

Commonwealth of Australia Constitution Bill

Extracts below from Hansard, the Official Report of debates in the British Parliament in Westminster.

[HANSARD 1803–2005](#) → [1900s](#) → [1900](#) → [May 1900](#) → [14 May 1900](#) → [Commons Sitting](#)

REFER: http://hansard.millbanksystems.com/commons/1900/may/14/commonwealth-of-australia-constitution#S4V0083P0_19000514_HOC_181 *On the right-hand side of the page there are blue numbers (no doubt indicative of page references).* The following extract by **Mr Joseph Chamberlain M.P.** Secretary of State for the Colonies is found between [No. 66](#) and [No. 67](#):

“There are other reasons, besides these which are stated by the Privy Council, which we have now to bear in mind. **This Constitution is to be an Imperial Act, and it is, in substance, the delegation of powers to an authority which is created by the Imperial Parliament. Is it reasonable that when questions arise, as they certainly will arise, as to the interpretation of the powers of the clause by which this authority is delegated,** the Imperial power which made the delegation shall not be represented upon the Court which is to give a decision? Then, Sir, there is another point. The terms of the clause are such as certainly to introduce confusion where uniformity is most desired. No appeal is to lie except where the "public interests" of a portion of Her Majesty's dominions outside Australia are concerned. The advice which I have received on the subject goes to show that there may be endless litigation as to the precise nature of the cases in which public interests will arise. I believe there is no, legal authoritative definition of what constitutes public interest. I believe it to be extremely difficult to say whether in the case of a number of individuals, subjects of Her Majesty but not, of course, constituting in themselves part of Her Majesty's possessions, whether in that case it would be held that the public interests of Her Majesty's possessions were involved. And if I am rightly informed, therefore, a clause of this kind, instead of lessening litigation, would increase it, and would bring up to the Judicial Committee of the Privy Council for its decision case after case in which it was a question whether or not the public interests of Her Majesty's possessions were or were not involved. But there is something still more serious than that. I am not going to dwell upon it, because it is so exclusively legal that I would rather leave it to my hon. friend the Attorney General to explain later in the discussion. But I am told that under this proposal, as it stands, it is almost certain that in the confusion of appeals there might be conflict of authority between the now High Court and the Judicial Committee of the Privy Council. Can there be anything worse than two co-equal Courts concurrently giving diverse decisions in matters of the greatest importance that may be submitted to them affecting the British Empire? Lastly, there is also the question, to which I have already referred, that the Constitution empowers the new Parliament to deal with maritime jurisdiction, with the Pacific islands, with foreign enlistments, and with external affairs. **The responsibility for the action of the Parliament of Australia and its legislation rests with us.** We may be brought into a hostile position in regard to any foreign country in consequence of the action of the Colonial Court. Is it reasonable that while we still undertake to cooperate with the colonies in their defence, while the whole strength of the Empire would be brought to bear in order to protect the interests of the colonies— **is it reasonable that the question whether or not their Parliament has gone beyond the powers delegated to it,** in some matter in which a foreign country—not one of Her Majesty's possessions—is concerned, should be settled without an appeal to the Privy Council”?

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AND as quoted by Mr George Faber M.P. (York) - A few lines above [No. 81](#) *(Can't get much clearer. Not a constitution for sovereignty, just one for subjects of a King or Queen put in place by the Westminster Parliament).*

“**The Privy Council appeal is the right, in the last resort, of every subject of Her Majesty's Dominions beyond the seas to petition the Sovereign for justice; it is the prerogative right of the Sovereign to hear all such matters of complaint, and to grant such redress as the Sovereign may think fit**”.