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1901-08-21

The PRESIDENT took the chair at 2.30 p.m., and read prayers.

PETITION

Senator Major GOULD

presented a petition from sixteen ship-owners and shipping agents, of the port of Sydney, engaged in the oversea carrying trade, praying that the Senate would amend the provisions of the Customs Bill, relating to stores consumed by oversea vessels.

Petition received, and read, and ordered to be printed.

FORM OF QUESTIONS

The PRESIDENT

- Before calling upon Senator Barrett to ask the question which stands in his name, I would direct his attention, and the attention of the Senate generally, to Standing Order 116, which says -

In putting any such question no argument or opinion shall be offered.

Senator Barrett,

in his question, has offered an opinion that the proposed procedure will obtain the best possible working results from the Parliament. I am not going to ask the honorable senator to alter his question ; but I wish to give notice to honorable senators generally that in future they ought to observe the standing order.

Senator Barrett

- I desire, by leave, to withdraw the question.

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The PRESIDENT

- The honorable senator need not ask it;

QUESTION

SIZE OF PACKAGES

Senator PULSFORD

asked , the Vice-President of the Executive Council, upon notice -

What are the prescribed packages in which spirits, opium, tobacco, snuff, cigars, and cigarettes are at present allowed to be imported in each of the six States of the Commonwealth ?

Vice-President of the Executive Council

Senator O'CONNOR

- I lay upon the table a return showing the prescribed packages in which the goods mentioned are allowed to be imported into each of the six States of the Commonwealth.

Ordered to be printed.

PERSONAL EXPLANATION

Senator WALKER

- On Thursday last, when speaking relative to the, in time, possible importation of worn silver coin to be withdrawn by the Commonwealth mint, I said that something like £70,000 of worn silver coin was sent from Australasia annually to the Imperial Mint. I find that I made a mistake. I ought to have said that for the twenty-eight years ending December, 1899, the imports of silver coin to Australasia averaged £70,000 a year more than the exports - really imports £88,000 or £89,000 per annum as against worn silver exported, averaging £18,000 a year. Needless to say, as our population is greatly in excess of what it was 28 or 30 years since, the figures must be expected to show a substantial annual increase ; still I was surprised to see by the Imperial Mint returns for the year 1900 that the exports of silver coin for Australasia totalled £297,000 - surely quite exceptional.

CUSTOMS BILL

In Committee

(consideration resumed from August 15,
vide

page 3796) :

Clause 67 -

Entries shall be made of the whole of any cargo landed or to be landed not later than seven days after the report of the ship or within such further time if any as the collector may see fit to allow ; and so that if the

goods are placed in quarantine seven days at the least shall be allowed for entry after their release from quarantine.

Senator PULSFORD

- I move -

That the word " landed," line 2, be omitted with a view to insert in lieu thereof the word " unshipped."

I propose this amendment for the reason that the word used in other clauses is "unshipped."

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Senator CHARLESTON

- I move -

That all the words after " than," line 2, be omitted, with a view to insert in lieu thereof the words - ' ' twenty-four hours in the case of steamers, and 48 hours in the case of sailing vessels, after the report of the ship, or within such further time, if any, as the collector may see fit to allow, and so that if the goods are placed in quarantine 24 hours in the case of steamers, and 48 hours in the case of sailing vessels, or within such further time as the collector may see fit, shall be allowed after their release from quarantine." If the clause remain as it is it will practically destroy the shipping of Port Adelaide. From information I have gathered since last week it appears that the clause will mean that ships coming to Port Adelaide will be tied up to the buoys practically for seven days. Instead of reading that entries shall be made not later than seven days, the, clause, for all practical purposes, might just as well read that entries shall not be made within seven days, because it virtually debars goods from being unloaded within that time. If there are three consignees, and one, whose goods are on the top of the cargo, is not anxious 'to have them landed, but desires to have the whole of the seven days to enable him to look round for a customer, he may render it impossible for the other two to get at their cargo. It might be argued that the goods of the consignee who desired delay, would be sent on to the wharf ; but, while that would be all right, in Melbourne, where there are Government wharfs and sheds, and the charges are not for wharfage, but for harbor dues, it would not do in Port Adelaide, where the wharfs are privately owned, and the owners would not allow the goods to be stored. Goods so landed in Melbourne are, theoretically, still on board the ship, and under the responsibility of the master or ship-owner ; but at Port Adelaide, if the wharf were required, the ship would have to pull off and be tied to the buoys until the seven days were up, and the consignee was compelled to pass his entries. There is no shed accommodation at Port Adelaide, even if the captain were prepared to allow the goods to be landed at his own risk ; and I submit this amendment in the interests of that port and other ports which are not provided in the same manner as Melbourne with plenty of Government wharfs. The amendment is practically a compromise with Melbourne, where, I believe, the period is fourteen days before a consignee is compelled to pass entries.

Senator Sir Frederick Sargood

- Seven days.

Senator CHARLESTON

- Even if the period is seven days, the ship-owner is practically responsible for the goods in the Government shed for that time, and is necessarily anxious to be relieved of the responsibility. I can quite see that the clause might suit Melbourne shippers and importers very well, while in South Australia, and I believe in Western Australia and Tasmania, it would be simply ruinous.

Senator Pearce

- Not in Western Australia, where the wharfs are owned by the Government.

Senator CHARLESTON

- Is there plenty of shed accommodation there?

Senator Pearce

- There is not too much shed space.

Senator CHARLESTON

- If there is not plenty of shed space, the consignee, whom I have instanced, would be practically put in the position of preventing others from receiving their goods. The amendment does not injure Melbourne at all, but renders a service to South Australia, and other States similarly situated.

Senator Playford

- How about Port Melbourne, where there are no sheds?

Senator CHARLESTON

- I do not know anything about Port Melbourne, but if this clause be carried it will have the effect I have indicated.

Senator Macfarlane

-It will not, and I speak from practical experience.

Senator CHARLESTON

- Then we had better hear what Senator Macfarlane has to say. This is a very serious matter, and only this morning I received from the Chamber of Commerce in South Australia a request that the Senate would alter the clause in the manner I have suggested, on the grounds that the circumstances and facilities in South Australia are not suited to the extended time for vessels to hold the unentered goods, as provided under the Bill ; that the shed accommodation on the wharfs has not the capacity to receive the goods as landed ; that the wharfs and sheds are private property, and the shipowners are therefore unable to provide the accommodation, if so inclined; that the result of the circumstances would be, that if steamers had prior claim to shed accommodation, all sailing ships would be compelled to hold their cargoes for seven days before commencing to discharge, which would cause great inconvenience and loss to the trading community besides probably increasing the cost of freight to the consignees; that the shipowners having to make themselves responsible for all goods landed into the shed, and all expenses for handling, would have to protect themselves at the expense of the consignees ; that the present system, allowing 24 hours for steamers and 48 hours for sailing vessels, has been in practice for a great number of years, and the present appliances have been built to suit that system, and have given such general satisfaction that the representative meeting held was strongly of opinion that existing methods should be continued ; and that the suggested amendment would not interfere with the term, as originally embodied in clause 67, as the collector has power to extend the period whenever necessary.

Senator O'Connor

- I do not think there is any objection to the amendment submitted by Senator Pulsford.

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Senator PLAYFORD

- The clause ought to be allowed to stand as drafted. When goods are put on a lighter, an entry has to be passed before they can be landed or transhipped. For instance, the mail steamers come to the semaphore at Port Adelaide and lighter, say, 300 tons of goods. . These goods are taken to Port Adelaide ; but so long as they are lightered, and until they are landed, they are looked on as being still in the ship's hold.. The reason why I do not object to Senator Pulsford's amendment is, that it simply is that these entries shall be made as soon as the goods are unshipped. I take it that his reason is that the Customs-house will then secure that directly the goods are taken out of the ship, whether they are landed on the wharf or put into a lighter, the entry shall be made ; or that the entry may be made before the goods are taken from the ship. The Customs-house officers have control. There is the question of whether when the goods are shipped into a lighter they can be said to be landed. There is no officer in charge of them, and they may be taken anywhere. They are not under the same strict control as they will be if the entry is once passed. However; I have no objection to the amendment, and do not think it will produce any. inconvenience.

Amendment (Senator Pulsford's) agreed to.

