

The Bill.

Explanation.

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 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.

71. *The Courts.*—The Constitution creates a Federal Supreme Court, to be called the High Court, and to consist of a Chief Justice and not less than two other Justices. The Parliament is empowered to create other federal courts, and to give federal jurisdiction to the courts of the States.

72. *Independence of Judges.*—The independence of the Federal Judges is secured in the usual way. They are to be appointed by the Governor-General in Council, and may not be removed except for misbehaviour or incapacity, and then only on an address from both Houses of the Parliament; and their salaries are not to be reduced while they continue in office.

73. *Appeals to High Court.*—The High Court may hear appeals from all decisions of federal courts, courts of federal jurisdiction, and the Supreme Courts of the States; and also (but on questions of law only) from all decisions of the Inter-State Commission. (See sections 100, 102.)

The Parliament may limit this right of appeal, but cannot prevent the High Court from hearing an appeal from the Supreme Court of a State in any case in which an appeal now lies to the Privy Council.

The decision of the High Court is to be final, except as mentioned in the next section.

74. *Appeals to Privy Council.*—There is to be no appeal to the Privy Council in cases where the meaning of the Federal Constitution or the Constitution of a State is in question (unless the interests of some other part of the Empire are involved). In such cases, therefore, the decision of the High Court will be absolutely final.

In other cases the decision of the High Court will usually be final; but the Privy Council may grant special leave to appeal to it in any particular case. But the Parliament may limit the matters in which such leave may be asked.

[Except in the constitutional cases above-mentioned, appeals from the Supreme Courts of the States direct to the Privy Council are not forbidden; and there will, therefore, be a choice of appealing either to the High Court or direct to the Privy Council.]