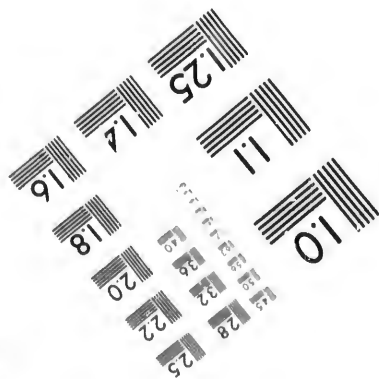
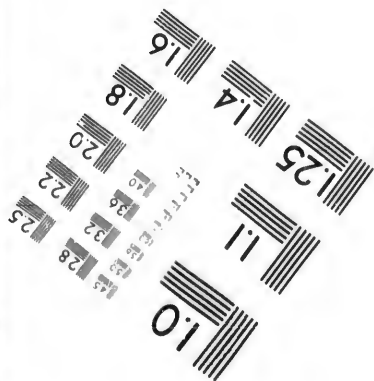
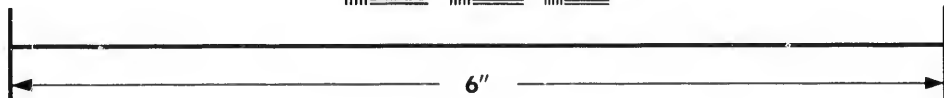
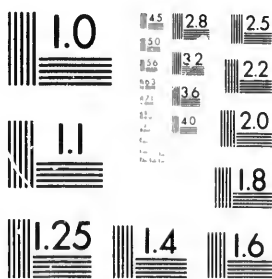


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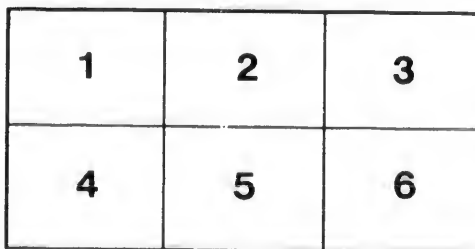
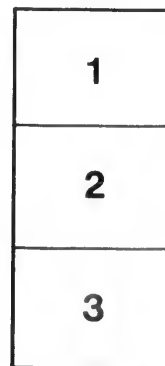
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HOUSE OF COMMONS—SESSION 1900.

Commonwealth of Australia Constitution Bill.

SPEECH

BY

M.R. E. BLAKE, M.P.,

ON MONDAY, 21ST MAY, 1900.

REPRINTED FROM "THE PARLIAMENTARY DEBATES"
(AUTHORISED EDITION).

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COMMONWEALTH OF AUSTRALIA CONSTITUTION BILL.

Mr. BLAKE (Longford, S.): I have heard with a glad heart the statement of the right hon. Gentleman the Secretary of State for the Colonies; for I was pained by the reflection that in the condition in which this question was left after the First Reading of the Bill, agreement on a question of transcendent importance should be marred by a seeming disagreement on a wholly insignificant point. The difference was almost microscopic when we analysed on the one hand the principles of action laid down by the right hon. Gentleman, and on the other hand the methods by which those principles were to be applied in dealing with this Bill. I think that, under the circumstances, it is our duty—at any rate I think it mine—to omit all consideration of how Clause 74 stood in the Australian draft, and how it stood in the Bill as introduced into this House, and, in fact, how it stands to-day; because as it stands to-day I think that it has practically received the assent of Australia herself. If I may make an observation, it would be that there are one or two points in the view of expediency laid down by the Colonial Office in the course of the discussions with the Australian delegates in which I would have agreed with the Office, and questioned the arguments of the delegates, while there were many considerations in which I think the Colonial Office were wrong and the delegates right in these details. But I would add that while I was prepared to affirm, as I now affirm in the strongest sense, the absolute right of the Australian people to ask that there should be no appeal here in matters wholly internal and affecting their own constitution as between the States and the Commonwealth, if they so please, I am not sorry that, by the free communications which have taken place, there have been elicited some slight modifications in the expression of that view in the Act of Parliament. I speak from experience; because I know that in the country whence I come, while a different set of circumstances obtains and