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Senator O'CONNOR

-**! cannot consent -to the amendment of Senator Charleston. .! can well understand - :and the position commands a certain amount of sympathy - that -any alteration in the existing practice or law dealing with shipping matters -will be viewed with .a certain amount of alarm in any shipping community. We therefore find that in South Australia, where a . 24 hours' provision has been the rule, there is no doubt a considerable amount of .alarm when the proposal is made to extend the period to seven days. On the other hand, >in Victoria and Tasmania, where the seven days' rule applies, a great deal of alarm would be felt if it were proposed to alter the term to 24 hours. The real fact is that this is one of those instances in which we have to assimilate our methods of dealing with mercantile matters. I take it that the only way in which we can deal with them is to put them, all on a basis right, fair and reasonable to the shipper, the importer, the owner of the goods, the owner of the ship, and at the same time efficacious for the purpose of collecting the revenue. Senator Charleston's amendment would have the effect of putting pressure

upon the shipowner or shipmaster to bundle goods out, whether he was ready to put them out or not. Because under this provision, if the entry is not ready, or if the material is not ready for making an entry, the collector may cause the goods to be removed to a warehouse, and if they are not claimed and entries passed within six months, they may be sold, whilst if they are perishable goods they may be sold at any time the collector thinks fit. I take it that in the particular cases contemplated by Senator Charleston, there is no question of selling the goods, but they would be removed to a warehouse. So that the result would be to bring pressure to bear upon the shipowner to have the goods put over the side, whether matters were ready for making an entry or not, under a penalty of having to incur the cost of removing the goods to a warehouse, and of paying: rent for the warehouse. If we use the Customs-house as a means of bringing pressure to bear upon the ship-owner or the consignee, we shall be using it for a purpose that was never intended. What we have to see is that a sufficient time is given to enable the ship-owner and the owner of the goods to (have everything ready for the purpose of making his entry ^before he, is compelled to put the goods over the side. These Jaws will apply not only to ports like Adelaide, Melbourne, and Sydney, but to smaller ports where there may be little accommodation. I should like to direct the honorable senator's attention especially to the wording of the clause. The 7 days is the maximum. The goods can be unloaded within 24 hours, if they are ready. The unloading can be done as early as possible; and I think honorable senators who know anything about shipping will be aware that there always is strong pressure upon the shipowner to get goods landed as soon as possible. Heavy expenses are incurred while the ship is at the wharf, and wharfowners are anxious to get rid of the ship. If a ship can be unloaded in 24 hours that will be done, but if it cannot be conveniently done - if the consignee's invoices are not in shape, or he cannot get at them, or any of the multifarious movements of commerce prevent them from being dealt with - it is only fair to give a reasonable time within which to make the entry. I would also point out to Senator Charleston that it is always open to the Customs-house officials to give a permit to allow the landing of goods at any time, if there is any necessity for it. It will be admitted that the Customs-house officials, the shipping officials, and the consignees in all these States work harmoniously together. Questions in dispute may occasionally arise as to the value of goods, but in the interests of all parties it is advantageous to get the goods landed as soon as possible. If pressure is to be brought to bear, the people who own the wharfs referred to by Senator Charleston will take good care that, if goods are piled up on the wharfs, and are left longer than necessary, some extra charge is made for their accommodation. They will take care that the shipowner and the owner of the goods suffer if there is unreasonable delay. That is the kind of pressure which is legitimate enough as a matter of business. But to put on pressure by the Customhouse, when in doing so we may place importers and owners and consignees of goods in a very difficult position - and perhaps put upon them the necessity of incurring expense in storing goods - is not reasonable. The Adelaide shippers, of whom Senator Charleston spoke particularly, will find that the real remedy for their trouble will be in a fair and expeditious administration of this law. On the other hand, if the proposed amendment were agreed to, and there was a cast-iron rule that entries for goods had to be made within a certain period, there might be many cases in which this could not be conveniently done, and a good deal of loss and inconvenience would result. I, therefore, ask the committee to leave the clause as it is.

Senator CHARLESTON

(South Australia). -

Senator O'Connor

must see that what he has said does not really apply. I explained that the person whose goods may be on top of the cargo may not pass his entries, and may consequently block all the rest of the importers. The honorable and learned senator must himself see that this will practically stop the unloading.

Senator O'Connor

- The captain of a ship is not bound to wait until an entry is passed. He has completed his contract when he brings his goods alongside the wharf. The consignee must then receive them, under the terms of the bill of lading.

Senator CHARLESTON

- But if one man refuses to pass his entries, and the goods are landed, at whose risk will that be?

Senator O'Connor

- At the risk of the owner of the goods, of course.

Senator CHARLESTON

- The wharfowner will not permit them to be landed, and stored on his wharf for seven days. He will say, "I am not going to allow these goods to remain on my wharf." Then there will be trouble. People who are desirous of obtaining their goods, will not be able to get them. It is easy enough in Melbourne, where the goods can be landed and stored in a Government shed without any expense to the consignee ; but the case is different in Port Adelaide. If the clause is allowed to stand as it is a most -serious injury will be done to the trade of Port Adelaide, because the ship will have to be sent from the wharf back to the buoy, and will have to be tied up at the expense of the owner, whose men will not be able to do any work. Honorable senators must see that, for the reasons stated by the Adelaide Chamber of Commerce, it is desirable that the clause should be amended as I suggest. I hope that the committee will not place the people of Port Adelaide under the 12 az disadvantage- this clause would impose upon them.

Senator MACFARLANE

(Tasmania). From a practical experience of -upwards of 30 years as a ship agent,- I have never found any difficulty placed in the way of consignees getting possession of their goods, because any particular consignee has not been in a hurry to get his entries passed. The practice in unloading sailing ships has been that where goods come across, for which the entries have not been passed, they are taken up and put on deck, and when the other goods -required have been taken out they are put back until entries have been passed for them. It very often happens that goods for which entries have not been passed are taken out of the ship and placed in the King's warehouses. We have had the seven days' period allowed in Tasmania, and I have seen no delay in consequence. The full seven days is seldom required, and there is no trouble about it.

Senator CHARLESTON

(South Australia). - In answer to that, I can quote a case where a dry goods merchant has been extremely anxious to obtain his goods as quickly as possible. He has passed his entries as soon as the ship has been sighted, and has urged upon the captain to facilitate the landing of the goods. The captain has started to discharge, and after working* for half an hour, he has come upon goods for which entries have not been passed, with the result that the unloading has been stopped at once, and the dry goods merchant has been compelled to wait the full 48 hours, until the owner of the other goods has been forced to pass his entries. In the case of steamers, the time allowed at Port Adelaide is -24 hours, and the Collector of Customs often gives a permit to land goods at once. People, knowing that the time is limited, have everything ready to pass -their entries, and there is no difficulty. Why should one man be permitted to delay the unloading of a ship for a number of days while he is trying to dispose of the goods he has on board ? I may perhaps better explain the difficulty by an illustration. If I had a number of cases of spirits to land, and I was not anxious to get them immediately, as soon as I heard of the arrival of the ship I would look around to see if I could dispose of these goods. Under this provision I should have seven days in which to do it, with the result that for that time I would delay passing my entries." It has been said that in some cases goods are landed and stored, but at whose expense ? In the case I have instanced, I would say that it should not be done at my expense, because I would insist that I had seven days in which to pass entries.

Senator Macfarlane

- No ; the bill of lading would prevent the honorable senator doing that.

Senator PULSFORD

(New South Wales). - I cannot see my way to support

Senator Charleston

in this matter, because the advice given to me is that we should ask that the seven days' period be increased to fourteen days. I can clearly see that there is something special in the case of Port Adelaide, and under the circumstances it would be a fair thing if the Vice-President of the Executive Council would consent to have this clause recommitted. Something in the meantime might be suggested that would enable the special case of Port Adelaide to be met, without inflicting a new departure of a severe character upon the other ports of Australia.

Senator CHARLESTON

(South Australia). - The recommitment of the Bill is a matter that is in the hands of the Senate. I am only

anxious to conserve the interests of South Australia, and I move the amendment at the request of the Chamber of Commerce, and the shippers and consignees of Port Adelaide. I would not like to jeopardize their interests by attempting to force a decision upon the question just now, and if

Senator O'Connor

will agree to recommit the Bill, I shall give way.

