometimes in justice, sometimes they were of a very quarrelsome disposition, and must differ from everything; then, it was perfectly plain that there was no ground whatever for differing from this measure, which was perfect in itself—as perfect as a measure could be—and that nobody but the most unreasonable person could join in denouncing it in any way. There was one great mistake throughout all those arguments. We were ordered to prepare a federal constitution for Australasia, and in my belief we were bound to prepare one which should have been a model to the world, in which the liberty of our fellow men should, in every respect, have been fairly established; but nothing of the kind has been done in this constitution. I say, in no instance that I can recollect has so powerful a party in one body supported unanimously that which I believe to be wrong. I sincerely believe that they believe it to be right. I cannot help thinking they were hardened in this course on account of their having so long enjoyed powers which I think they ought never to have possessed. The human mind becomes under such circumstances accustomed to that which is wrong, and wrong becomes right. I differ altogether from hon. gentlemen as they have spoken to-day on the subject of the plural vote. The hon. member, Mr. Deakin, tells us, or announces to the world, that I am much mistaken in attributing to that circumstance such power as I do, and he says he believes that in the case of Victoria only ten seats out of ninety are much influenced by the vote.

Mr. FITZGERALD: Influenced at all!

Sir GEORGE GREY: "Influenced at all!" I think that he did not say that.

Mr. FITZGERALD: It is perfectly true, though!

Sir GEORGE GREY: A single double vote would exercise some influence. The hon. member would

never have spoken in so loose a manner as that—I do not recollect him saying it; but he said that only ten out of ninety were so influenced. Well, that means an immense number, and it becomes a very serious matter indeed. But not only that: there is a certain degradation to human beings who are obliged to submit to such a system. When plural voting was very prevalent in New Zealand, I felt debased; I felt that I was not in a proper position in the country. I looked with pity on little children rising up, as I believed, to be placed under such a system in which persons who had secured wealth in any manner whatever were to exercise so great an influence, and that no virtue, no goodness, unless they were wealthy, could secure them anything but the single vote given as the common suffrage of the country. Hon. gentlemen who surround me are nearly every one accustomed to this system. Every one of them for years has been practising it to some extent, I know in some cases to a very considerable extent. Can I be told by the hon. member, Mr. Deakin, or by any other person, that where some people absolutely possess and exercise twenty-five votes, it is a matter of no consequence at all, and that I am exaggerating the facts?

Mr. DEAKIN: I did not say it was of no consequence!

Sir GEORGE GREY: That I am exaggerating the facts very much!

Mr. DEAKIN: Hear, hear!

Sir GEORGE GREY: What exaggeration could properly represent such a thing is as stated here—that even thirty votes have been so exercised by one man? Well, I contend that the whole of this constitution has been passed deliberately with the view of starting with this system established as a part of it.

Sir SAMUEL GRIFFITH: No!

Sir GEORGE GREY: It is so framed.

Sir SAMUEL GRIFFITH: No; we are opposed to the system as much as the hon. member is!

Mr. MUNRO: And we mean to alter it, too!

Sir GEORGE GREY: The answer is easy. "Opposed to the system as much as I am!" Then refuse to vote for this bill, which is establishing it in the country.

Sir SAMUEL GRIFFITH: No; it does not!

Mr. PLAYFORD: It is in the country now!

Sir GEORGE GREY: It maintains it in the country.

Sir SAMUEL GRIFFITH: No!

Sir GEORGE GREY: It hands it on. It distinctly says, in every case of any consequence whatever, the inhabitants of the states are to vote as they have voted up to the present time.

Sir SAMUEL GRIFFITH: Until they themselves think fit to alter it!

Sir GEORGE GREY: Ah, ah!. "Until they themselves think fit to alter it!" In the first place, what right have we to subsist on their bounty? Our parliaments gave us the power to do away with this system in the bill, and that is what I say we should have done. I say that the bill should begin, as such federation bills usually do, by indicating that the electors should have certain powers, and then proceed from that to the rest of the bill. But these powers of the electors have never been touched, and I say it is impossible that any human mind who has not been accustomed to such a system could have thought it was a desirable thing to place in this new law. That is where the great mistake is. We have asked nothing unfair. We asked that the states should have the power of saying what their own qualifications should be—that is, by single vote they should determine what they should have; and if, as hon. gentlemen in this Convention almost universally maintain, the colony is enraptured with this plural vote system ——

Sir SAMUEL GRIFFITH: No!

Mr. DEAKIN: We say it is going to be thrown out. We say it is dying fast; nobody believes in it. I do not believe there is a man here who does!

Sir GEORGE GREY: How has it been in existence so long?

Mr. DEAKIN: We attacked it; and we shall attack it this session again!

Sir GEORGE GREY: If everybody is against it, how does it exist?

Mr. DEAKIN: I say nearly everybody here is against it!

Sir GEORGE GREY: How, then, have they allowed it to remain so long in operation? What certainty have we that the men who have maintained it in operation for years, who have established various rules to give it greater force—such as allowing people to vote by proxy in Western Australia, so that they can vote over vast districts of country ——

Mr. MARMION: I beg the hon. gentleman's pardon. There is no such thing as voting by proxy in Western Australia. There is a system of voting by ballot—a scheme which has not been in vogue in any other colony, but which at the same time gives the same right to a person to vote by pure and simple ballot, as if he appeared at the polling-place where his vote is to be given.

Mr. DIBBS: What is the system?

Mr. MARMION: It would take rather too long for me to explain it.

Mr. DIBBS: It is by letter!

Mr. MARMION: He votes by letter, but not by proxy. The things are utterly different.

Sir GEORGE GREY: Ah, ah!

Mr. MARMION: If I had time—and I do not wish to take up the time of hon. gentlemen—I could easily explain that the system is utterly different, and that the system which we have in operation ——

The PRESIDENT: I must remind the hon. member that the hon. member, Sir George Grey, is in possession of the Chair.

Mr. MARMION: I beg pardon, sir.

