my dear Clark,

You know too much. The situation has been altered by the cutting down of the High Court Bench by 3-3 inches. In fact, Jermyn - I had always hoped to see 5 justices with

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COMMONWEALTH OF AUSTRALIA.

ATTORNEY-GENERAL'S OFFICE.
Griffith as C.I. T. as me of his associates. How I cannot guess what will happen. We have not discussed the personnel of the Bench at all so that I do not know where my colleagues will come from. Some know me 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...
Say that unless you object I suppose it will not be done. The name as one of the half dozen from whom the three are to be selected. If sufficient consent be willing, all probability be chosen to preside. But there is a prejudice against State Judges in the part of some Insurers that may affect the chances. It is not doubt experience will prove it, before long that there is an inadequately number that I am deeply disappointed with. The Court does not commerce with the strength numerically. And it must come in order to thoroughly discharge its high functions. I shall be much happy if I am soon able to ask you to add your learning to that of the first two Judges who will comprise the Commercial House Court. In the meantime only receive my consent.
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