Senator Sir RICHARD BAKER

- I hope the different circumstances of Port Adelaide will be taken into consideration. The merchants, shippers, and traders in South Australia know something about their own business, and when they have asked us to consider this question from their point of view, the representatives of that State at all events ought to give some attention to the arguments which they have advanced. What may be suitable for Melbourne and Sydney may be very unsuitable for Port Adelaide. We must recollect that Port Adelaide is only a port of call, and not a final port, and if we place difficulties in the way of doing business there, the result may be that cargo will be earned past Port Adelaide and taken on to Melbourne and Sydney, and perhaps shipped back again. When it is considered that at Port Adelaide all the wharfs and all the stores are in private hands, the great difference between that place and Melbourne must at 'once strike anybody. No captain of a ship or any other authority can send goods into a private store or land goods on a private wharf without the consent of the owner. It is all very well to say that goods may be unshipped and put on to a wharf or into a store, but while that may be true of Melbourne it is not true of Port Adelaide. There the owner of the store may say - "Who is going to pay me for storing these goods 1 I will not' take them unless some one is responsible." The man who does not want his goods landed may say- - "I will not pay you ; I do not want to have my goods sent into your stores ; it is against my interests to land them at present, and I claim the full seven days allowed by the Act." These circumstances should all be taken into consideration, and I do not think the Vice-President of the Executive Council has met the objection at all. The fact is that we should have different rules for different ports. It may be all very well to provide for seven days for New South Wales and Victoria, but ships which have 200 or 300 tons of cargo for Port Adelaide, and 2,000 or 3,000 tons for Melbourne, do not want to stay at Port Adelaide any longer than is necessary. They want to transact their business there as quickly as possible, and get to the place at which the bulk of their cargo is to be delivered. I venture to suggest to the Vice-President of the Executive Council that the fairest way will be to leave the number of days allowed for passing entries in the various ports the same as at present. We should not force Victoria to adopt 24 hours, or South Australia to adopt seven days. Let the time remain as at present until we see how this thing works out. I admit that Senator Pulsford may be correct in saying that Sydney wants more than seven days, but the honorable senator should consider that those interested in other ports may prefer a different time. I hope the matter will be arranged fairly to all the various States, and that the circumstances of each port will be taken into consideration.

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Senator Major GOULD

- It would be rather difficult to arrange in the clause for various periods for different ports, but as there is such a difference in the practice, the clause might be amended in such a way as to allow the periods to be fixed "as prescribed" for different ports. That would leave the matter in the hands of the Minister, after consulting the collectors of customs at the various ports, to prescribe the most suitable time for each, within which entries should be passed.

Senator Sir John Downer

- Or preserve the existing condition unless altered by the collector, which I think would be better.

Senator Major GOULD

- The question is how to word the clause.

Senator O'Connor

- I think I shall be able to meet the difficulty.

Senator CLEMONS

- I, for one, think that Senator Charleston has established a case. I was very much impressed with the remarks of Senator Sir Richard Baker, and I think that the amendment he suggested can easily be made. Senator O'Connor will secure everything -which is aimed at by the clause as it stands, . and by honorable senators from South Australia, if he makes the clause read as follows: -

Entries shall be made for the whole of any cargo unshipped, or to be unshipped within such time after the report of the ship as the collector may see fit to allow.

Senator O'Connor

- I propose to say, " within such time as may be prescribed," and then it will be under regulations.

Senator CLEMONS

- I have no objection if that will cover it, but the interpretation of " collector " in the interpretation clause is so wide that the words I have suggested would allow the chief officer at any port to make regulations which would be suitable to its requirements.

Senator O'CONNOR

- I still think that Senator Charleston is under a misapprehension, but, at the same time, I have always recognised that in bringing federation into operation we should be extra careful of the sensibilities of every portion of the Commonwealth. Therefore, if there is a possibility, consistently with the interests of the revenue, of arranging this matter according to local conditions, I shall be very glad to make the necessary amendment. I would not like to pronounce an opinion on the question of whether it would be allowable to have a regulation of trade differentiating one port from another in regard to this matter. That may be quite possible, but the very objections which would apply to treating ports differentially would apply i to a Bill as well as to regulations, so that I there need be no difficulty in that respect. I wish to guard myself from saying that I think such a proposal as has been suggested could be carried out. I am quite willing to follow the suggestion of Senator Sir Richard Baker, and to allow regulations to be made by the Customs authorities, that is by the Executive Government. Regulations will have to be made in regard to hundreds of matters, and this question may well be left to regulations giving the authority which is given here to expand even those regulations if it is necessary. I propose to amend the clause so that it will read in this way -

Entries shall be made for the whole of any cargo shipped or to be unshipped within such time after the report of the ship as may be prescribed, or within such further time if any as the collector ma3' see fit to allow.

Senator Major Gould

- "Would not that rather confine it to one system throughout the Commonwealth 1

Senator O'CONNOR

- I do not think it would, because in that way we could prescribe a regulation for Port Adelaide and another for Melbourne.

Senator Sir John Downer

- We might say "in each State."

Senator Pulsford

- Is it contemplated anywhere in the Bill that there shall be varying regulations 1

Senator O'CONNOR

- I do not think it is. It is one of those matters which can be better arranged by the Customs-house authorities, who have a full knowledge of all the circumstances in each State ; and we may be" sure that if it is possible to meet varying conditions by different regulations it will be done. On the other hand, if it is not possible to do it constitutionally or in any other way, it will not be done. The Customs-house authorities are in a much better position than this committee can be in to give full weight to the' different circumstances in the different States.

Senator Pulsford

- I am simply asking that the clause may be worded so that they maj' have power to vary the regulations.

Senator O'CONNOR

- If they are given the power to make regulations, they can make regulations applicable to the different ports. No doubt in numberless matters they will require different Customs regulations in the various ports.

Senator Playford

- We had better say so in the clause.

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Senator O'CONNOR

- I do not think it is necessary to say so. It will be quite open to make different regulations for different ports in other matters. There is no use in loading up the clause with the suggestion that there may be

differences, when perhaps, it may be found that there is no necessity to have any differences. On the other hand, if it is necessary, and if it is possible constitutionally to make different rules for different ports, it can be done by the wording I suggest.

Senator CHARLESTON

(South Australia.) - I ask leave to withdraw my amendment. At the same time, I would like to have an assurance that the regulations can be so framed as to suit the different conditions. It is extremely difficult to make one suit of clothes fit every person, and I can see very clearly that under federation, where the States conduct their trade under various conditions, it will be almost impossible to have one regulation to guide them. If the words "as may be prescribed" will give all the elasticity which is essential to the successful conduct of the business, I am quite prepared to accept them, and at a later stage, if necessary, we shall have another opportunity to discuss the matter. I hope that

Senator O'Connor

will inform his colleagues that it is the desire of the Senate that the regulations shall be so framed as practically to meet the working conditions of the various ports.

Amendment, by leave, withdrawn.

Senator GLASSEY

- I think Senator Charleston need have no fear that the regulations can be framed in such a way as to meet the legitimate claims of every port, and to secure the utmost facilities not only to the shippers and those immediately concerned, but to the public as well. I do not see why an amendment cannot be inserted in the Bill, preserving all the rights and privileges of the various ports, and at the same time meeting the just claim put forth on behalf of Port Adelaide.

Amendment (by Senator O'Connor) proposed -

That the words "not less than seven days" be omitted, with a view to insert in lieu thereof the words "within such respective times."

Senator CLEMONS

(Tasmania.) - Before we insert these words I think the committee ought to understand what they mean. It cannot be, and I am sure it is not, in contemplation by

Senator O'Connor

that regulations shall be so made as to vary with different boats that come into the same port.

Senator O'Connor

- Certainly not.

Senator CLEMONS

- Recognising that that is not what is wanted; I think that the clause as it stands is quite sufficient to meet the case.

Senator Millen

- It might be a different time for a steam-ship as against a sailing vessel.

Senator Sir Richard Baker

- It is now.

Senator Major Gould

- And different times for one port as against another.

Senator CLEMONS

- I submit that the words "as may be prescribed" will cover the whole ground, and will enable the Executive to prescribe specific times at the various ports.

Amendment agreed to.

Amendment (by Senator O'Connor) agreed to -

That the words "as may be prescribed" be inserted after the word "ship," line 3.

Clause, as amended, agreed to.

Clause 69. -

Goods may only be unshipped pursuant to -

) A collector's permit ; or

An entry passed.

Penalty : One hundred pounds.

Senator Sir FREDERICK SARGOOD

- I move -

That after the word "goods," line 1, the words "other than as prescribed, " be inserted.

I had intended moving that the words " except fresh fish " be inserted, but Senator O'Connor, in discussing a previous clause and quoting other Customs Acts, pointed out that there is a considerable number of other commodities which require to be cleared quickly; It is just as well to give the Minister of Customs power to deal with this matter by proclamation.

Amendment agreed to.