Sir GEORGE GREY: I should be grateful to the hon. gentleman if I were wrong; but I still maintain that I am right.

Mr. MCMILLAN: A proxy can go into any person's hand!

Sir GEORGE GREY: However, it is voting by letter. Why should I think even of making much of this point? How is it that you have your elections on different days? Why do you do that in New South Wales? If all the elections were upon one day, it would prevent a man from going to so many polls. But here the same thing nearly is done as is done in Western Australia by ministers being allowed to fix the elections on different days. I say, as far as I am personally concerned, I felt so aggrieved, whilst I was held down under a system of that kind, with a considerable weight upon my mind, that I strove for years to get rid of it, and it took many years to get an end put to plural voting. I believe that, unless by compunction, caused by what has been said in this Convention, and said outside on the subject, men's hearts are moved into a different line from that in which I have often heard them speak in past days, years may elapse before the system of plural voting is done away with, unless we refuse to accept a constitution in which such principles are embodied, because what really takes place is this: throughout that bill, although the first batch of representatives are chosen by the electors under the plural vote system, members having secured their places in the house, they choose the ministry. I say that ministers are chosen under the system of plural voting, and that those ministers appoint persons to an upper house.

Sir SAMUEL GRIFFITH: No?

Sir GEORGE GREY: The same principle obtains. It is the parliament which selects ministers, and the parliament has been elected under the plural voting

system. That system runs throughout the whole of the proceeding. The arguments used to-day commending this constitution, and lauding it for the manner in which it has been drawn, ignore the fact that it begins with unfair voting, almost the entire power being given to capital. The states are the places in which the liberties of the people should be secured, and in which there should be real local self-government. It is the necessary test under this, or under any similar constitution. I say that the people have all the power of self-government taken out of their hands by this constitution as it stands. When you tell me that you intend to alter all these things, I answer with the question, "How comes it that they exist now, if you have all along intended to alter them?" Either there are difficulties in your way you could not overcome, or you are using this language under pressure. I have no certainty that if we adopt the constitution before this is done, before the people of the states have this absolute power bestowed upon them, it would not be extremely difficult afterwards to obtain it. I am certain no sane men will consent to put their necks under this new yoke—for in my belief it is a yoke of a most oppressive kind. Why not let us all walk out into the light of day free men—each man with an equal vote, each man with that right preserved to himself, his children, his family and his relatives? Why should not such have been the case? Are not the ties that bind him to life equally precious to every human being, whether rich or poor? And why should he not be enabled to take the necessary steps for his own liberty? The time will arrive when it will be thought incredible that a rule should have existed under which only one qualification was given to a human being for himself, as a human being, and under which twenty-five or thirty qualifications were given him on account of that number of plots of land, held by him in different places; and that it was in virtue of such a qualification that some beings exercised over their fellow-men a power which ought not to be exercised at all. I will not now delay this Convention by entering upon the subject at greater length; but I could prove that acts of the greatest cruelty have arisen from the causes of which I speak; that great tracts of land—hon. members may laugh—have been under their influence given away in a manner in which they ought not have been; and that in consequence of regulations to which I object, people of the native races have been expelled from their territory without the least compensation of any kind whatever, purposely that the land might be given to certain persons. I will simply add in conclusion that, as far as I am concerned, I will to the last contest this question until I see that justice—as far as it is possible to obtain it—is done to my fellow-men. I still hope that before hon. gentlemen determine to force this constitution upon the country—or, rather, that before they try to do so—they will even at the last moment invest their minds with some pity for their fellow-men, and will recommit the bill, in order that the objectionable clauses—and there are only two or three—may be struck out, and in order that a single vote may be given to every man in the country. We shall then start our constitution upon a perfectly fair basis. I do not say that the bill does not contain many good provisions. Why should it not do so? It has been largely made up of provisions taken from similar constitutions, and of course only the best of those provisions have been so selected. To me it is sad to think that when we might have achieved so great and noble an end, when Australia might have walked forth truly a free nation into the light of freedom, every man enjoying his own rights, we should have refused to allow to be placed in this constitution a right which the British Parliament are anxious to bestow upon the people of this country, and which we have unnecessarily, and, as I believe, wrongfully withheld.

Question resolved in the affirmative.

ADOPTION OF THE CONSTITUTION.

Sir SAMUEL GRIFFITH rose to move:

That this Convention recommends that provision be made by the parliaments of the several colonies for submitting for the approval of the people of the colonies respectively the constitution of the commonwealth of Australia as framed by this Convention.

He said: The Convention has now, in accordance with the mandate imposed upon its members by their several parliaments, considered and taken the necessary steps to report upon a constitution for the federal government of Australia. It is necessary, before their recommendations can have effect, that the people of the several colonies shall adopt the constitution. The question naturally arises, how should that adoption be manifested? At the present time the only bodies known to the constitutions of the different colonies which can express the will of their people, are the parliaments; and it may be suggested that the natural bodies to adopt the constitution should be the parliaments of the several colonies. The hon. member, Mr. Playford, this morning, in speaking on the motion for the adoption of the constitution pointed out what he considered might be a very serious objection to the adoption of that form of procedure, that is, that the question of the adoption of the constitution might be mixed up with party politics. If, as I anticipate, it would not be thought fit that any parliament should take so important a step without clearly obtaining the opinion of the electors upon the subject, still it would be very difficult to submit the question for the opinion of the people at a general election. Take, for instance, the question of protection and free-trade. One man might be a protectionist, and in favour of this constitution; another man might be a free-trader and opposed to the constitution. If a general election took place, and the question were submitted for the approval of the people, the decision, I am afraid, would depend upon whether the electors were in favour of protection or free-trade rather than whether they were in favour of or against federation. Therefore, it is very desirable that as far as possible the question should be kept distinct. On the other hand, it does not seem practicable for us to dictate to the various colonies how they shall submit this question for ratification. My personal opinion is that it should be submitted to the vote of a convention or parliament elected for that purpose only by the electors who vote for members of the more popular branch of the legislature. I do not think that we have any right, or that it is within our instructions, to dictate to any colony which is the best course. After consultation with several leading members of this Convention the form of words in this resolution seemed to indicate what we think is the best course to be adopted, without presuming to dictate to the parliaments of the colonies. I know what course, as at present advised, I should feel disposed to take if it fell to my lot to propose it. I should ask the Parliament of Queensland to authorise the summoning of a special convention, consisting of the same number of members as the members of the Legislative Assembly, and elected by the same constituencies, whose duty it would be to vote "aye" or "no" for the adoption of this constitution; and to provide that if the constitution is adopted by the convention it shall be considered as adopted by the colony.