there are different provisions, there is yet a written Federal constitution; and it was found with us that where bitter controversies had been excited, where political passions had been engendered, where considerable disputations had prevailed, where men eminent in power and politics had ranged themselves on opposite sides, it was no disadvantage, but a great advantage, to have an opportunity of appealing to an external tribunal such as the Judicial Committee, for the interpretation of the Constitution on such matters. Therefore I rejoice at two things: first of all, at the indication that there may be, under certain circumstances—I agree not very probable circumstances, for it is part of human nature to suppose that litigants successful in Australia would hardly consent that their action should be re-tried elsewhere—resort should be had to such a tribunal; and, in the second place, that an increase in the effective strength of that tribunal is also recognised as essential. And so I pass away altogether from that phase which might have been, but for the settlement which has been arrived at, the centre of discussion; and I turn to that which has become—as, in my opinion, it ought always to have been—the only subject of debate here, the great work which has been achieved and its immediate and remoter possible future effects. Now, some words upon that larger aspect might reasonably be expected from these benches to-day. It is natural that we, the representatives of the great bulk of the Irish people, should desire to express our cordial congratulations to that large proportion of the population of Australia which is of our race and blood; aye, and to that still larger proportion of the population which, though not of our race or blood, has extended to us a steady and important sympathy in the interest of our Irish national aspirations—that we should express our cordial congratulations to Australia at large, and especially to those Australians with whom we are kin, on the achievement of their great end. It is

natural that we, the representatives of an ancient nation, claiming here, though as yet failing to obtain, the recognition which is our due, should express our earnest good wishes for the unending duration and increasing magnitude and unmarred prosperity of that new nation which is to be recognised by the Act we are now passing. And we rejoice, we who some years ago accepted upon high invitation from this Island the federal system and principle as a plan for the settlement of the Irish question, as a plan for the substantial recognition of our nationality and freedom, consistently with the ideal of a united and reconciled Empire for common concerns—we, I say, who accepted that view, naturally rejoice upon every occasion on which, here or elsewhere, the federal principle receives striking exemplification and is successfully applied. We hope, indeed, that some day you will deal with Ireland, whose case is in some important aspects far easier, in the same spirit in which you have dealt with other communities. You have dealt with them in the full belief that local freedom means Imperial unity. One thing I regret. This moment has been called auspicious for Ireland because of the Royal visit and the ordered wearing of the green. This moment has been called auspicious for the Empire because it celebrates the inauguration of a new federal sister nation amongst the communities of the Empire in Australia—a nation founded by the wholesome process of long deliberation and popular consideration, and sanctioned by overwhelming majorities yonder and by unanimity here. This moment has been called auspicious by some authorities for the Empire because in another corner of it you believe you are laying the foundation, in an unhappy soil moistened by blood and tears, and shaken by force and arms in South Africa, of a new—shall I say?—of a federal sister nation in distant days to come. I regret that, at this auspicious moment, personages most conspicuous in the counsels of the party opposite should have thought it fitting to intermingle with these elements audacious travesties of the facts with reference to the terms and conditions of the Home Rule settlement, and of the sentiments, feelings, and pledges upon which that settlement was accepted by the Irish people. To mix small things with great, may I add one phrase of regret that at this moment, said to be auspicious, because you recognise the importance of

reorganising your Imperial tribunals of final judicature upon the principle of the representation here at home of the great communities abroad; when you are persuading and have ceased to coerce the people to try their cases here, you make the opportunity, for some trumpety purpose of mere Ministerial convenience, to deprive Ireland of the right granted by understanding and sanctioned by custom, the right which for several years she has enjoyed, of that same principle of representation in the Court of final judicature in which her concerns are to be determined. I pass from these subjects of regret with this word, that the great transaction in which we are engaged contains encouragement in all its elements far higher than those trivial causes of discouragement, and gives us heart to persevere in the effort to press upon the minds of those to whom we have to look for relief the conviction which we ourselves entertain, that it is not merely in Australia or Canada, or the remote corners of the earth, that the principles of liberty lead to Imperial unity, reconciliation, and common action. They would do so with even greater force at the heart and centre of the Empire. What is strong in those principles, though oceans may roll between, is strong also—aye, stronger still—if applied to the centre and core and heart, or what ought to be the heart, of this Imperial realm; and we shall yet hope that you may some day give liberty to Ireland in order that you may make that country reconciled to union upon the federal principle. May I touch one personal note? I feel it a great privilege to speak in this House to-day on this question. Colonial born myself, I have witnessed the birth of the Canadian, the first great federal constitution in the Empire. Engaged for thirty sessions in two legislatures, in Government and in Opposition, in working and developing, and making practical the paper forms in which the constitution is written, and that in both its provincial, federal, and imperial aspects, and for ten sessions here a humble labourer in pursuit of the recognition of the federal principle as a means of consolidating the Empire at home through justice and freedom to its parts, I rejoice to be able to say some words of cheer and congratulation to my fellow-colonists on the other side of the globe upon the work they have accomplished. The Colonial