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Senator PULSFORD

- The penalty of £100 is very drastic for the offence contemplated in the clause. In the case of a ship, hundreds of such entries may have to be passed, and the non-passing of any one entry may lead to a heavy penalty. I do not propose any amendment, but I ask honorable members to bear this clause in mind when we come to the provision that the minimum penalty shall not be less than one-twentieth of the maximum. I shall ask honorable members to strike that provision out, or to allow the minimum to be reduced.

Senator O'Connor

- This is a most important clause, intended to prevent smuggling, and there is no reason why the penalty should not be a heavy one.

Senator PULSFORD

- The penalty should be a heavy one where it may be justly inflicted ; but to inflict a minimum penalty of £5 for some mistake or carelessness on the part of an office boy, would be altogether unjust.

Clause, as amended, agreed to.

Clause 70-

All goods unshipped shall be either -

Landed directly at a wharf, or after conveyance thereto in a licensed lighter direct from the ship ; or (b)

Transhipped direct to the ship into which they are to be transhipped, or after conveyance there to in a licensed carriage or lighter direct from the ship.

Penalty : One hundred pounds.

Senator Major GOULD

- I move -

That the word "direct" after the word " lighter," line 4, be omitted.

It frequently happens that lighters have to call at different vessels, and it may be impossible for a lighter to take goods direct to the ship in which they have to be transhipped. The amendment would not cause any delay to the lighter, or interfere with the Customs authorities; and I may say that it is moved at the suggestion of the Sydney Chamber of Commerce.

Amendment agreed to.

Senator CHARLESTON

- The word " direct " occurs again in paragraph (if) of the clause. Should it not also be struck out ?

Senator Sir WILLIAM ZEAL

- It seems to me that the Government are running great risk in accepting amendments which are proposed on the spur of the moment, and of which honorable members have had no notice. I know of one important Act in the Victorian Legislature, the object of which was entirely defeated by an amendment of a vital clause made at the instance of a private member. If I were representing the Government I should insist on all amendments being printed, so that every honorable member should have an opportunity of considering them.

Senator O'CONNOR

- I quite appreciate the spirit in which Senator Sir William Zeal has made his remarks, but I take care that all the amendments carried are such as will not interfere in any way with the efficiency of the Bill as a means of collecting revenue.

Senator PLAYFORD

- I think the word " direct " ought to remain. These transhipped goods are intended to be taken out of the port, and do not pay duty ; and if they are not sent direct to the ship, a call might be made on some coaster, and a portion of the cargo left there for the purpose of being smuggled. The clause is an

exceedingly involved one; and it is difficult to understand the latter* part of it.

Senator CHARLESTON

(South Australia). - If the word "direct" is retained in the Bill, and a lighter passes from a. P. and O. to an Orient boat without first landing the goods she obtained from the P. and O. boat, she will be liable to a heavy penalty.

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Senator CLEMONS

-I agree with the contention of Senator Playford, and think that the word "direct" should remain in the Bill. The omission of it might afford an opportunity for fraud. I also agree with what Senator Playford said as to the construction of the clause. I put it to Senator O'Connor, whether it is, not desirable either to give an opportunity of putting the clause into better form or to postpone it. The clauses of this Bill ought to be made to read so that any one can understand them .

Senator Major GOULD

(New South Wales). - I move -

That the word " direct," line8, be omitted.

A lighter has frequently to call at different, vessels ; and if only a small quantity of goods is taken from one vessel, and the lighter has to deliver that small quantity before she can call on another ships, expense will be unduly increased and people will be harassed. If the word " direct " be omitted smuggling will not be made easier.

Senator CHARLESTON

(South Australia). - I would point out that the goods have to be carried ina licensed boat or lighter. The fear that the omission of the word " direct " may give rise to smuggling should be removed by the recognition of the fact that the man carrying the goods would be a licensed person and would be under the penalty of losing his licence if he were found guilty of smuggling.

Question - that the word proposed to be omitted stand part of the clause - put. The committee divided -
Ayes 13

Noes 12

Majority 1

Question so resolved in the affirmative.

Amendment negatived.

Clause, as amended, consequentially amended, and agreed to.

Clause 71 -

Goods unshipped and landed under a collector's permit shall be placed by and at the expense of the master or owner of the ship from which they were unshipped in a place of security approved by the collector, and shall, until lawfully removed therefrom, be at the risk of the master or owner of the ship us if they had not been unshipped.

Senator Major GOULD

- I move -

That all the words after "collector," line 5, be omitted.

Honorable senators will see that goods unshipped and landed under a collector's permit will, under this clause, be put in a place of security provided by the collector. It is unreasonable to go beyond that, when the goods have been unshipped under the direction of the collector, permission for which, I presume, is only given after the entries have been passed. The master is, however, to be made responsible until the goods are removed, just as if they had been on board ship all the time. So that, in the event of a robbery or anything of that kind, the master or owner is responsible, although he has placed the goods in a safe place approved by the collector. I t is hardly fair to place this responsibility on the master or owner.

Senator O'CONNOR

- This clause is intended to meet the very cases instanced by Senator Charleston with regard to goods being taken out of a' ship. It may be necessary, if entries are not passed, to place goods out of the ship for the sake of expediting unloading before there has been an actual delivery by the ship-owner or the consignee. Inasmuch as that is for the benefit of the ship, it is not too much to say that the ship-owner or master shall be in the same position as if the goods were still on board the ship.

Senator Major Gould

- What about the bill of lading?

Senator O'CONNOR

- If the bill of lading provides for any different method, I presume that the contract will have to be carried out. But there will be no real difficulty about the matter. A certain time in most of these cases is allowed to the consignee to take out his goods. It may be necessary for the ship-owner and master to put the goods out of the ship before that period has arrived. Under those circumstances, the owner or master still remains liable. This is not an unusual provision.

Senator CHARLESTON

- This clause shows how necessary it is in the interest of the ship-owner that the time of landing the goods shall be limited as much as possible. In South Australia entries have to be made within 24 hours. Steamers come to a port and leave it again within twelve hours, when they have not many tons of cargo to land, and are able to get a permit to land it from the Collector of Customs. The goods are put into a shed for the 24 hours, and then the consignee must take his goods, or they are at his risk. Under that system a steamship would be released of liability in less than 24 hours, whereas in the other case to which I referred, the liability would, under the clause, remain for seven days. If goods are landed to suit the convenience of the ship-owner, it should be at his expense.

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Senator PLAYFORD

- The honorable senator has been on the wrong track, because this particular clause has nothing to do with the time within which people may pass entries. This has to do with the case in which a man has neglected to pass any entry at all, and goods are landed from a ship under the collector's permit. The ship wants to clear, and the goods are placed in some secure spot selected by the collector. The question then arises - at whose risk are they to remain? It appears to me that they should remain at the risk of the persons at whose risk they would have been, supposing that they had never been landed from the ship. That is- exactly what the clause provides, and that is the proper course to pursue. Under these circumstances, I shall have to vote against the proposed amendment.

Senator Major GOULD

(New South Wales). - There is no doubt a great deal in what the honorable senator has said as to the meaning and effect of the clause. But is it reasonable to provide that if these goods have had to be landed in consequence of the neglect of the consignee to pass his entries, and in order to facilitate the business of the ship, which, after all, only conveys the goods from port to port, the ship-owner shall be the person responsible in the event of anything happening to the goods after they are landed

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I say the consignee should be responsible, the man through whose neglect it has been necessary to land the goods, and place them in the warehouse.

Senator O'Connor

- Suppose they turn out to be prohibited goods, and the consignee does not come forward to pass entries or to claim them? The captain should not be able to wash his hands of the whole thing and avoid responsibility.

Senator Major GOULD

- If prohibited goods are landed, the person landing them is liable to a penalty under the Customs Act, and is not clear of liability if he has committed a direct breach of the law. But, where there has been no breach of the law, and it is necessary to get a ship away that goods should be landed, why should not the consignee, who has neglected his manifest duty, accept the responsibility?

Senator Sir FREDERICK SARGOOD

- There is another point to which attention has not been directed. It not infrequently happens that goods are landed under a special permit from the collector for the convenience of the ship. Not long since a ship having a large consignment of goods for my firm called at Perth, and by special permit of the collector a considerable portion of those goods was landed at Perth, and subsequently brought on to Melbourne. Honorable senators will agree that, in such a case it is right that the ship should be responsible, and not the consignee. This is an exceptional transaction, and the clause appears to me to provide the only way in which it can be dealt with.