Colonel SMITH: Does the hon. member propose that this should be done by each colony separately?

Sir SAMUEL GRIFFITH: Yes; each colony must deal with the question separately, as an independent state. The second of these resolutions—I suppose we had better take them together ——

Sir JOHN BRAY: Take them separately!

Sir SAMUEL GRIFFITH: The second resolution was arrived at by the Constitutional Committee. That committee did not think the first resolution was within their province, as it was not referred to them.

The second was certainly within their province. As it seems to be considered convenient to move the resolutions separately, I shall do so. I would take this opportunity of observing that this motion by no means indicates that the members of this Convention disapprove of the principle of one man one vote. I believe that a large majority of the members of the Convention are in favour of that system. But I am sure I speak the opinion of the majority when I say we did not think it was within our province to dictate to the people of the colonies as to what should be their electoral qualifications, or to insist that there should be no federation till all the colonies arrive at a uniform system in that respect.

The PRESIDENT: I understand that the hon. and learned member has moved only the 1st section of his resolution. But, to enable hon. members to understand the matter, I will read the other section of the resolution, which he has not moved:

That the Convention further recommends that so soon as the constitution has been adopted by three of the colonies, her Majesty's Government be requested to take the necessary action to establish the constitution in respect of those colonies.

Sir JOHN BRAY: I wish to say that I think the constitution would be more likely to commend itself to the people of the colonies if, instead of inserting the word "approval," we used the word "consideration." As it stands, the motion seems to imply that we must ask the people to accept this constitution or none at all. I would ask the hon. and learned member, if he does not attach much importance to the words in the motion, to agree to the alteration which I have suggested. I am quite with you, sir, under whose able presidency the Convention have assembled, in saying that we have reason to congratulate ourselves that we have met in a spirit of compromise, and have come to a general agreement with regard to federation. But still, if we are asked individually for our opinion on some matters in reference to the basis of the constitution, I think it is quite possible that we may be compelled to differ from them. I am hardly sanguine enough to believe that the people of all the colonies, or that the people of any one colony, would be willing to give their absolute approval of this constitution without reserving to themselves the right to make or suggest amendments for future consideration in some way. It seems to me that if we were to put in the words "consideration of the people," instead of the words "approval of the people," we should thereby invite them not merely to consider what we have done with the view of saying "yes" or "no," but to consider how far they are agreeable to accept the constitution. And if they find that, in their opinion, it is absolutely necessary that some amendments be suggested, it may be necessary—it probably would be necessary—to have another convention in a few months to determine how far those suggestions could be adopted. But I know from the manner in which the proposals with regard to the Federal Council were dealt with, that if we ask the people of the different colonies to say definitely whether they will take this as a whole, or reject it as a whole, we shall not put it in what they will consider a fair spirit. If we say, "We submit this for your approval or disapproval, and do not invite you to make any recommendations for its alteration," they will think that we are not approaching them in the spirit in which we should approach them. Although I do not wish to press this proposal against the opinion of those who have been acting on the Constitution Committee, and who have considered the effect of the words which we are asked to agree to, I would ask the members of that committee to consider seriously whether they think it fair to say to the people of Australia, that they must either approve or disapprove of this constitution, to show whether or not they are in favour of federation. I believe that the people of Australia generally are in favour of federation; but, at the same time, I am one of those who think the people may say that there are some particulars in regard to which they believe this constitution might be amended.

Colonel SMITH: And suppose amendments are suggested, how would you decide upon them afterwards?

Sir JOHN BRAY: Another convention would have to be summoned to see how far the details could be arranged. It would be very pleasant to many of us to go away with the idea that we have in the course of the last few weeks framed a constitution which, without amendment, will be acceptable to the people of Australia. I am one of those who think that we can hardly do that. Time will have to be allowed, not only for the people to consider, but also for ourselves to consider, the effect of what we have proposed. As you, sir, very ably and very clearly indicated, public opinion in reference to this question has grown considerably during the last twelve months, and I believe that public opinion will grow still more during the next few months, and that what hon. members think are absolute difficulties in our way will appear as nothing compared to the objects which we seek to accomplish. But I do say that many points have been suggested throughout the Convention which will have to be fully and carefully considered by the people, and which, I believe, a little more consideration, a little further time, would induce many of us to absolutely agree to. There is the point raised by me when discussing the bill in Committee as to the taking over of the public debts of the colonies. I feel more strongly than ever that one of the greatest recommendations you could possibly make to the people of Australia to induce them to adopt the constitution of the commonwealth would be some means of taking over, on a fair and equitable basis, the public debts of the colonies. Although on first contemplation this appears to be a great task—a task beset with very great difficulties—I am content to admit that there are great difficulties, and that some mode of adjustment would have to be adopted in reference to it; still I believe that it is the one object which, more than any other, would commend itself to the people of Australia when they began to realise the advantages that would accrue from their having a general debt of the commonwealth of Australia rather than debts of individual colonies.

Mr. DIBBS: You can only do that under complete unification!