Secretary the other day entered very naturally into some historical and critical considerations with reference to the Canadian as contrasted with the Australian plan. Into these I will not follow him. I will only say that I cannot wholly agree with everything he said with reference to the Canadian Constitution. I do, however, agree that that constitution, owing to circumstances which it would take too long to detail, has more of a centralising element than is to be found in the Australian Constitution, and that from those circumstances and the form of its clauses arose long and bitter controversies, now happily settled; and that very largely by what is the main element even in a written constitution for settling controversies—the common sense, the discretion, the determination, and the decision of the people at large; but also, as is sometimes essential where there is a written constitution, by the decisions of the Courts. In many respects the people of Canada manifested the need of compromise in the structure of their constitution. The Canadian Constitution contains many propositions which are, to my mind, quite illogical, and some of which I have never seen a defence; nor I must own, as a humble student of written constitutions, have I been able to observe absolute perfection in this Australian draft now before us. But, after all, that is not necessary or even common here. After all, in all constitutions the great and saving elements are in the men who work them—in their spirit, patriotism, moderation, and good sense, and their determination to work for the best interests of the people. Although we ought, no doubt, to make the best theoretic constitution we can, it is upon those saving elements, after all, that we shall have to depend; for a very inferior constitution, well worked, is very much better than the best you can conceive if not worked in the right spirit. To these elements it is that I trust when I survey this draft. The Colonial Secretary has stated in terms not too large the magnitude of this achievement. My right hon. friend has followed him in the same vein. Yes, Sir, this is one of the greatest things that has been done. But remember it is not we who are doing it. Thus and thus only can we justify ourselves when we are intending in the course of an hour or two to pass the Second Reading of this great and transcendent Bill.

I will undertake to say that from those who made this constitution and are really responsible for it, it has received quite different treatment. It has demanded weeks of debate and years of deliberation from those who are to live under it; it furnishes almost interminable topics of discussion; and yet we are rightly asked by the right hon. Gentleman opposite, and by my right hon. friend, to agree that we have nothing to say about it. Then who has? The Australian people! I might, as I have said, as a humble student of constitutions, throw out suggestions with reference to some of the most important elements of this work; but I will not even name those elements on which I doubt; for where we cannot amend, it is useless and harmful to assault. And the constitution, whatever may be its drawbacks, is, and I hope it will stand, a noble fabric, fit for the habitation of such men as those who have made it and defended it. It is a noble fabric fit for noble ends. Yet it may not be useless to touch for a moment upon the genesis of these two great instruments of Parliament; so as to find and to follow our duty here to-day; and to recognise clearly what a difference thirty-three years has made in our methods, and in the advance of popular rights. Thirty-three years ago the Canadian Constitution was passed. At that time in my country, save in one province where local circumstances made it necessary, there was no general election on the question. At that time there was no elected convention to prepare the constitution. At that time there was no referendum, nor any textual preparation of a Bill. At that time there were but Ministerial delegations speaking in conference, resolutions framed by them, resolutions submitted to the Assemblies, addresses to the Crown for legislation not at all in the form of a Bill, correspondence with the Ministry at home, and Ministerial representatives despatched to Westminster to confer as to the framing of the measure. It was framed for introduction here with some few provisions in the supposed Imperial interest, and with a few others which these colonial delegates thought themselves authorised to insert, and so it passed. Yet even then misfortune followed from the non-adoption of more popular methods; for this Parliament was appealed to by one of the smaller provinces—the province of Nova Scotia, where a moribund Legislature, elected before the ques-