Senator MILLEN

- The position depicted by Senator Sir Frederick Sargood is quite correct, but there is another position about which the honorable senator said nothing. Where the landing of goods is for the convenience of the ship it is quite right that the owner should be held responsible. But supposing the landing of the goods is owing to the default of the owner, ought the same liability to attach to the ship-owner then ? What I should like to know before giving a decision is whether there may not be some clause in the ordinary bill of lading dealing with a matter of this kind. It is possible we may be doing something here which may trench upon some old established shipping custom.

Senator O'CONNOR

- The clause is really in the interests of the ship-owner. The owner of the goods can get them at any time by passing entries. There is power under Clause 67 to deal with a neglect to pass entries. Under that clause the goods maybe removed to a warehouse and in case entries are not passed for them or they are not claimed they can be sold. A shipowner, for his own convenience, may wish to get a collector's permit by which he can put the whole of his goods out on the wharf. That may be necessary to secure expedition in unloading the ship. The consignee is then in a position to pass his entries and take the goods. But until the goods are lawfully removed they are at the risk of the owner of the ship. Where goods are removed from a ship under a permit in that way, and the ship goes away, it will be open to the collector to take action under clause 67 if entries are not passed for the goods. He will take possession of them and put them into a warehouse, and they will be dealt with in the ordinary way. It must be remembered that the ship-owner is not responsible for the goods for all time, but only until they are lawfully removed, and they would be lawfully removed by action taken under clause 67 for the purpose of recovering the duty. A collector would not leave goods for any length of time without taking steps to get the duty upon them. This clause is necessary for the protection of the revenue, and for the convenience of ship-owners in these days when the rapid unloading of ships is of the utmost importance to them.

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Senator EWING

- It is suggested in this case that goods removed from a ship under a permit should be at the risk of the master of the ship. The liability that is cast upon the master is part of the contract he has made with the persons shipping the goods. Any one who has read a bill of lading must know that the ship-owner is amply protected, and he would have no further responsibility under this clause than is cast upon him by his contract with the shipper of the goods. If he is not liable under his contract in the bill of lading, this Bill will not make him liable.

Senator CHARLESTON

(South Australia). - In this case some one else steps in between the ship-owner and the shipper of the goods. The Customs officer gives the permit to land the goods. Where goods are landed under such a permit for the convenience of the ship-owner, they should be at the risk of the ship-owner.

Senator Major GOULD

(New South Wales). - I cannot quite see the provision in the same way as some honorable senators. The clause requires the entries to be passed within a certain time, say seven days, but the bill of lading may require the consignee to take possession of the goods within 24 hours after the ship's arrival. He is not bound to pass his entry for six days, but the ship-owner may say to him - " You are bound to take your goods within 24 hours, and, therefore, we shall land them at your risk." In the clause, however, we say that the goods -

Shall be placed by and at the expense of the master or owner of the ship from which they were unshipped in a place of security approved by the collector.

The consignee ought to take his goods within 24 hours of the ship's arrival, but he fails to do so; is the master then at his own expense to have the goods landed ? Under the clause the collector gives his permit in order that the goods may be unshipped, which is done at the expense of the ship-owner. Then the ship-owner has to pay all the expenses of the goods in the warehouse until the consignee takes lawful possession of them, or the collector takes them out; and during this period of four or five days they are at the risk of the shipowner or master of the ship. It is all very well to say that he protects himself by the bill of lading, but, when he attempts to sue under it, this section is placed before the court, and surely the statute law must override the provision in the bill of lading. In a case like that we are throwing an undue hardship on the master of the ship. It is not a question as between the Government and the ship-master,

but as between the shipmaster and the consignee.

Senator PULSFORD

- I support the contention of Senator Major Gould. It is not fair to put on the master of a ship the responsibility of goods being burnt which had to be landed by the default of the owner. The goods may have been landed, the owner may have had an opportunity of entering and taking possession of them, but he did not do so, and the goods were put in a warehouse which that night was burned down. In such a case it would not be justice to demand from the ship the value of the goods which had been destroyed by fire. Moreover it seems to bring about a conflict between the conditions which exist in most bills of lading and the wording of the clause. I should be quite willing for the clause to stand if some words were added to make it apply to a case where the landing was only for the sole advantage of the ship, and where the owner of the goods could not be called on to enter them with the speed desired.

Motion (by Senator McGregor) agreed to -

That the committee do now divide.

Question - That the words proposed to be omitted stand part of the clause - put. The committee divided -

Ayes 18

Noes 7

Majority 11

Question so resolved in the affirmative.

Amendment negatived.

Clause agreed to.

Clause 72 -

Any goods may by authority be repacked or skipped on the wharf.

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Senator CLEMONS

- I can understand that any goods may by authority be repacked, and I am not concerned to know whether it is by the authority of the owner or by the authority of the Comptroller of Customs. The clause can stand so far without any interference on my part. But when these goods are to be skipped, I want to know what is to happen.

Senator O'CONNOR

- The word "skipped" describes an operation with which I have no doubt Senator Clemons is perfectly familiar, and that is pouring dutiable liquor from one receptacle into another; and the words "by authority" are interpreted to mean-

The authority of the officer of Customs doing duty in the matter in relation to which the expression is used.

Senator CLEMONS

(Tasmania). - I am much obliged to

Senator O'Connor

for the explanation. I can easily understand the reference to "skipped" when he tells me that goods can be subject to the operations of pouring. It is quite obvious that goods can be repacked; but it is not so easy to understand how spirits can be both poured out and repacked, and therefore I understand that the goods referred to in this case are spirits.

Clause agreed to.

Clause 74 -

There may be four classes of licensed warehouses, as follows: -

Class I. - General warehouses, to be used for warehousing goods generally.

Class II. - Private warehouses, to be used only for warehousing goods the property of the licensee.

Class III. - Machinery warehouses, to be used only for warehousing machinery and similar heavy or bulky goods.

Class IV. - Manufacturing warehouses, to be used for warehousing goods for use in such warehouse in any manufacture trade, or process, and for carrying on in such warehouse any manufacture, trade, or process which the Minister may by Gazette notice declare that it is desirable to encourage.

Senator PULSFORD

- I propose to substitute the word "three" for the word "four" in line 1, so that there shall be three classes

of licensed warehouses, and then to omit Class I'll. It will be observed that the first class includes warehouses belonging to people who follow the business of warehousing, and take in goods for all kinds of importers. The second class includes private bonds that belong to importers who are in a considerable way of business. The fourth class includes a warehouse in which, by authority, goods that are to undergo some manufacturing operation may be placed, and the- manufacturing process carried on with a view to-avoiding waste. Then we have something which is to be called a" machinery warehouse, but whether it is to be a private or a general warehouse, or- both, we do not know. This provision appears to me to put on the importers considerable and unnecessary hardship. If an importer has a bonded warehouse of his own, why should he not be allowed to put into it a piece of machinery which he imports ?

Senator Sir Frederick Sargood

- There is nothing to prevent him doing so.

Senator PULSFORD

- Then why is the clause wanted 1

Senator Sir Frederick Sargood

- It will be of great use to merchants.

Senator O'Connor

- Such a warehouse is to be used for machinery only.

Senator PULSFORD

- .Why not let merchants manage their own business ? It appears to me that it is not necessary to have four classes. I move -

That the word "four," line], be omitted, with a view to insert in lieu thereof " three."

Senator O'CONNOR

- I do not think Senator Pulsford has made out a case for an alteration of the clause, the policy of which is very plain. We have general warehouses and private warehouses, and the third class of warehouse is intended to enable places to be used for the storage of machinery and other similar heavy goods.

Machinery only will be stored there, and the inspection by the Customs officials thereby made easy.

Some of these machinery warehouses at present in Victoria are, I understand, simply open yards; in fact, any place fit for storing such goods may be used as a warehouse, and the clause is a convenience to importers and owners of machinery.

Senator Pulsford

- All that Senator O'Connor refers to can be done under Class I. and Class II.

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Senator O'CONNOR

- That is not so, as the honorable senator will see when we come to deal with the schedule in which charges are laid down; appropriate to the requirements of the different classes of warehouses. It is necessary, however, in the Bill itself, to define the different classes of warehouses, and if machinery warehouses are required, why should they not be mentioned distinctly ?

Senator PULSFORD

(New South Wales). - A man who, like myself, comes from a State where the people have been accustomed to conduct their commercial affairs with a great degree of simplicity, may be excused if he raises his voice against the introduction of unnecessary complexities in arranging business which will in the future have to be conducted under heavier customs duties, on whatever lines those duties may be arranged. I cannot see any occasion for multiplying warehouses in the way indicated, and I therefore urge that the limitation- I have suggested be adopted.