Sir JOHN BRAY: I say that is a point which requires to be further considered. I admit that when we first assembled the most that I thought we could do would be to get the commonwealth to take over the debts with the consent of the various colonies; but the idea has grown to firm conviction that not only ought the commonwealth to be empowered to do it, but that it ought to be the duty of the commonwealth. It is the only direct and immediate means by which you can afford the separate colonies the relief that they ought to have when you take over the customs revenue that they at present collect. I do not propose to discuss the details of the bill in other respects; but I will say this, that as far as the financial proposals are concerned, I am firmly convinced that the Convention has made a mistake in not adopting the whole of the recommendations of the Finance Committee. I have talked with people in this colony and with others, who say that it will be absolutely impossible to carry out the mode of distributing the surplus provided for in the bill.

Sir SAMUEL GRIFFITH: Certainly not; so long as they have separate customs duties!

Sir JOHN BRAY: Yes, we continue them until the parliament makes a new law. I admit that meets the case to some extent. But the suggestion I made was that the parliament should make a new law immediately.

Mr. DEAKIN: So they will!

Sir JOHN BRAY: I admit that we have improved the bill to this extent, that we say that this system shall only continue till the parliament does make a new law. But we are leaving for the future what ought to be done to-day—there is no doubt about that. In many respects in this bill we deliberately say to the parliament of the future, "We are going to leave you to do certain things," which things I am satisfied we ought to do now. We say to them, with reference to the public debt of the colonies, "You may do it," but I contend that we ought to do it. With regard to the financial adjustment of the surplus, we say to the new parliament, "You may do it," while I, as a member of this Convention, feel that we ought to do it. We are relegating to a parliament in the future a duty we ourselves ought to perform. However, I do not wish to go into that question now. We had far better, if we wish to get the approval of the people of Australia to our work, submit the constitution for their consideration, and not for their absolute approval. If we submit it for their approval only, we invite them to say, "We will have this or we will have nothing." We ought to say to them, "We have met in Convention; we have discussed the different matters in a fair and liberal spirit, with a view to a compromise; this is the best possible arrangement we have been able to arrive at, and we ask you now not absolutely to approve or disapprove of it, but to consider it, and express your opinion upon it." It is not possible to imagine that the several colonies will be prepared to say absolutely yes or no to the bill as it now stands. The most we ought to do is to ask them to fully consider the matter; and if it becomes necessary in the course of time, to propose amendments in the bill, those amendments may be dealt with by another convention of representatives of Australia, in order that the people may deliberately determine the basis of their new commonwealth. I beg to move, as an amendment:

That the word "approval" be omitted with a view to insert in lieu thereof the word "consideration."

Mr. WRIXON: I intend to support the amendment. I think our object is, how we can best get this bill which we have passed adopted by the different colonies. That is the object we have in view. In carrying that out we must remember that, to a great extent, this subject comes down upon the people from above. They have not yet considered it. The electors generally have not yet entertained the subject; and it will be our duty, when we get back to our different colonies, to compel them to consider it, to bring it before them, and to enable them to form their opinions on it one way or the other.

Colonel SMITH: Within what time?

Mr. WRIXON: In the quickest time we can. But I would take leave to say that the matter of a year or two is of little consequence compared with the importance of framing a constitution which will thoroughly satisfy us after we have adopted it. I do not in the least share in the anxiety that this constitution should be adopted next year or even the year after. My anxiety is that it should commend itself to the peoples of the different colonies, and be adopted by them in such a shape that it will be lasting and satisfactory. The mere verbiage of course may seem of small importance—whether we say "approval" or "consideration" may not seem of much moment. Yet there is a great deal involved in it. If we simply put it that we submit this constitution for the approval or disapproval, aye or no, of the people of the colonies, the whole thing is very likely to miscarry. As the people are dealing with a subject which is somewhat new to them, and with a constitution which they have had no opportunity of fully considering, this may jeopardise the whole thing. If we want to succeed we must take the electors into our confidence. We must ask them to consider the points we have been considering, and deal again, if need be, with the questions with which we have dealt. It may be that if that were done, the process I apprehend being that each parliament would pass a bill enabling a convention in each colony to meet to deal with the question, a subsequent national convention would be necessary to finally adopt the bill. That may be so; but even then it would only mean a delay of perhaps a year, and the plan would have the advantage of bringing the peoples of the different colonies wholly with us, and of preventing any chance of wrecking this great scheme on which we are engaged. If, therefore, the hon. member, Sir John Bray, presses his amendment to a division I shall vote with him.

Sir SAMUEL GRIFFITH: I should like, before the matter goes further, to point out how the proposal of Sir John Bray strikes me. The hon. member avowedly says he wishes each colony to consider this constitution and amend it. Now, cannot he see exactly what that means? We have laboured here for weeks endeavouring to frame a constitution; we have met conflicting views; we have endeavoured to arrive at compromises; each colony has had strong views of its own, and its representatives have surrendered those views for the purpose of arriving at a compromise. The hon. member proposes that all that work should go for naught, that this constitution shall be sent back to each colony. Take, for instance, the colony of South Australia. They will insist that the distribution of the surplus revenue shall be according to population, and that the senate shall have absolutely equal rights with the house of representatives, and they will approve of the bill only if the compromises arrived at on these two important points are absolutely set aside. The colony of Tasmania will agree on certain other conditions, that is to say, if other important compromises are set aside. The other colonies will do the same. Victoria will say, "We are not satisfied. This compromise is not what we wanted. We will vote for the bill, provided you set aside this compromise;" and Queensland will say the same. All our labours in the way of conciliation and compromise will be entirely thrown to the winds if we submit to the people of the different colonies a draft for their consideration in which they can make thousands of amendments if they think fit. That is how the matter strikes me. I am satisfied that if any hon. member of this Convention desires to postpone federation no better mode could be adopted than to invite these various amendments, as Sir John Bray proposes to do.

Mr. BAKER: Although I am not at all satisfied with this constitution, and voted with the minority on most occasions, I cannot conceal from myself, nor do I think any member of the Convention should conceal from himself, the fact that this constitution must be swallowed by the colonies as a whole.

Sir SAMUEL GRIFFITH: Or not at all!