tion was on the horizon, had passed an address for the Union—this Parliament was appealed to by the people declaring that they were opposed to confederation. You did not recognise that protest. You determined to accept the voice of the Legislature, and the Act was passed. I should have dilated upon this subject but for this settlement, because it shows the vast importance of obtaining and acting upon recognised popular opinion when expressed in the genuine manner by the people concerned. The circumstance that Nova Scotia had not had the opportunity the Australian States have had of speaking injured the success of federation for at least twenty years, and has been got over only within a recent period. But even then Parliament passed that great Bill as you intend to pass this Bill. It regarded the measure as a treaty or convention between the provinces, and passed it, if I recollect aright, without any substantial alteration. Now all the elements lacking then are present here. You have the march of popular government and administration shown here. You have the methods by which the popular sanction should be obtained laid before us. You have popular resolutions and authority from legislatures. You have freely elected conventions framing the constitution. You have Acts authorising popular *referenda*, and you have popular sanction thereupon. You have the text of the Bill so framed and so approved; and it is upon that we act. There never was an instance of such long consideration and such deliberate sanction, and thus the ease for absolute acceptance here in all domestic affairs is infinitely stronger even than it was in the case of Canada. I join in the regret expressed by my right hon. friend, a moment ago, that at quite an early stage of these Australian discussions the Imperial Government did not come to a conclusion as to what they thought vital to Imperial interests, and did not communicate what they thought absolutely essential. I believe that discussion initiated, as I think it ought to have been, on the other side or here, at an earlier period, would have prevented that which might have been an unhappy circumstance connected with this measure. Now I quite agree that a vote on a referendum does not and cannot imply the same measure of assent to all the proposals contained in the measure. There

is no opportunity for separate expression. It is yea or nay to the whole. But the people knew, as we know, that this constitution was the fruit of compromise and concession. They knew that it was created as the best that was feasible by their trusted leaders whom they had commissioned to do their work. They may have had even a distaste for some of its provisions. What, after all, the people had to determine was whether they would take it all or leave it all. And by what you rightly call overwhelming majorities in every colony—though not at all so overwhelming as those you refuse to recognise every day in Ireland—this constitution was actually passed and accepted. In this great transaction in all matters exclusively Australian, and that is as regards almost all in the Bill, we are not in any sense its authors. The decision may be right or wrong, it may be fortunate or unfortunate for Australia; but it is their affair, not ours. This creature has not been conceived in the womb of this mother of Parliaments. We do but take her on our knees for adoption. We give her a name and place, a title, and a blessing. But we know that she was begotten, fashioned and born on the other side of the globe. Nor is this attitude of ours a humiliating attitude for the mother of Parliaments. It is but a wise, temperate, and dignified recognition of the march of events, of the spread of popular government and popular control. It is indeed a recognition of the fact that this is rather a daughter who is coming of age than a child new born; that she is able to speak for herself, that she has become in truth, as has been said, rather a being now grown up, and is now rather a sister than a daughter nation. Indeed on this view only can the links of empire be maintained. But I may be asked what links are left if on this principle we deal with this great transaction. You may say, "Are we mere registrars of Australian plebiscites? May we not discuss and decide?" I agree in the principle laid down on both sides as to matters exclusively Australian—that we are but the registrars of the Australian will. As to these we are trustees for her of our legislative power, and should use it according to her wish. But as to matters touching the public interests of the Empire, or of parts of the Empire beyond Australia, we are the trustees for

the whole Empire, including Australia. We should give her wishes full consideration. We should weigh fully her views on matters which, though they may extend beyond her bounds, are yet mainly her own concern. We should yield what we may. We should choose between the evils of concession, and the perhaps greater evils of dissent. But in the last resort we must decide in the general interest of the whole. You see I go a long way with the Colonial Secretary's general principles of action, which, truly followed, settle the late difference, and conclude points of infinitely greater moment than that on which for a time he broke with the delegates. I rejoice that our attention is no longer fastened on a minor point which would have obscured the magnitude of this great transaction, which would have exaggerated the importance of that minor point, which would have aggravated the character of the very difference, which would have lessened enormously—and this is a most important practical consideration—the chances of a favourable result as to the utility of the jurisdiction you were asserting. If you had the Australian people against you, how many appeals would you have, and how much respect would your tribunal secure? On that ground alone it was of the greatest consequence to those who most value the retention of the tribunal that a settlement should have been reached. What, then, most marks this great achievement? It is the application by the free and well-considered judgment of the Australian people of the federal system of government to that immense continent, thus giving the best chance of good government and contentment to each of the states of which that continent is composed, and to the nation in which they are united as one Commonwealth. So much for Australia by herself. Now what of Australia as part of the Empire? The effective and unified government which will be set up for the nation through the medium of the Commonwealth will make easier of accomplishment all the present pressing Imperial problems as to Australia. That is the point to which my mind now most turns. Agreeing in the principle of leaving to the Australians all the details from the local aspect, I ask myself whether by this transaction in which we are engaged we are really facilitating the management of Imperial problems between