Senator Major GOULD

- I go further than Senator Pulsford, and ask where is the necessity for the warehouses mentioned in Class IV., when general or private warehouses can cover all requirements? I do not see why we should have four classes of warehouses when two would be sufficient. A man might put machinery or any goods used in the course of manufacture in a general warehouse, in the same way as he could put them in his own private warehouse.

Senator O'CONNOR

- This clause enables the Government to license as a machinery warehouse, a place which could not be licensed as a general warehouse. In a general warehouse any kind of dutiable goods may be stored, and

care must be taken as to the kind of place registered.

Senator Sir FREDERICK SARGOOD

- Senator Pulsford and Senator Gould are to be envied for coming from a State where there is such great freedom in connexion with commercial matters. In Victoria, however, it is absolutely necessary, in the interests of the commercial public, that there should be machinery warehouses. It would not be impossible to put machinery in a private warehouse, but it would be costly ; and there is no necessity to store machinery under cover. As a matter of fact, there are, and have been for years, five machinery warehouses in Victoria the fee for which at present runs from £1 to £25, while the fee for a general warehouse, would be £200, and for a private warehouse £50. Manufacturing warehouses are absolutely necessary. A Customs officer is needed there the whole of the time, and in Victoria the charge is £200, and if another locker is required, another £150. But for private warehouses the charge would not exceed 2s. per hour, or a lump sum of £50.

Senator CLEMONS

- I have listened with some interest and, at the same time, with considerable surprise, to Senator Sargood's remarks in regard to class 4. As to the desirability of manufacturing warehouses there need be no question ; but I look with a great deal of suspicion on the power given to the Minister in connexion therewith. It is not at all desirable that the Minister should have power, at his own discretion and without interference from Parliament, to limit the class of manufacture, trade, or process that may be carried on in a warehouse ; and I shall presently submit an amendment taking away that power.

Senator Sir FREDERICK SARGOOD

- I did not deal with that point.

Senator CLEMONS

- But speaking, generally, the honorable senator said that this class of warehouse was desirable. There is a subject on which we are forbidden to touch, but which is in our minds ; and no matter where we sit in the House the last sentence of this sub-clause is one that we must view with grave suspicion.

Senator PULSFORD

(New South Wales). - If

Senator O'Connor

thinks that these four classes of warehouses are absolutely required, I will not insist on my amendment, recognising, as I do, the necessity for proceeding with the Bill with all speed.

Amendment, by leave, withdrawn.

Senator Major GOULD

(New South Wales). - In regard to private warehouses, I think there ought to be an amendment made by the insertion of the words " or subject to his control " after the word " licensee." There might be consignments of goods which did not belong to the warehousekeeper, but were under his control.

Senator O'Connor

- The suggested amendment would lead to rather a dangerous condition of things. Private warehouses ought to be used for dealing with the proprietors' own goods.

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Senator Major GOULD

- Manufacturing warehouses are only to be used for any manufacture, trade, or process "which the Minister may by Gazette notice declare that it is desirable to encourage." I cannot for the life of me see the necessity of adding the concluding words. The whole object of the Government ought to be to give an opportunity to people desirous of entering into manufacturing industries to import materials for the purpose of their manufactures. But why should the Minister be in a position to say to a manufacturer, " You shall have a warehouse for manufacturing in a certain industry but not in another." The more manufacturing industries we have, and the larger the number of people employed, the better it will be for the Commonwealth. Both free-traders and protectionists recognise that. We all have the same desire in that respect, and I cannot see why the Minister should have power to interfere with the liberty of a man to carry on what business he chooses so long as all businesses are carried on under the eye of the law. I therefore move -

That the following words be omitted - "Which the Minister may by Gazette notice declare that it is desirable to encourage. "

Senator PLAYFORD

- I am not particular as to the language of the clause, but I can tell the committee where the idea of it came from. It came from South Australia, whence so many good ideas emanate. I do not remember the actual wording of the section in the South Australian Act, but I can give honorable senators an instance in which, while I was Treasurer, I adopted such a practice as would be permitted under this clause. I have no doubt that I did it under legal authority. A man in South Australia wanted to manufacture starch. Starch is made from a good many articles, one of the principal of which is rice. In South Australia we had a duty of so much a pound on rice, it was not a protective, but a revenue duty. This gentleman wanted to use inferior rice which he imported from various parts of the world, and, as Treasurer, I granted permission to him to import such rice duty free, on the understanding that it was dealt with in a bonded warehouse, under the control of a Customs official, and was used only for the purposes of making starch. That was encouraging an industry precisely in the same way as one could be encouraged under this clause. The Treasurer should be able to do that in certain cases. We may want to impose a duty on articles used for ordinary purposes of consumption, but may desire that those articles shall come in free if they are to be used for manufacturing purposes. Under this clause that could be done. It is therefore necessary to have some such provision, and discretion must be given to some one. It appears to me that the giving of the discretion as here proposed is right and proper.

Senator MILLEN

- If I understand aright, the very result that accrued in the progressive state of South Australia in the instance mentioned by Senator Playford would be accomplished if the words objected to by Senator Gould were omitted. We all desire to encourage manufactures, but the Minister ought to have no power to discriminate between one trade and another. If there is to be discrimination, let it be under an Act of Parliament. Suppose that Senator Playford had been against the establishment of the starch industry in South Australia.

Senator Playford

- Suppose he had been a fool.

Senator MILLEN

- Then South Australia would not have made the progress it has done. Every State is not South Australia, and is not able to place its hands on a Senator Playford at a moment's notice. Suppose a particular Minister determined that a particular industry was not a desirable one to encourage. If such a case cannot be imagined, why put this power in the hands of a Minister? If it is not intended to be used, there is no use in creating the power. If it is intended to be used, there is great harm in allowing it to remain in the Bill. I understand the purport of the clause to be to enable manufactures to be carried on in bonded warehouses. If that is so, does the Minister seriously mean that the manufactures which may be carried on in a bonded warehouse should be only such as are determined by the Minister?

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Senator O'CONNOR

- The real point of the matter has been put by Senator Playford. That is, that it is necessary to give some control to the Minister in respect of dutiable goods which are allowed to come in free for the purposes of manufacture. But, beyond that, it is not required to give the Minister any other control. It seems to me that it was never intended that the power should go beyond what I have stated. I admit that as the clause is drawn, it is open to the interpretation that it is left to the Minister to decide what manufactures shall be permitted in this manner. There is no necessity for giving that power to the Minister. Therefore, as there may be a misunderstanding, I propose to consent to Senator Gould's amendment, but to make the matter perfectly clear, I move -

That after the word "use," in class IV., the words "under such conditions as may be prescribed" be inserted.

The paragraph will then read in this way -

Manufacturing warehouses to be used for warehousing goods for use under such conditions as may be prescribed in such warehouse in any manufacture, trade, or process, and for carrying on in such warehouse any manufacture, trade, or process.

Senator CLEMONS

(Tasmania). - I would ask

Senator O'Connor

if he has any objection to inserting those words sifter the word used " instead of after the "word " use " as proposed, so ' that the paragraph would read -

Manufacturing warehouses to be used under such conditions as may be prescribed.

Senator O'Connor

- No, it is the use of the goods that we want to make subject to the condition.

Senator CLEMONS

- We also want to put some limit on the use of these warehouses, and if the words are inserted where I suggest they would better serve the purpose.

Senator EWING

- I do not propose to take any exception to the insertion of these words, but they are not necessary. The Minister is not' compelled to license any premises at all. If he thinks that any premises will afford opportunities for fraud, he can, without giving any reason at all, refuse a licence for them. He can, therefore, absolutely protect the department without the insertion of these words. Before he will grant a licence for a warehouse the person applying for it will no doubt have to satisfy him that the premises for which he asks a licence are suitable for the kind of licence he applies for. The clause would perhaps be more comprehensive without these words than with them. The Minister could grant a licence subject to such conditions as he might think fit.

Senator O'Connor

- There is no power to impose conditions in the general clause.

Senator EWING

- The Minister might make a form of licence suitable to the manufacture to be carried on. This is a specific licence that is provided -for, and it will be drawn in such a way as the Minister sees fit.

Senator Clemons

- Does the Minister still think it would be better to insert these words after the words " use " than after the word "used"?