Mr. BAKER: Exactly—one or the other. To invite the different colonies to make such amendments as they think fit is to absolutely waste all the time we have spent here. The proposal seems to me to be absurd, and I cannot see that any answer can be made to the argument of the hon. member, Sir Samuel Griffith. I hope the Convention will not accept the amendment of my colleague, Sir John Bray. It is in express words absolutely inviting the colonies to start again on the work of forming a constitution. What did we come here for? We came here to try if we could frame a constitution, but now the hon. gentleman deliberately proposes that the colonies should put aside all our efforts and start afresh themselves. That is what it comes to, and I hope the amendment will not be carried.

Mr. MUNRO: I think there is a way out of the difficulty if we follow a precedent that will satisfy both sides. It took about five months to form the American Constitution, and when it was submitted to the states for adoption, they had to say "aye" or "no"; but they were allowed in their conventions to

make any recommendations they thought proper with regard to future amendments, and those amendments were taken into consideration by the new congress when it met. That is the proper time to deal with such amendments. If we are going to frame a constitution here, and then send it to the various colonies to be altered as they think proper, the thing will be interminable. If we adopt the American plan, and allow the different colonies in their own conventions to prepare a schedule of any amendments they would like adopted, and let those amendments, as a whole, be referred to the new parliament when it meets, then the wishes of the people will be given effect to, if approved of. But to ask us to adopt the proposal of Sir John Bray is simply to say that all our work shall be laid aside.

Mr. SUTTOR: I do not know whether it is the intention of the Convention to accept the proposal of the hon. member, Sir John Bray; but if it is not, I would suggest that the words "for the approval of" be struck out, with a view to the insertion in lieu thereof of the words "as soon as possible to."

Sir SAMUEL GRIFFITH: For what purpose?

Mr. GILLIES: It appears to me that there are only two ways in which this constitution can be satisfactorily considered by the colonies. As some hon. members have advocated from time to time, there might be a referendum to the people, so that they could say "yes" or "no" to it; or assuming that there are considerable objections to it—and it will probably take some time before we can understand what those objections may be, and whether they will be insuperable—a bill might be submitted to each legislature, asking them to provide for the election of delegates to represent their colony at a convention, which should meet and consider the question, their determination to be absolutely final, and the constitution which they adopted to be transmitted at once to the Imperial Government. If we do not take this course, I do not see that there is any other way of dealing with the difficulty, except by getting a "yes" or "no" approval or disapproval from each colony. I can quite see that if each colony is called upon to make amendments in the constitution there will be no end to them, and it will be very difficult to come to a conclusion upon; but if each parliament passed an act providing for the creation of a convention, the members of which would have power to absolutely determine all these matters, we should obtain finality.

Sir SAMUEL GRIFFITH: Does the hon. member think they would do it?

Mr. GILLIES: I think they would; but there is this difficulty: Take the case of either New South Wales or Victoria. I think it is acknowledged that it would be very much to be regretted if either of those colonies could not approve of the constitution, and were to refuse to join the commonwealth. It would be a great pity; but it might come about owing to their insistance upon two or three amendments, not by any means of a vital character, and which they might be willing to resubmit to a convention, to which they had given complete authority to finally determine the whole question. If we do not do that, I see no other way of arriving at a final determination than by a "yes" or "no" decision with regard to the bill as it stands on the part of each colony. But it seems to me that it would be a great pity to take a final answer upon the bill as it stands if there were a possibility of one of the large colonies refusing to join the federation simply because of the omission of one or two provisions which they thought ought to have been inserted, or because of the presence of one or two provisions which they thought ought to have been struck out. I think it would be a great pity, though it might happen if some of the colonies absolutely refused to join the commonwealth. There is no doubt, however, that by a convention having complete authority to deal with the whole question, we should obtain finality, and I think a sufficient number of colonies would agree to the constitution as it might then be amended to admit of its being sent direct to the Imperial Parliament. To invite the colonies to make amendments in this bill would, I think, be a pity.

Mr. DIBBS: I intend to vote for the amendment of the hon. member, Sir John Bray, and I shall do so with the strong conviction that all we are endeavouring to do here is in the interests of the people of Australia, and that if we wish to work for the good of Australia, and in the interests of the people, we we must consult them and get their approval at every stage of the work which we have in hand. It must be borne in mind that the first intention with regard to the Convention was that the constitution when it was framed should go direct to the Imperial Parliament.

Sir SAMUEL GRIFFITH: No!

Mr. DIBBS: Yes, that was the intention—not the intention expressed in the Convention; but before the Convention was appointed—that the constitution should go direct to the Imperial Parliament.

Mr. MUNRO: No!

Mr. DIBBS: It is all very well to say no; but the hon. gentleman was not in Sydney at the time the subject was being considered, because his duties have kept him in Victoria.

Mr. MCMILLAN: It was not the intention!

Mr. DIBBS: How can the hon. member say that? He has never been within the mind of the President of the Convention. I have been a listener and a searcher after the truth, so as to ascertain it as far as possible, and in the speeches which the Premier originally made with regard to federation, though not in his later speeches, he stated that the constitution upon being framed by the Convention, should go straight to the Imperial Parliament.

Mr. BAKER: Then what was the object of our reporting to the several parliaments?

Mr. DIBBS: All that was afterwards changed, and we were authorised by our various parliaments to come here and draft a constitution.

The PRESIDENT: Do I understand the hon. member to say that I gave expression to that idea?

Mr. DIBBS: Yes; I do.

The PRESIDENT: Then I can only say—and I ought not to be called upon to say it in this place—that I utterly deny having done so.

