governments to debts in terms of the basic constitutional framework, and his reasoning would appear to be not confined to Crown prerogatives:

> . . . the State's claim to stand on an equality with the Commonwealth in respect of demands upon the same fund is the consequence of the Federal system by which two governments of the Crown are established within the same territory, neither superior to the other.
>
> They are not rights conferred by the Federal Constitution, but they do depend on the existence of the State as a separate government. . . . [The Constitution] does mean to establish two governments, State and Federal, side by side, neither subordinate to the other . . .[T]o destroy the equality does spell an interference with an existing governmental right of the State flowing from the constitutional relations of the two polities.[67]

When it is considered that the Constitution makes express provision, in section 75, for the settlement of inter-governmental disputes by the High Court, and it is accepted—as it surely must be—that the seven governments must be treated as equals before the Court, then the conclusion seems inescapable that no government, simply by the authority of its own legislative power, may use its territory quite regardless of the damage that this use may incur on the territory of another State. The only writer on Australian constitutional law who appears to have reached this conclusion—Harrison Moore—summarises the position well:

> In the relations of governments such a field exists where if there were no law between them, and the omnipotence of each legislature was the postulate of decision, there might be a contradiction of legal voices in a tribunal before which neither legislature can claim a supremacy over the law of the other, where therefore their equality demands some limit of their constitutional authority.[68]

One is reminded of the nineteenth century justification of restrictions on individual freedom; the very notion of "freedom" impliedly connotes some restrictions, for no man may be so "free" that he may prevent others from exercising similar rights of freedom. The same would clearly seem to apply to "equal" governments operating within the one federation.

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[67] *Id.*, 312-13.

[68] W. Harrison Moore, "The Federations and Suits between Governments" (1935) 17 *Journal of Comparative Legislation and International Law* 163, 200 (third series).

(4) Common Law

But what is the p
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1903-1969 requires
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South Australia v. W
disputes, the High C

> . . . must of n
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> authorized by s
> case it be found
> the defendants,
> the Court must
> determine in th
> legal.[70]

Isaacs J. was conc
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that his main concer
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On the other han
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governmental suits

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[69] (1911) 12 C.L.R.

[70] *Id.*, 721.

[71] E.g. *Parker v. Co*
wealth (1967) 116 C.L.

[72] E.g. *Welden v. Sn*

[73] *South Australia*
Canada v. Province of