Senator O'CONNOR

- I cannot fall in with the suggestion made by Senator Clemons, because we want to guard against the particular way of using' the goods in the warehouse, so 'as, perhaps, to evade the payment of duty or to 'render smuggling easy. We want power to impose conditions on the 'way of using the goods in the warehouse, and not conditions with respect to the warehouses themselves.

Senator EWING

(Western Australia). - It has been suggested that it would be necessary to provide conditions for particular trades by regulation. Surely it would be better to give the Minister power to issue . licences subject to such terms and conditions as to him should seem fit. If we are. going 'to provide for a regulation, we can only deal with one class, and new regulations may be required to deal with each case.

Senator Playford

- If we put it the other way, we would have to make a new licence to meet each case.

Senator EWING

- That may be true, but we would not have to go through tile formality of putting it in the Gazette.

Senator Playford

- It is better to have the publicity.

Senator O'CONNOR

- I see what Senator E wing's objection is ; but it is essential that where we give a Minister such power as is given here we should take care that each manufacturer is treated in the same way, and there should be publicity given to the conditions under which the Government will deal with a person establishing a particular manufacture.

Senator Ewing

- There may be local conditions.

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Senator O'CONNOR

- There is no reason why they should not be attended to, or why the regulations in each State should not be different. 'But the regulations should be the same for the same trade in each State. It is much better

that it should be publicly known that there are distinct and fixed lines in regard to the way in which each trade must be conducted.

Amendment (Senator O'Connor's) agreed to.

Amendment (by Senator Gould) agreed to--

That the words "which the Minister may, by Gazette notice, declare that it is desirable to encourage," be omitted.'

Clause, as amended, agreed to.

Clause 78-

Upon the landing of any goods to be warehoused, or so soon as practicable thereafter, the officer shall take a particular account of the goods and shall enter such account in a book.

Unless where otherwise provided, such account shall be that upon which the duties shall be ascertained and paid.

Senator PULSFORD

- This clause says that the officer is to take " a particular account " of the goods, and I think these words " a particular account " are very objectionable. I move -

That the words "a particular account," line 3, be omitted, with a view to insert in lieu thereof, the words "an account as prescribed."

Senator O'CONNOR

- Why not " a particular account "? It seems to me that under the circumstances a particular account ought to be taken. It is evident that an officer could not properly perform his duty without taking a particular account; otherwise he would not know what the goods were. Duty has to be paid upon goods, and for that reason, and because the officers might otherwise lose the run of the goods, it is necessary that a particular account should be taken. There is no doubt that the power of dealing with matters by regulation is useful, but when it is clear that a matter must be dealt with in this clearly defined way there is no use in leaving it to be dealt with by regulation.

Senator PULSFORD

(New South Wales). - Surely the honorable and learned senator does not imagine that I think an account of a careless character should be taken! Whatever the class of goods may be of which an account has to be taken, certain details will be required. Whether the duty is to be paid by weight or by measurement, various details will require to be considered ; but I contend that it would be better to say that the account to be taken shall be " as prescribed." I am certain that, whether the words I suggest are inserted or not, the officers will be directed as to the particulars that are required. I have no desire to press the amendment.

Amendment, by leave, withdrawn.

Clause agreed to.

Clause 82 -

The collector may in prescribed cases permit the owner to sort, bottle, pack, or repack goods in any warehouse.

Senator MILLEN (New South Wales). - I ask Senator O'Connor whether this privilege might not be accorded in all cases without any restriction ? It is a question of deciding in what particular circumstances a man shall be entitled to repack his own goods. I do not wish to raise a debate on the clause, but it seems to me that the word "prescribed" might very well be left out.

Senator O'CONNOR

- It is impossible that power should be given in all cases to do this. It is one of those details in regard to which some rule must be laid down by the department. There may be some cases in which it would be dangerous to the revenue to allow this, while in other cases it would not be dangerous to the revenue.

Senator Ewing

- Could we not leave it to the common sense of the collector, and say that the collector may permit this to be done ?

Senator O'CONNOR

- I do not think we could leave it to the collector ; it would be a bad thing to give him any more authority than is necessary. He might allow it in one case and not in another where it might just as fairly be allowed. Honorable senators will see that in regard to some goods, such as spirituous liquors, upon which

the duty must always be high, there will always be a temptation to evade the payment of the duty where possible, and if we permitted repacking in such cases we should risk the loss of a large quantity of goods. That is the reason why in all cases the authority to pack and repack and bottle is restricted, and the work is to be done under authority only. It is exactly the same principle as that of allowing goods to be imported in certain sized packages only. At first sight that seems to be a very grave interference with the liberty of the subject, but it has always been recognised that if dutiable articles are allowed to be imported in smaller packages than the sizes specified smuggling is facilitated, and the detection of smuggling made more difficult. This is really a regulation of that kind. We must take it that the regulation will be reasonable, and that there will be no more interference than is necessary.

Senator Ewing

- Would it be necessary to make a regulation for each case?

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Senator O'CONNOR

- No ; the Government would have to make a regulation probably for each class of cases or groups of classes of cases, but certainly not for individual cases. It means in prescribed instances.

Senator EWING

- I think that the words " prescribed cases " mean in prescribed instances. But this evidently is not the intention. It means that the collector may allow a certain class of goods to be dealt with in this way.

Senator O'CONNOR

- Really what it means is - " may as prescribed permit the owner." If Senator Millen thinks it would be any clearer I have no objection to the clause being amended so as to read -

May as prescribed permit the owner to store, bottle, pack, or repack.

Senator Millen

- I think that is better.

Senator Ewing

- That will give power to make regulations as to how he shall do it.

Clause amended accordingly, and agreed to.

Clause 84 -

In all prescribed cases warehoused goods in manufacturing warehouses may in manner prescribed be utilized for manufacturing purposes, and the manufactured article may be delivered for home consumption subject only to the payment of such duty (if any) as may be prescribed.

Senator PULSFORD

- What is meant by the concluding words? It would appear that power is given to some officer to prescribe how much money by way of duty shall be paid on the delivery of goods from a manufacturing warehouse.

Senator Ewing

- It means as prescribed by regulation.

Senator PULSFORD

- If the Act of Parliament says that a duty of £5 a ton shall be paid, a regulation cannot reduce or increase that amount.

Postmaster-General

Senator DRAKE

. - Where dutiable articles are allowed to be warehoused for manufacturing purposes, and a portion of them is used in the manufacture of goods, then the duty which is prescribed represents the proportion of the article which has been used for manufacturing purposes. Supposing, for example, that a certain amount of caustic soda is necessary for the manufacture of soap, and that it is a dutiable article ; it is allowed to go into the factory, and when the soap comes out for home consumption the regulations prescribe the amount of duty which shall be paid on the caustic soda it contains. That, I think, is the explanation of the clause.

Senator Millen

- Does the Minister pretend that the meaning he has given attaches to the clause?

Senator DRAKE

- I think so.

Senator PULSFORD

(New South Wales). - It is not limited to that meaning. It is quite evident that it can be carried much further. If it could be limited to the goods which

Senator Drake

referred to it would be all right.

Senator Ewing

- The regulations that prescribe the amount would have to be strictly in accordance with the Tariff, otherwise they would be ultra vires.

Senator Major GOULD

- When the manufactured article is required to be delivered for home consumption, how are we to find out the duty which is payable ? It is to be " as prescribed by regulation." It does not say clearly that the duty is only to be proportionate to the duty on the goods used in the manufacture of the article. Supposing that so much caustic soda was used in the manufacture of a parcel of soap as would entitle the revenue to a duty of £5, there is apparently nothing to say that the collector could not impose a duty of £10. We want the clause to be so clear that there will be no necessity for an appeal. It is desirable that an amendment shall be made to carry out what is really the intention of the clause. I am not prepared at the moment to suggest the form of the amendment.

Senator CHARLESTON

- It occurred to me while Senator Drake was speaking that such duty can only be imposed as is authorized in the Tariff. Can we express that in words ?

Senator Drake

- It is not necessary.

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Senator PLAYFORD

- I understand exactly what the clause aims at, and although the language is possibly a little involved, still it is evident what it means. Supposing that a man is manufacturing an article, we allow him, under certain rules and conditions, to store in his warehouse any dutiable raw material which he requires to use in the manufacturing process. We do not want to charge any duty in respect of any portion of the dutiable article which he may export in the manufactured goods. But we want him to pay the duty on the dutiable article which was used in the manufactured goods entered for home consumption and sold to the merchants. As I read the clause, it expresses that meaning, though perhaps not so clearly as it might do. I think it will accomplish that object. Under no circumstances will the regulations be able to impose a duty higher than that which is prescribed in the Tariff.

