

The Bill.

Explanation.

the Parliament prescribes, to hear and determine appeals from all judgments, decrees, orders, and sentences—

- (1.) Of any Justice or Justices exercising the original jurisdiction of the High Court;
 - (2.) Of any other federal court or court exercising federal jurisdiction, or of the Supreme Court of any State, or of any other court of any State from which, at the establishment of the Commonwealth, an appeal lies to the Queen in Council;
 - (3.) Of the Inter-State Commission, but as to questions of law only;
- and the judgment of the High Court in all such cases shall be final and conclusive.

But no exception or regulation prescribed by the Parliament shall prevent the High Court from hearing and determining any appeal from the Supreme Court of a State in any matter in which, at the establishment of the Commonwealth, an appeal lies from such Supreme Court to the Queen in Council.

Until the Parliament otherwise provides, the conditions of and restrictions on appeals to the Queen in Council from the Supreme Courts of the several States shall be applicable to appeals from them to the High Court.

74. No appeal shall be permitted to the Queen in Council in any matter involving the interpretation of this Constitution, or of the Constitution of a State unless the public interests of some part of Her Majesty's Dominions, other than the Commonwealth or a State are involved.

Except as provided in this section, this Constitution shall not impair any rights which the Queen may be pleased to exercise by virtue of Her Royal Prerogative, to grant special leave of appeal from the High Court to Her Majesty in Council. But the Parliament may make laws limiting the matters in which such leave may be asked.

75. In all matters—

- (1.) Arising under any treaty;
- (2.) Affecting consuls or other representatives of other countries;
- (3.) In which the Commonwealth or a person suing or being sued on behalf of the Commonwealth, is a party;
- (4.) Between States, or between residents of different States, or between a State and a resident of another State;
- (5.) In which a writ of mandamus or prohibition or an injunction is sought against an officer of the Commonwealth,

the High Court shall have original jurisdiction.

76. The Parliament may make laws conferring original jurisdiction on the High Court in any matter:—

- (1.) Arising under this Constitution, or involving its interpretation;
- (2.) Arising under any laws made by the Parliament;
- (3.) Of admiralty and maritime jurisdiction;
- (4.) Relating to the same subject-matter claimed under the laws of different States.

77. With respect to any of the matters mentioned in the last two sections, the Parliament may make laws:—

- (1.) Defining the jurisdiction of any federal court other than the High Court;
- (2.) Defining the extent to which the jurisdiction of any federal court shall be exclusive of

federal legislation, under section 76, be enlarged and extended to other matters. This means that cases within section 75 from the establishment of the Commonwealth, and cases within section 76 from the enactment of federal laws thereunder, could only be instituted in the High Court.

(2.) (a) To hear and determine as a Full Court appeals from Justices of the High Court exercising original jurisdiction; (b) from any other court exercising federal jurisdiction; (c) From the Supreme Court of any State, or from any other court of a State from which before the union an appeal would lie to the Queen in Council; (d) from the Inter-State Commission on questions of law. The right of appeal from all these jurisdictions to the High Court is subject to the proviso that the Federal Parliament may make "exceptions," and may subject such appeals to certain "regulations." This power to make "exceptions" was intended to exclude appeals on trifling and trumpery matters. But for fear that the power to make "exceptions" might be exercised unsatisfactorily and in the direction of restriction of existing rights, it is provided that no "exceptions" or "regulations" shall prevent the High Court from entertaining such appeals as might under the existing law have been brought from any State court to the Queen in Council. Substantially, therefore, the High Court will have the same appellate jurisdiction from State courts as the Privy Council has under law as it stands at present. The right of appeal direct from the State courts to the Privy Council is absolutely abolished—the only direct appeal from such courts is to the High Court. The decision of the High Court on such appeals is said to be "final and conclusive." It is, however, expressly provided that nothing shall impair the right which the Queen may be pleased to exercise by virtue of her prerogative to grant special leave to appeal from the High Court to Her Majesty in Council. This reservation is cut down by two other provisions: (1) That the Privy Council shall not have power to grant leave to appeal in any matter involving the interpretation of the Federal Constitution, or of the constitution of a State, unless the public interests of some part of Her Majesty's dominion outside the Commonwealth are involved. (2.) That the Federal Parliament may make laws limiting the matters in which such leave to appeal to the Privy Council may be asked. Summary: Right of appeal to Privy Council direct from State courts taken away: Right of appeal from State courts to High Court substituted: Right of appeal from High Court to Privy Council not allowed, save and except that the Queen may grant leave to appeal from the High Court to Privy Council in suits not involving the interpretation of the Constitution.

Sections 77 to 80.

Parliament may define the jurisdiction of inferior federal courts: may invest State courts with federal jurisdiction: may confer rights to bring actions against the Commonwealth, or against a State in certain cases, and trial by jury in criminal cases is preserved.