Mr. DIBBS: Of course I take the hon. member's denial; but having followed every letter and speech that has been made on the federation question, from the time the hon. member raised it in Queensland eighteen months ago up to the present, it seemed to me clear that his original intention was that the constitution should go straight from this Convention to the Imperial Parliament. However, it has been determined by our several parliaments that we should come here and draft a constitution; but I would ask hon. members to bear in mind that the parliaments who sent them here have never had authority from the people to send us; and to attempt any rapid mode of dealing with the question without giving the people from one end of Australia to the other an opportunity of considering it on its merits, is to invite opposition to federation. If you want to build a staunch ship you must lay your keel strongly on the stocks, and you must go on firmly until it is finished. So it is with the ship of state. You must go on with it slowly and strongly, until you launch it in all the glory of a federal constitution. But if you endeavour to rush the matter through or to obtain the opinion of the people by a plebiscite, you court disaster. Step by step you must put in the foundation and build your structure, and you can only build the structure firmly when you have the hearty concurrence of the people. To make any endeavour to take a bare "yes" or "no" decision with reference to the constitution will be to thwart the efforts being made towards federation. We must not be afraid of

the people, and this desire to hasten through the work, so that we may not have to do it all over again, is mere bunkum. The people must go with us in this matter, and unless we have them with us we must not attempt it. They must be educated up to the question; but it will take time to educate them, and there will be no solidity in the constitution unless from first to last we have them fully with us. I am in favour of the amendment of the hon. member, Sir John Bray, and I would go further and say, let a parliament, elected on the one issue only—"Shall Australia be federated?"—send members to a convention to revise this constitution, and improve it. It is undoubtedly capable of being improved, and time will develop the improvements necessary. When that convention has approved of the constitution, we may take a plebiscite, and then, if the people agree to the constitution, it will last. But any attempt to force it, or to display haste, will be to destroy all we are trying to do.

Mr. ABBOTT: I do not suppose it entered the mind of any man in the community of New South Wales or any other of the Australian colonies that this bill was to be submitted to the parliaments to be accepted or rejected. I am quite sure that in our own legislature—and I have followed the debates as closely as I could in the other legislatures—those who proposed that this Convention should be held proposed that whatever the result of the Convention might be, an appeal should be made to the people to enable them to say whether there should be federation or not. It was never supposed in our legislature that the Parliament existing at the present time should be asked to accept the bill prepared by this Convention, and I am quite sure that no other parliament in Australia ever supposed such a thing. It was always intended that whatever the result of this Convention might be, it should be submitted to the parliaments, and from the parliaments to the people, and you yourself, Mr. President, in the legislature of New South Wales, I have heard over and over again state that under no circumstances, whatever the result of the Convention might be, should there be any legislation upon it without a direct appeal to the people themselves. I think it is almost needless to say that that was the object of our own Parliament in appointing delegates to this Convention, so that, combined with the delegates from the other colonies, they might put a definite proposal before the people of Australia. I agree with my hon. colleague, Mr. Dibbs, when he says that we must lay a sure foundation, and that sure foundation must be the approval of the people of the various colonies. As I said before, it was never intended that any measure bringing about federation should be initiated in the parliaments without first appealing to the people of the country. I do hope that we shall have many opportunities of speaking to the people before we determine upon a federal union under any law; and I am quite sure that that was your intention when you made the proposal to our own legislature.

Mr. PLAYFORD: It appears to me that we really have no policy but to remit the question to the people in the form of "yes or no." If we adopt any other course it will only result in absolute confusion. One colony will suggest one amendment, and another colony will suggest another amendment. The colonies generally will suggest a great number of amendments, so that the convention which would be called together would have to frame another constitution. Do you expect that people elected for one particular colony, and going to the convention with instructions to carry a certain proposal, will be likely to come to a fair compromise? Do hon. members think the members of a convention, brought together under such circumstances, receiving instructions from individual colonies to carry out certain views, will be likely to compromise matters as we, unfettered by any special instructions excepting for the formation of what we believe to be a just and equitable scheme for the federation of the colonies, have compromised them? Do hon. members suppose that anything of that kind will result? What, then, will the final result be? After the convention has agreed to something, will not the people say, "You must remit it to us again"? Will they agree to the work of that convention; will they say they will be bound by a majority of the convention, when their representatives have, very likely, received definite instructions to adopt a certain course of action? Will they not say that what has been done by a majority of the convention must still be submitted to the people? Will it not be better, under the circumstances, to take the "yea" or the "nay" of the people at once? If they say "nay," we shall, no doubt, through the press, ascertain the reasons why they are not in favour of federation under certain circumstances, and under what circumstances they would be in favour of it. We may thus, ultimately, have another convention and another appeal to the people. It will be a great deal better to ask the people at once; but how can you ask the people to express their views and opinions on the details of the bill? No two persons who go to the poll would vote alike. The idea appears to me to be out of the question. It cannot be carried out. As I have already stated, my idea is to put the question to the people directly, and let them say "aye" or "no."

Mr. DIBBS: Does the hon. member mean to put the whole of the bill, and nothing but the bill, before them?

Mr. PLAYFORD: If a number of them vote "No," and say "We would have gone for federation if the lines had been different," we can have another convention subsequently, and we can frame another constitution; but you will never frame a constitution if those who are elected by the people of the various colonies for the purpose of framing it, receive definite instructions as to the course they are to pursue, because, under those circumstances, there will be no possibility of compromise. There is no federal constition in the world in regard to which that course has been adopted. It was never adopted in America. It was never adopted in Canada, where the question was to be answered by "Yea" or "Nay." It was never adopted in Switzerland, and, as far as I know, it was never adopted in the German federation. It has never been adopted; and, if you will look clearly into the matter, you will see that it cannot work. It is impossible to ascertain the exact views of the people on all these different points, and they must therefore say "Yea" or "Nay." There is one point, however, on which the people may express their views. Public opinion throughout the various colonies will make the fact known that it is desired that at the earliest possible moment certain alterations should be made in the constitution on certain leading lines, and when the new parliament of the commonwealth is formed, that parliament will be able to make those alterations in the same way as alterations were made in the Constitution of the United States when it was framed. That will be a far more satisfactory method. The people of the colonies, and the press will no doubt express their views, and if there is a unanimous expression of opinion in favour of alterations in the constitution, they can be made by the parliament of the commonwealth immediately after it has met, and in a much more satisfactory manner than can possibly be made by any convention specially elected for the purpose. I think the mode proposed is the only satisfactory one. We were appointed, as I understand, by the parliaments of the various colonies for the purpose of drafting a constitution to be submitted to the people for them to say "yea" or "nay" to it; and if they say that many of the clauses are of such a character that they cannot agree to them, although, at the same time, they may be in favour of federation, they will vote against them with the view, eventually, of the appointment of another convention to draft a bill which will better suit their views. That would be

