

188. According to G Sawyer *op cit* p.204, fn.134: 'It is probable, though not certain, that the proposed scheme (an ingenious subterfuge) would have been constitutionally valid.'
189. CPD Vol. 94, p.6166.
190. *Ibid.*, p.6168.
191. *Ibid.*, p.6167.
192. *Ibid.*, p.6170.
193. *Age* (17/1/1919).
194. *Mining Standard* (30/1/1919).
195. *Argus* (20/3/1919).
196. *The Age* 1/3/1919).
197. *Ibid.*
198. *Sydney Daily Telegraph* (4/4/1919).
199. Phrase used by Sir Robert Garran in the course of giving evidence to Royal Commission into the Constitution (1929) p.54.
200. The 1912 Act was officially repealed in 1950.
201. per Alfred Deakin CPD Vol. 69, p.7075.
202. per Sir John Quick CPD Vol. 5, p.5655.
203. Howard *op cit* p.50.
204. Kolsen and Docwra "Constitutional and Institutional Problems in Regulating Inter-State Trade" in Twohill (ed) *Government Regulation of Industry*, 1981. p.69.
205. CPD Vol. 69, p.7081. That the commission, as provided for in the 1912 Act, carried 'too much sail' was confirmed by the significant fact that many of its designated functions were taken over in the 1920s by full-time bodies such as the Tariff Board and the Development and Migration Commission. These were statutory bodies and, not being rooted in the Constitution, were entirely subject to parliamentary control.
206. Fricke *op. cit* pp.81-83.
207. 19 ALJ 69.
208. For an account of the Inter-State Commission in its second re-incarnation, see M.Coper 'The Second Coming of the Fourth Arm' (1989) 63 ALJ 731.

## Australian Miscellany at Law

TK Doyle was a Victorian barrister who practised in the mid-twentieth century. An opponent stated some proposition of law. Doyle asked him: 'What is your authority for that?' His opponent replied: 'The best of all authorities, common sense.' Doyle said to the judge: 'Your Honour will note that my learned friend has not brought his authority to court with him.'

Owen Dixon, in one of his addresses, told the story of an occasion when counsel appearing before Sir Thomas a'Beckett in a patent case quoted from a well-known book on patent law. A'Beckett asked if it were a reputable book. Counsel asked why not. 'Oh,' answered a'Beckett, 'I thought that the last passage you read must be wrong. It sounded like common sense.'

In *McLaughlin v City Bank of Sydney* (1912) 14 CLR 684 at 700 Griffith CJ observed that: 'The law of England is generally consistent with common sense and common honesty, and if there are any exceptions I am not disposed to take an original part in adding to the list.'

This is an extract from a work in progress being compiled by Leslie Katz and Keith Mason, provisionally named *An Australian Miscellany at Law*. The authors would welcome information about anecdotes, cases and histories illustrating the humanity of those who practice the law. Please contact them at keith.mason.2@gmail.com

