"It is certainly very desirable that a Judge should not take any part in politics."

Sir Samuel Romilly.

"The reason for suspending in Judges the privilege of active citizens is obvious enough: it is to guard their probity and reputation for probity from a most fertile source of danger."

Jeremy Bentham.
THE COMMONWEALTH BILL.

To the Editor,

Sir—I beg to hand you for publication the first of a series of observations upon recent developments in connection with this measure.

I am, Sir, &c.,

J. H. SYMON.

Selborne Chambers, June 33.

OBSERVATIONS.—No. 1.

1. Parliament meets to-morrow. It seems scarcely worth while. A new power has come actively into politics. Two Chief Justices—Sir Samuel Griffith and Sir Samuel Way—arrogate to themselves the right of taking a hand, and a strong hand. Hitherto they have done so more or less secretly. Now they come into the open. If they can do so by “Observations” and letters to the Press, there is no reason why they should not come within the walls of Parliament and mount the platform or the “stump.” Political interference with the judiciary is bad. Is judicial interference in politics any better? The business of the Judges is to hold themselves aloof from the controversy and passion of public questions. Their business is to administer the law as they find it, and to try and do justice. Is it for them to legislate, or dictate what legislation shall be, or argue to interpret a draft Bill, and instruct Parliament, whether local or British, how or in what form it shall be passed? They may just as well claim to criticise and denounce every Bill introduced into the South Australian Parliament, whilst passing through it as to do so with the Commonwealth Bill endorsed by the referendum of the people of Australia, and now before the House of Commons. Is our Parliament to have any say in this matter? If it is, how is it to deal with these written but unspoken speeches and “Observations” issuing from the shadow of the ermine? Is this sad departure from the best traditions both of politics and the Bench to pass without protest? If it is, then the day is not far distant when the people of this country will bitterly regret having silently permitted their Judges to enter the political arena, and aspire to lead public opinion upon issues of vehement debate both in England and Australia.

2. It is to these two Judges, let it be remembered, that Australia chiefly owes the difficulties which have beset the passage of the unamended Commonwealth Bill through the Imperial Parliament, and almost doomed to failure the mission of the delegates. It is my firm conviction that but for their unconstitutional interposition—but for their persistent strategy by sap and mine—the Federal Union of Australia would by this time have been an accomplished fact. Journal after journal—political after politician—in England declared that in the last resort Australia would get what she wanted, and what she wanted by direct vote at the ballot-box had declared to be their Federal Charter. But “behind the arras” in the Colonial Office were these two Australian Judges, who strove against their own country having what she wanted. They succeeded. They prevailed in having amend¬ing hands from outside laid upon the people’s work. Why cannot they rest satisfied with the mask they already laid to their charge? Why, because the amendment is not to their liking? It does not mutilate the Bill enough. It conserves to Australia an essential element of self-government—the right to interpret the Constitution which it is conceded she has the ability to frame; but this appears to be hateful to the restrictive notions of these Judges. And so through the more recent machinations of Sir Samuel Griffith, assisted by Sir Samuel Way, Australia seems likely to be brought face to face with a humiliation without parallel. If the governing men of these colonies yield to the malign influence of those gentlemen they will humiliate their country, they will humiliate the delegates, and they will cover themselves with ridicule in the eyes of every intelligent politician in England. More than three weeks ago the compromise was approved. It will be asked—Do these Australians ever know their own minds?

3. Let us see. Sir Samuel Way’s secret pamphlet was designed and used, amongst other things, to instigate and encourage the Imperial authorities to amend the Commonwealth Bill—not in the covering clauses only, but generally—and so to undo the federal enterprise of the people. With much wealth of argument, relevant and irrelevant, he pressed this upon all and sundry the recipients of this historical pamphlet. He was the strenuous advocate of British amendment against the seal of the referendum. Not only so, but he actually went out of his way—to do him no doubt from the kindest motives—to frame the new clauses which he wished put into the Bill, when, as he hoped, the clause put in by the Convention—representing the Australian democracy—was knocked out. He said—“For section 74 the following clause should be substituted.” Mark—“should be!” Fully dictatorial that, without consulting people, Parliament, or Convention—on his own sole ground. His own words apply beautifully. On his “authority alone it is proposed to insert in the Bill novel, bur¬theose, and unwise provisions, which have never been before the Conventions,
8. Paragraph 6 of the “Observations”—to use its own words—"shocks one" as a "great breach of faith will be committed" if any Australian Government attempts to go back on Mr. Chamberlain’s revised amendment in the new clause. It will be a breach of faith with Mr. Chamberlain, and treachery to the deputies. The documents of the Imperial Parliament campaign of treachery and ill-faith takes its origin and draws its inspiration mainly from the British Government—out of their credit’s sake, and the future of Aust- 