the result of what the hon. member himself proposes. Therefore, I think it would be a great deal better to vote for the clause as it stands in preference to the suggestion of the hon. member, Sir John Bray, who proposes that the matter should be considered by the people. I do not mind if the words he proposes to insert are inserted before the word "approval." Of course, it is understood that the people will consider the matter before they give their approval, so that no harm will be done by inserting the words "for the consideration and approval of the people."

Question—That the word proposed to be omitted stand part of the question—put. The Convention divided.

Ayes, 24; noes, 7; majority, 17.

Ayes.	
Abbott, Mr.	Loton, Mr.
Baker, Mr.	Macdonald-Paterson, Mr.
Cockburn, Dr.	Marmion, Mr.
Deakin, Mr.	McIlwraith, Sir Thomas
Fitz Gerald, Mr.	McMillan, Mr.
Forrest, Mr. A.	Munro, Mr.
Forrest, Mr. J.	Parkes, Sir Henry
Gillies, Mr.	Playford, Mr.
Gordon, Mr.	Rutledge, Mr.
Grey, Sir George	Smith, Colonel
Griffith, Sir Samuel	Suttor, Mr.
Jennings, Sir Patrick	Thynne, Mr.
Noes.	
Bray, Sir John	Fysh, Mr.
Clark, Mr.	Kingston, Mr.
Dibbs, Mr.	Wrixon, Mr.
Downer, Sir John	

Question so resolved in the affirmative.

Sir GEORGE GREY: I move:

That the resolution be amended by inserting after the word "respectively" the words "at a plebiscite on the principle of one man one vote."

The clause would then read as follows:—

That this Convention recommends that provision be made by the parliaments of the several colonies for submitting for the approval of the people of the colonies respectively, at a plebiscite on the principle of one man one vote, the constitution of the commonwealth of Australia as framed by this Convention.

Question resolved in the affirmative.

ESTABLISHMENT OF THE CONSTITUTION.

Sir SAMUEL GRIFFITH rose to move:

That the Convention further recommends that so soon as the constitution has been adopted by three of the colonies, her Majesty's Government be requested to take the necessary action to establish the constitution in respect of those colonies.

He said: This is a recommendation from the Constitutional Committee. It is impossible to know how many colonies will adopt the constitution. It might happen that only Western Australia, Tasmania, and Queensland would adopt it, in which case I have no doubt that her Majesty's Government would not recommend the parliament of the United Kingdom to pass it into law; but I do not anticipate that contingency. On the other hand, supposing the three colonies on the eastern seaboard, or that New South Wales, Victoria and South Australia, adopted it, there would be no reason why we should wait any longer. I need not give any further reasons.

Question resolved in the affirmative.

REPORT OF PROCEEDINGS AND DEBATES.

Resolved (motions by Mr. McMillan):

That the President forward copies of the Proceedings and Debates of the Convention to his Excellency the Governor of New South Wales, for transmission to the Right Hon. the Principal Secretary of State for the Colonies.

That the President forward copies of the Report of the Proceedings and Debates of the Convention to the representatives of the colonies at this Convention, for presentation to their respective parliaments and for general distribution.

VOTES OF THANKS.

Mr. MUNRO: Our duties being now ended, I have been requested to propose a very important resolution which I have not the least doubt will be carried not only unanimously, but with enthusiasm:

That the thanks of the Convention be given to the Hon. Sir Henry Parkes, G.C.M.G., President; the Hon. Sir Samuel W. Griffith, K.C.M.G., Vice-President; and the Hon. Joseph Palmer Abbott, Chairman of Committees of the Whole, for the services rendered by them to the Convention.

I am quite sure that all the members of the Convention will agree with me in saying that we are under a great obligation to those gentlemen for the attention which they have given to the business, and the manner in which they presided over our meetings. I had the pleasure and the honor of proposing you, sir, for the position of President, and I am quite sure we all feel that you have been the right man in the right place. I do not think it would be wise now to dwell on these matters, for we all know and appreciate the services which have been rendered.

Mr. PLAYFORD: I second the resolution with very great pleasure.

Question resolved in the affirmative.

The PRESIDENT: It seems to me that it is my duty at this stage to express my acknowledgments, and it will be the duty of the other two gentlemen named in the resolution to express theirs. I feel myself very sensibly the compliment paid to me. I accepted my nomination to the office of President, not, perhaps, with much misgiving, but I can say safely with no desire for that office to the exclusion of any more acceptable member of the Convention. Since I have occupied the chair I have received such uniform courtesy, so much kindness, so much consideration for any failings of mine, and so much appreciation of my small services, that I am more than gratified. It is, of course, a great distinction to preside over a body so distinguished as this Convention. We have amongst us, I think, no fewer than fourteen or fifteen gentlemen who either are prime ministers, or have occupied that post; and it must be assumed, even if we had no personal knowledge, that the colonies would only send as their representatives their best men. The Convention is composed of men whose names are historically known already, and it is a great distinction indeed to be promoted to the high station of presiding over the deliberations of these distinguished men. I appreciate that myself very deeply, and I return my sincere thanks for all the courtesy and kindness I have received, with the assurance that I shall not soon forget the many acts of consideration which have been shown to me by hon. members. I can say nothing more, except again to express my grateful acknowledgments for the distinction conferred upon me, and also for the various acts of kindness and courtesy extended to me during the time I have occupied the chair.