ourselves and Australia. I say we are; and why? Because this transaction entered into at their instance strengthens the only real ties of union between the great colonies and this kingdom—the ties of goodwill, the sentiments of affection and contentment, pride and patriotism, springing, no doubt, in great part from common blood, but really maintained and strengthened, mainly everywhere and exclusively in very important quarters, where the tie of blood does not exist. By virtue of the local freedom they have obtained, by virtue of the autonomous growth of their nationalities, by virtue of the development, the peace, security, and progress, enjoyed under local self-government by these great communities within this Empire. Again, it is helpful to the disposition of the Imperial problems between us and Australia, because the Commonwealth, with a greater area, larger and more varied interests, wider views, and unified political powers, will obviously deal with Imperial matters in a higher and broader spirit than could be expected of smaller and separated States, and will thus greatly ease Imperial negotiations. I would appeal only to successive Ministers concerned in this country as to whether that has not been the case with regard to Canada. I know it to have been the case from the colonial side. I know the spirit that has prevailed when questions arose of this description, and I know how far that spirit was due to the consideration I have referred to. I have said Imperial negotiations, because for many years I, for my part, have looked to conference, to delegation, to correspondence, to negotiation, to quasi-diplomatic methods, subject always to the action of free Parliaments here and elsewhere, as the only feasible way of working the quasi-federal union between the Empire and sister nations like Canada and Australia. A quarter of a century past I dreamed the dream of Imperial Parliamentary federation; but many years ago I came to the conclusion that we had passed the turning that could lead to that terminus, if ever, indeed, there was a practicable road. We have too long and too extensively gone on the lines of separate action here and elsewhere to go back now. Never forget—you have the lesson here to-day—that the good will on which you must depend is due to local freedom, and would not survive its

limitation. Never forget what has passed in the course of this brief controversy. It is another evidence that the real link is good will, and that the root and foundation of that goodwill is the local freedom which you give so freely everywhere except in one small part of the Empire. I do not think Pan-Imperial Parliamentary federation is within the bounds of possibility. And this conviction it was which made it impossible for me, with every sympathy, to join in the efforts of the late Imperial Federation Leagues. I do not in the least degree think this Bill is a step towards Imperial Parliamentary federation. On the contrary, I believe it is distinctly a step the other way. Because the greater the power, the larger the success, the higher the ambition of united Australia, the less the likelihood of her surrendering to a Parliament sitting on the other side of the globe, in which her representation would now be scanty, the powers you give to her to wield at home. That great problem of finally reconciling the national aspirations, as they may develop, of these distant communities with British connection, the great problem of reorganisation remains inscrutable. Let us maintain, at any rate, the essential element of good will. I believe the condition to be not as the Colonial Secretary said in his speech on the First Reading. I do not believe, as he said, that the links that bind you to your colonies are slight and slender. I do not believe, as he said, that they could be snapped by a touch. I believe them to be strong and real. But I believe them to be absolutely impalpable, not founded on costly appeals, not on your clauses of reservation, not on your powers

of disallowance, and not on the paramount legislative power of this Parliament. I am not complaining of these things. But they are not the real links that bind the whole. You frankly agree that if the great colonies say "Let go," you will let go. Thus your coercive powers, useful in their little measure, are useless here. What then are these impalpable links on which alone you can depend? I warn you once again, from the deepest conviction of my soul, that while these links are strong and real, they are links of good will, founded on local freedoms. That this is so is exemplified to-day in the concessions you have freely made to the principle of nationality, the principle of self-government and of local freedom, which will enable this people, under the aegis of the Empire, to go their own way according to their own view in all those matters which concern their own interests. Let us then guard that essential element. Let us deal as best we can with the problems of the hour, taking care above all things to keep a free hand for those of the future; for grave problems there are which certainly loom before us. Let us give a warm welcome to the Australian Commonwealth, and hope its glorious fate may be to set

"The bounds of freedom wider yet," and that West Australia now, and distant New Zealand later, may find adequate common ground to justify their accession to the Union. May I repeat as a last word the hope that the day may come when the eyes of Her Majesty's Government will be opened, and they may see fit to apply at home the principles which have ruled their treatment of Australia to-day.

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