

[PRIVY COUNCIL.]

THE COMMISSIONERS OF TAXATION, }
NEW SOUTH WALES } APPELLANTS;

AND

BAXTER RESPONDENT;

THE ATTORNEY-GENERAL FOR THE }
COMMONWEALTH OF AUSTRALIA } INTERVENANT.

WEBB APPELLANT;

AND

FLINT RESPONDENT;

THE ATTORNEY-GENERAL FOR THE }
COMMONWEALTH OF AUSTRALIA } INTERVENANT.

ON APPEAL FROM THE HIGH COURT OF
AUSTRALIA.

PRIVY
COUNCIL.*
1907.

*Special leave to appeal from High Court—Reasons for refusing—Question not again
raisable—Sum in dispute inconsiderable in amount.*

November 28.

1908.

January 14.

Special leave to appeal from a decision of the High Court will not be granted by the Privy Council where the question in controversy cannot be raised again, and where the sums actually in dispute or indirectly affected are inconsiderable in amount.

Petitions for special leave to appeal from the judgments of the High Court in *Baxter v. Commissioners of Taxation, New South Wales*, 4 C.L.R., 1087, and *Flint v. Webb*, 4 C.L.R., 1178, dismissed.

* Present.—Lord Loreburn L.C.; The Earl of Halsbury; Lord Macnaghten; Lord Robertson; Lord Atkinson; Lord Collins; and Sir Arthur Wilson.

PETITIONS for special leave to appeal to His Majesty in Council from the decisions of the High Court: *Baxter v. Commissioners of Taxation, New South Wales* (1); *Flint v. Webb* (2).

PRIVY
COUNCIL.
1907.

COMMISSIONERS OF
TAXATION
(N.S.W.)

v.
BAXTER.

WEBB
v.
FLINT.

The judgment of their Lordships was delivered by LORD LOREBURN L.C. Their Lordships intimated on 28th November last that they would state the reasons why they were unable to advise His Majesty to grant special leave to appeal.

The dispute between the parties was whether or not one of the Australian States could impose income tax upon a salary paid by the Commonwealth to its officers, or to a Member of the Commonwealth Parliament, resident in such State. There had been decisions of State Courts in the affirmative. The High Court of Australia overruled these decisions, and when the whole matter came before His Majesty in Council in the case of *Webb v. Outtrim* (3), this Board took the view that such taxation could be imposed, therein differing from the High Court.

Thereafter, in the present cases, the High Court entertained fresh appeals, and adhered to their former view.

The petitioners applied that special leave should be given to appeal to His Majesty in Council from that last determination of the High Court.

Before these petitions could be heard by their Lordships an Act of the Commonwealth was passed expressly authorizing States to impose taxation of the kind in question, so that the controversy cannot be raised again.

The sums actually in dispute or indirectly affected are considerable in amount.

In these circumstances it would not be in accordance with the practice of this Board to advise His Majesty to grant special leave to appeal.

There will be no order as to the costs of these petitions.

(1) 4 C.L.R., 1087.

(2) 4 C.L.R., 1179.

(3) (1907) A.C., 51.