

say, may very possibly and reasonably be included within the prohibition. I have not to determine that finally now, but, in any case, the pervading idea is the preference of locality, merely because it is locality, and because it is a particular part of a particular State."

It does not include a differentiation based on other considerations, which are dependent on natural or business circumstances, and may operate with more or less force in different localities; and there is nothing, in my opinion, to prevent the Australian Parliament, charged with the welfare of the people as a whole, from doing what every State in the Commonwealth has power to do for its own citizens—that is to say, from basing its taxation measures on considerations of fairness and justice, always observing the constitutional injunction not to prefer States or parts of States. This power may, of course, be abused; but, as Lord Herschell said in *Canada v. Ontario* (1898), "The supreme legislative power in relation to any subject matter is always capable of abuse, but it is not to be assumed that it will be improperly used; if it is, the only remedy is an appeal to those by whom the Legislature is elected." If, then, this be the true interpretation of the words of the limitation, there is an end of the second ground of objection, because no one can possibly object that there is in the Excise Act any discrimination for or against any part of Australia, merely because it is a particular State in contradistinction to any other State or States, or because it is a particular part of a State in contradistinction to any part of the same State, or to any other State.

But conceding, for the sake of argument, and contrary to my opinion, that the limitation extends to the case of an Act which discriminates between localities as parts of the Commonwealth, and as if, notwithstanding the words used, States were non-existent, still, how does this Act offend? Paragraphs *a* and *c* are clearly and beyond argument inoffensive. Paragraph *b* enables a manufacturer to claim exemption if the goods are manufactured under conditions of remuneration in accordance with an