Sir SAMUEL GRIFFITH: I desire also to offer my acknowledgments to the Convention for the compliment paid to me in including me in this vote of thanks. My duties as Vice-President of the Convention have not, I am happy to say, been very arduous, as you, sir, have been able to perform the functions almost throughout the whole of our sittings. The functions which fell to my lot as chairman of the Constitutional Committee were more arduous. In respect to them I desire to express my special acknowledgments to the gentlemen who were on the committee with me for the help which they gave me, and especially with respect to the difficult work of drafting the bill, or being responsible for the drafting, which fell to my lot as chairman. I desire to express my thanks, as an individual, to the hon. member, Mr. Clark, Attorney-General of Tasmania, and to the hon. member, Mr. Kingston, lately Attorney-General of

South Australia, who were originally associated with the drafting committee, and also in no less degree to my hon. friend, Mr. Barton, of New South Wales, who took Mr. Clark's place when he was laid up, and who devoted himself to that work as strenuously and as industriously as any man with whom I ever had the pleasure of working, and I venture to say that I have done a good deal of hard work in my time. I have also to express my acknowledgments to the Convention for the uniform courtesy and consideration with which they have treated me. I have felt sometimes that I was, perhaps, a little too insistent on my views; but I hope they will pardon me. I, for my part, shall leave this Convention with the most pleasurable feelings. I had the pleasure of knowing nearly all the members personally before—I think there were only three members whom I did not know before; old acquaintances have been renewed, and I feel, as my hon. colleague from Queensland said this morning, it is impossible to go away from a meeting of this kind without profiting very greatly by intercourse with so many minds. I hope that what will follow on our work will be as satisfactory as it seems to us at the present time.

Mr. ABBOTT: I have to return my thanks to the Convention for the honor which they did me in electing me Chairman of Committees, and I have to thank hon. members for the very little trouble which they gave me in the discharge of those duties. I hope that in the future, occupying the position which I do in this legislature, I shall have as little trouble in maintaining law and order as I have had during the discussions of the Convention in Committee. It is an honor to be associated with such a Convention, and I am quite sure that, whatever the result may be, the bringing together of so many public men from the different colonies will be of lasting benefit to every one of the colonies. Again I thank hon. members.

OFFICERS OF THE CONVENTION.

Mr. MUNRO: I beg to move:

That the thanks of this Convention be given to Frederick William Webb, Esquire, secretary, and to his assistants, and also the members of the Parliamentary Reporting Staff of New South Wales, for their services to the Convention.

I wish simply to say one word in support of this motion, and it is that the members of the Convention feel that these gentlemen have discharged their duties in an admirable manner. As one who is always complaining of the slowness with which the *Hansard* of Victoria is published, I highly appreciate the smartness with which the members of the *Hansard* staff of this colony have performed their work. I was perfectly surprised to find a proof copy of *Hansard* at our hotels each morning, containing the previous day's debates; and looking through the reports from time to time, I was equally surprised to find so few mistakes. I am sure that Mr. Webb has discharged his duties in an equally satisfactory manner, and that his assistants are also entitled to our thanks. I am sure hon. members will unanimously join in passing this vote of thanks in the most hearty manner.

Mr. DIBBS: Before the motion is put from the chair I should like to say that I indorse every word uttered by the hon. member, Mr. Munro, with regard to the officers who have given their time and services to the Convention. As a representative of New South Wales, I should like also to make a suggestion, and I know that it has only to be made to receive at your hands, sir, a generous and hearty response. We should bear in mind that these gentlemen are civil servants of New South Wales, and that they have not only given us the benefit of their services during the last six weeks, but have devoted a large amount of time, out of what is really their vacation, to their duties in connection with the Convention. I feel that the Government of New South Wales should recognise the value of the services of these gentlemen. I refer not only to the Parliamentary Reporting Staff, but I include the secretary to the Convention and other officers down to the humblest officer employed in these buildings, and who might, but for this Convention, have been enjoying a holiday. I hope the whole of them will receive at the hands of the Government that generous recognition of services which is characteristic of the colony of New South Wales; and I have no doubt that the suggestion once made—even if it should not already have occurred to your mind, sir—will receive from you a generous and hearty response.

The PRESIDENT: The hon. member, Mr. Dibbs, having so lively a sense of the justice and propriety of the present Government, may rest assured that his suggestion has only to be made to be followed. If it be not out of place, I may state that the Government have very few pleasures amid the arduous duties they have to perform, and that the keenest pleasure of all is to adopt any suggestion coming from so amiable a quarter.

Question resolved in the affirmative.

The PRESIDENT: Perhaps I may be permitted to say, on behalf of Mr. Webb and the other officers, that from a long personal knowledge of these gentlemen, I feel assured that they would spare no effort, and that they would draw very largely upon their capabilities of endurance in order to give satisfaction to this Convention. I think I may thank the Convention on behalf of Mr. Webb and the other gentlemen referred to in the resolution for the kind manner in which it has expressed its sense of their services, and I believe I may add, that although the performance of those services has diminished much of the time for enjoyment which during the parliamentary recess they would have had, they still have felt a sincere and high-toned pleasure in rendering their services to the Convention at this important epoch of our history. I thank you on behalf of Mr. Webb and the other gentlemen for the manner in which the resolution has been carried.

DISSOLUTION OF THE CONVENTION.

The PRESIDENT: I think it would be the most becoming course not for any motion of adjournment to be made, but for me to declare that this Convention having done its work is now dissolved. Of course it will meet no more. I have no doubt its work will be heard of, and it would be unbecoming in me to indulge in any words at this stage, or to do more than declare that the proceedings of the Convention have come to an end. I now ask the delegates to rise in their places and to give three cheers for her Majesty the Queen.

Hon. members rising in their places gave three cheers for the Queen.

At the instance of Colonel Smith, cheers were also given for the hon. the President of the Convention.

Sydney: George Stephen Chapman, Acting Government Printer.—1891.

[10s.]