

The Bill.

Explanation.

67. Until the Parliament otherwise provides, the appointment and removal of all other officers of the Executive Government of the Commonwealth shall be vested in the Governor-General in Council, unless the appointment is delegated by the Governor-General in Council or by a law of the Commonwealth to some other authority.

68. The command in chief of the naval and military forces of the Commonwealth is vested in the Governor-General as the Queen's representative.

69. On a date or dates to be proclaimed by the Governor-General after the establishment of the Commonwealth, the following departments of the public service in each State shall become transferred to the Commonwealth :—

Posts, telegraphs, and telephones.

Naval and military defence.

Lighthouses, lightships, beacons, and buoys.

Quarantine.

But the departments of customs and of excise in each State shall become transferred to the Commonwealth on its establishment.

70. In respect of matters which, under this Constitution, pass to the Executive Government of the Commonwealth, all powers and functions which at the establishment of the Commonwealth are vested in the Governor of a colony, or in the Government of a colony with the advice of his Executive Council, or in any authority of a colony, shall vest in the Governor-General, or in the Governor-General in Council, or in the authority exercising similar powers under the Commonwealth, as the case requires.

CHAPTER III.—THE JUDICATURE.

71. The judicial power of the Commonwealth shall be vested in a Federal Supreme Court, to be called the High Court of Australia, and in such other federal courts as the Parliament creates, and in such other courts as it invests with federal jurisdiction. The High Court shall consist of a Chief Justice and so many other Justices, not less than two, as the Parliament prescribes.

72. The Justices of the High Court and of the other courts created by the Parliament—

(1.) Shall be appointed by the Governor-General in Council;

(2.) Shall not be removed except by the Governor-General in Council on an address from both Houses of the Parliament in the same session praying for such removal on the ground of proved misbehaviour or incapacity;

(3.) Shall receive such remuneration as the Parliament may fix; but the remuneration shall not be diminished during their continuance in office.

73. The High Court shall have jurisdiction, with such exceptions and subject to such regulations as

absence of the Queen's representative. They meet and sit with the Queen's representative only in the Executive Council. They would cease to hold office as soon as they failed to retain the confidence of the House having the power of the purse; for this simple reason—that House could refuse to vote or originate supplies necessary to carry on the public service, and the Governor-General would then have to call in other advisers. This is the essence of responsible government.

Sections 67 and 68.

Appointment of civil servants vested in the Governor-General in Council. Command-in-chief of the naval and military Forces vested in the Governor-General. Note.—This is another example of prerogative, but, as above stated, it would have to be exercised according to Ministerial advice, as the Governor-General's command would be useless unless he were provided with the money to keep the force.

Sections 69 and 70.

Customs and excise departments to be transferred to the Commonwealth on its establishment. (See section 86.) Post and telegraphs, naval and military defence, lighthouses, &c., and quarantine to be taken over on dates to be fixed by proclamation. On the transfer of these departments to the Commonwealth the powers and functions relating thereto, which were previously vested in and exercised by the Governments of the colonies pass to the Governments of the Commonwealth.

Sections 71 to 76.

The judicial power is vested in a Federal High Court, and in such other inferior federal courts as Parliament may create. There is power also to vest State Courts with federal jurisdiction. Provision is made for the appointment, tenure, and remuneration of the Justices of the High Court. The High Court is thus created by the Constitution itself. The inferior Courts may be called into existence by federal legislation. The security, independence, and dignity of the High Court is guaranteed by the Constitution, because the Court will be the final arbiter in interpreting the Constitution of the Commonwealth, as well as interpreting the Constitutions of the States. It will have power when the case comes on before it in appellate or original jurisdiction to decide whether a State law or a federal law is or is not contrary to the federal constitution. This will be its supreme duty. The High Court will have two kinds of jurisdictions—namely :—

(1.) To hear and decide through one or more of its Justices sitting as a court of first instance (that is original jurisdiction) certain law suits as defined in section 75, and this original jurisdiction may, by