Objections to the observance of the Imperial Parliament, let us hope their unfortunate schemes may miscarry.

2. On May 21—more than three weeks against his proper wishes, and the House of Commons, amid prolonged cheer-

The same newspaper of May 23 contains an interview with the Premier, Mr. Hol- 

strains. Sir Samuel Way has moved heaven and earth—in the dark—to induce Mr. Cham-

berlain to amend the Bill, and then, when it is better, to trust it to the voters. But it is in agreement which left Australia free to adopt her own course of action where her own interests were concerned. At the time the agreement gave the Imperial Government all that they had ever asked for with the exception of the right of the Judges to sit, which was not at all equally satisfactory to the deputies, who had written thanking him for so far accepting the Bill without alteration." That seemed an excellent testimonial. Yet this new Bill is the same as the old one, but with the Chief Justice, and he should sit in that for which he is meant. But what has this speech got to do with the matter? The deputies went to the House of the Imperial Parliament. They fought for and secured it substantially in every respect but this. Mr. Chamberlain and the English law officers think of that indictment? Can they really have been parties to any so wholly vicious and bad a Bill, and he is now our political Mentor. He pro-

heterous, and unwise, without publicising to the celebrated pamphlet which has had a good deal to do with dragging the new clause through. It is. Is it to be another reflection on the dele-

tions to the interests of Australia by the resolution and persistent efforts of the deputies. And yet it is not fair to say,—"On their authority alone it is proposed to insist in the Bill, burthensome, and unpracticable, and would never have been before the Conventions, the Parliaments, and the people?" About his clandestine crusade to secure the approval of the “Observations, the Parliaments, and the people?" Apply Sir Samuel Way’s own language in these later “Observations" to his own earlier perform-

7. He further says—"There has been a re-

markable indecision in giving public notice to the exact provisions of the new clause, thereby, every Government concerned be-

"Mr. Hol-
4. All I have quoted happened more than three weeks ago. During that time, it is plain to the pulpit observer, a conspiracy has been forming in Parliament to cut the work which Mr. Chamberlain pronounced good, which the Premiers and Government of Australia declared "unquestionably a substantial triumph"—and which every honest Australian not blinded by prejudice or warped by sympathy could not but regard as a matter of great satisfaction.

Short of the unalterable Bill it is the best obtainable. The members who have left it unaltered in the patriotic enterprise of its destruction? The same old foe—the antifederalists and the dishonest minority. Mr. Chamberlain’s new clause and the delegates are impartially revered by the indentured colonial public, who have always been opposing the unamended Bill, advocating delay, and doing mischief. Their persistence is admirable. Their tactics are abominable.

Sir Samuel Way, who advocated the amendment to get his own atrocious clause in, now declares against amendment, "without the authority of Parliament and a second referendum," to keep the new clause out. What does it mean? It means that these two Chief Justices and their co-triers prefer to delay the Bill and prolong striking their own ends.

What a humiliation for Australia to back out now! How can we honestly do it? The congratulations to the mover of the amendment and the Imperial Parliament for the "wisdom of the Commonwealth" in our own interests! What a humiliation for the delegates? Think of the position in which we have been left! Mr. Chamberlain will be pitting our Governments, who a month ago sang psalms of triumph, and now, at the bidding of the men who are trying to control the political strings and dominate the Executive, new clause on the funeral dirge. Are our governing politicians to dance only to the piping of their Judges? And, if there is a worse, the Premiers will only remember, to slightly paraphrase Sir Samuel Way, that "the proposed new clause is another instance of a Commonwealth in which the Executive has thrown its weight against the authority of the delegates.

