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We have not-discussed
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I do not-know where
my colleagues will from.
Some have + I do not
know each others minds
except- that O'Connor
is a moral certainty-
at-all events to have
an offer - But I write

to say that unless you object I
propose to submit your names
as one of the half dozen from whom
the three are to be selected.

If Juppth consents he will in all
probability be chosen to preside
but there is a prejudice against
State Judges in the part of some
Ministers that may affect his
chances too. No doubt experience
will prove & before long that there
is an inadequate number but I
am deeply disappointed that the
Court does not commence with that
strength numerically which it must
have in order to fitly discharge
its high functions. I shall be most
happy if I am ~~later~~^{soon} able to ask
you to add your learning to that of
the first two Judges who will compose
the Commonwealth High Court but in
the meantime only require your assent.

Alfred Deakin II

C4/C/42

Commonwealth of Australia
Attorney General's Office

August 24/ 3

Confidential

My dear Clark

You know how much the Judicial situation has been altered by the cutting down of the High Court bench to 3 Justices without persuasions - I had always hoped to see 5 Justices with Griffith as CJ and you as one of his associates. Now I cannot guess what will happen - We have not discussed the personnel of the Bench at all so that I do not know whom my colleagues will favour since Barton and I do not know each others minds except that O'Connor is a moral certainty at all events to have an offer - But I write to say that unless you object I propose to submit your name as one of the half dozen from which the three are to be selected - If Griffith consents he will in all probability be chosen to preside but - there is a prejudice against State judges in the part of some Ministers that may affect his chances too - No doubt experience will prove and before long that three is an inadequate number but I am deeply disappointed that the Court does not commence with that strength numerically to which it must come in order to fittingly discharge its high functions - I shall be most happy if I am soon able to ask you to add your learning to that of the first two Justices who will comprise the Commonwealth High Court but in the meantime only require your assent to be named, in other words, an intimation that you will accept if asked.

with kindest regards
yours very truly

Alfred Deakin