5. By what warrant does Sir Samuel Way, of all men, decree a new clause on the ground that it has never been before "the Parliament?" When was he installed the constitutional arbiter of the Commonwealth? Is he not the same Chief Justice Way who counselled Lord Lamington to tell the Secretary of the Imperial Parliament, "We, the Commonwealth Parliament, believe the Bill in defiance of the referendum, and we recommend the Imperial Parliament to reject it!" Did not Lord Lamington in April last telegraph to Mr. Chamberlain that the new clause, "ought not to be admitted, without the consent of the Commonwealth Parliament—representatives." Is not this the very hypocrisy of politics?

6. This is not all. Do you think Sir Samuel Way wants to cut the number of the delegates, to prevent an alteration of the Bill? Is there a shred of truth in that? It is notorious that Mr. Chamberlain, minister of the Imperial Parliament, of whom our delegates have once again been robbed, altered the Bill in spite of the delegates. They were powerless to prevent it. If they dispute it, "the delegates must be put on probation," they threatened them, saying, they prevailed with Mr. Chamberlain to iinus their mischief, and he gave the new clause. Sir Samuel Way speaks of the "six" delegates, to make it appear the fourth was that "six" in the presence of true there were six delegates. Of course not. Mr. Parker, of Western Australia, who represents the imperial colony had not accepted the Bill. He was there to oppose the Bill and advocate for his colony free-handed and independent, as the delegates successfully resisted. Of them there were five, but one of them was possessed of Mr. Samuel Griffith, and became an outsider. Without instructions from Australia, on their own authority?

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OBSERVATIONS.—No. III.

1. Really one doubts whether Sir Samuel Way does most injustice to the delegates of his party—"in the dark." But one thing is sure—the prize of the proverbial work of the Australian people. We prefer the unamended Bill with all its possibilities and its strength, as opposed to the shallow, thinned-out thing in the House on Thursday, with that object; but the enemies of the Bill in its present form may as well strike themselves, for it is a sincere, made that impossible. Mr. Chamberlain has seen it before in the House of Commons, but he loyally adheres to the revised clause 74. We have only to dominate our own authorities, to resist our political Judges and such in their proper place, and that the position of the Bill will not be altered a single day.

2. In the third paragraph of his "Observa- tions" Sir Samuel Way, when speaking of the "Department of Defence," says: "The Department of Defence, under the own authority" fomenting upon the people whose embryo ambition is anticipated by the Government, to the Constitution of the Commonwealth in the High Court, and leaving it to them to say whether a reference to the Imperial Parliament I do not know; but this I know—that the proposed new clause is another instance of a Commonwealth in which the Executive has thrown its weight against the authority of the delegates.

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any definite intimation was given publicly on Mr. Chamberlain's desire to send a mission to Peking. That considerable secret intrigue had been at work, but no official communication was made. Mr. Chamberlain's démarche to the Chinese government was not a new one, but a repetition of one of his earlier visits to China. He had been in Peking several times before, and had always been received with great hospitality. The Chinese had no intention of driving him out of their country, but they were determined to resist any attempt to interfere in their internal affairs. Mr. Chamberlain was therefore compelled to accept their decision, and to leave China without accomplishing his object. He was not, however, satisfied with this result, and was determined to return to Peking as soon as possible, in order to continue his negotiations with the Chinese authorities. Mr. Chamberlain had been in Peking for several days, and had been granted an audience with the Emperor. He had presented his credentials and his proposals for a new treaty, and had been received with marked respect. He had been allowed to inspect the city, and to visit the principal temples and monuments. He had also been introduced to the leading officials of the government, and had been assured of the good will of the Chinese authorities. Mr. Chamberlain was therefore confident of success, and was determined to return to Peking as soon as possible, in order to continue his negotiations with the Chinese authorities.

3. The Premier, Mr. Holder, said in the House of Representatives that his Government had decided to send a mission to Peking, in order to negotiate a new treaty with China. The mission would be composed of Mr. Chamberlain and Mr. Holton, and would be charged with the object of obtaining a revision of the existing treaty, and the establishment of more favorable terms for both countries. The mission would be sent out in a few days, and would begin its negotiations immediately. The Premier was confident of success, and was determined to obtain the best possible terms for the United Kingdom.

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