Senator EWING

- A suggestion has been made by Senator Charleston to substitute the words " as may be required by the Tariff." Take the case of a soap manufacturer who uses raw material which is subject to a duty. He is not to be charged the duty imposed on soap, but the duty chargeable on the raw material he used if it is liable to a duty. This is purely a matter of calculation, and it is to be based on the Tariff. Any regulation which imposed a duty heavier than was justified by the Tariff would be ultra vires. It is only on the dutiable ingredients used in the manufacture of the soap that the manufacturer has to pay duty when the soap is entered for home consumption. I do not see how the meaning could be better expressed than it is.

Senator Major GOULD

(New South Wales). - We are all perfectly agreed as to what is the intention of the clause, and the only question is whether it bears out what was intended by the Government. I think it might be made very much clearer than it is, but I am not prepared with an amendment, and in the face of the assurance from the Minister we might very well allow it to go as it is.

Clause agreed to.

Clause 89 (Collector may order removal of goods from private to public warehouse) -

Senator PULSFORD

(New South Wales). - This is a drastic clause, which confers on the collector extreme and arbitrary power. The proceeding may be carried out by the collector without appeal to any Court, and I should be glad if the Minister would give some explanation which would justify honorable senators in passing such a provision.

Senator O'CONNOR

- This clause is to enable the collector to interfere where he thinks there is fraudulent dealing with goods. The storing of goods in a private warehouse is a privilege granted by the Crown, and the clause simply leaves it to the discretion of the collector to withdraw that privilege, if he considers there are sufficient grounds for doing so. If there be reason to believe that goods are being dealt with in such a way as to cause loss of revenue, there must be this power of control.

Senator PULSFORD

(New South Wales). - There would not be so much objection to the clause, if there was some limitation to confine its operation to goods of, say, the value of £100. The clause as it stands enables the collector, for some whim or fancy, or on suspicion, to order the owner of a private warehouse to remove all goods within a few hours, or pay duty on them.

Senator O'Connor

- If that be assumed, the Bill might as well be thrown out.

Senator PULSFORD

- It might be impossible for the owner of a private warehouse to remove the goods in the time specified, and equally impossible for him to find the ready cash with which to pay the duty.

Senator MCGREGOR

- The arguments of some of the New South Wales senators would seem to show either that they desire unnecessary delay, or that they have not much confidence in the integrity of public officers. They are continually finding fault with the powers that are given to the officials, although those powers are really required.

Senator CHARLESTON

(South Australia). - I must protest against honorable senators, who are trying to understand the Bill, and do justice to the people who will be affected by it, being charged with wasting time. It is our duty to examine closely every clause, and make such amendments as we think desirable.

Senator WALKER

- The collector would not think of exercising the power given by this clause unless on very good grounds. In every private bond there is a locker who knows what is going on ; and we must have confidence in the Collector of Customs.

Clause agreed to.

Clause 94 -

Warehoused goods may be re-gauged, remeasured, re- weighed, or examined by the officer, either by direction of the collector or at the request and expense of the owner, and duty shall be payable according to the result, unless the collector is of opinion that any loss shown is excessive, in which case the duty shall be paid on the original entry with any reduction which the collector may see fit to allow.

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Senator CHARLESTON

- I move -

That the word " either," line 3, be omitted. Further on, I shall move that the words " or at the request and expense of the owner " be also struck out. The officer who gauges arid- treasures' is practically the locker, and his expenses are paid ' by the Warehousemen' in the heavy licence-fee. It is only the' owner of the goods who is interested in 'having the articles re-gauged or re-weighed"; and the clause seems like an attempt on the part of the Government to make him pay double fees. A request for ' re-gauging or re-weighing would be made in order to enable a warehouseman to act honestly by the Government, and it is very clear that this double charge ought not to be imposed.

Senator- O'CONNOR.

-- This clause is really for the benefit of ' the owner of the goods. Goods which have been in a warehouse for some time may have become lessened in weight or in value, and if the duty had to be paid on the goods as they had went into the warehouse, a grave injustice might be done to the owner, for whose benefit the fresh measurements or weights are taken. A special officer has to be called in to do the work; and it is only right that the owner should pay the cost, seeing that it is quite sufficient for the Government to have the work done once. If the clause be amended in the way suggested, it would be left in the power of the Government to either grant or refuse the request of the owner, and the next clause deals with one set of circumstances under which this request may be made. That clause provides that warehoused'

goods which are subject to
ad valorem,

duty, and which have deteriorated in value, may be re-valued on the application of the owner, and that the duty shall be paid according to the result if the collector is satisfied that the deterioration has been accidentally caused. The deterioration may be in value, or by loss of weight, and it is only reasonable that the party who wants the re-gauging or remeasuring should pay the expense. . If the amendment be carried it would be much against the interests of the owners of goods.

Senator CHARLESTON

(South Australia). - If by the amendment I should really deprive the owner of the right of making the request contemplated in the clause, I should like to withdraw that amendment. I shall then propose to strike out the words "and expense."

Senator Sir Frederick Sargood

- Why ?

Senator CHARLESTON. For the reason
that the services of the locker have already been paid for;

Senator Sir Frederick Sargood

- The locker does not do the re-gauging.

Senator CHARLESTON. The Importers
and Agents Association of Port Adelaide have written to me contending that as the officer who does the work is the locker in attendance at the bond, and as his services are paid for by the
warehouse-keeper in the annual licence-fee, a charge should certainly not be made for re-gauging and
remeasuring.

Senator Sir FREDERICK SARGOOD

- The locker does not do the re-gauging, which is a totally different duty performed by a specially licensed officer.

Amendment, by leave, withdrawn.

Amendment (by Senator Charleston) proposed -

That the words "and expense" be omitted.

Senator Sir FREDERICK SARGOOD

- Is it a fact that a locker in Adelaide is also a re-gauger ? I have never heard of that before. A locker has to keep a record of goods coming in and going out, but a gauger is a totally different person.

Senator MILLEN

- I would point out to Senator Charleston that if the committee strike out the words to which he has taken exception, we have to suppose that a locker is a competent officer to handle all kinds of things. It is absurd to suppose that for the salary paid to these officers, we can have men competent, say, to gauge spirits and then to turn round and examine a bale of calico goods. These examinations, if at the instance of the Government, should be paid for by the Government, but if for the benefit of the importer should be paid for by him. It is not unreasonable to suppose that the Government will send a competent officer, and in such cases the person asking for the officer should pay for his service.

Senator CHARLESTON

(South Australia). - I am given to understand that the locker at Port Adelaide does the weighing. It is possible that in a great port like Melbourne there may be a subdivision of duties. It is only fair that a warehouse-keeper who asks that goods should be re-gauged or re-weighed, should not have to pay again if the work is done by a locker whose services he has already paid for.

Senator Sir Frederick Sargood

- I quite agree with that.

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Senator MCGREGOR

- I wish it to be understood that even though some honorable senators may not have made many remarks in committee, it is not to be inferred that they are not paying attention to the business. Some honorable senators have not spoken, because they know very little about the subject, and if others who know very little more had followed, their example, we should have made more progress during the afternoon.

Senator, PULSFORD (New South Wales).. - In justice to Senator Charleston, I think it right to say that he told me last week that he had been requested by friends in Port Adelaide to move, this amendment. I said at the time that- 1 did not approve of it, but it is right that I should say this to show that Senator Charleston has not taken this action with a view of delaying business.

Senator CHARLESTON

(South Australia). - Apparently

Senator Sir Frederick

Sargood is - assuming that I can show that the locker in Port Adelaide is the man who does the re-gauging or re-weighing - quite in sympathy with my contention. I would, therefore, ask

Senator O'Connor

whether he will consent to recommit the clause

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Senator O'CONNOR

- I do not think the honorable senator, should, ask me for any such promise. The- position of the Government is quite clear. In the first place, re-gauging and re-measuring is skilled work, and the services- of those who do it should be paid for. In addition to that, very often a great deal of labour is involved. Take the case of warehouses where large casks of sugar, or cement are dealt with. Some one must pay for these services. If the labour of pulling down this sugar or cement is for the benefit of the owner of the goods, why should the Government pay for it? The line of- division between Senator Charleston and the Government is absolutely deal-, and I believe the majority of the committee will be of the same opinion.

Senator CHARLESTON

- I shall endeavour to ascertain, when I am in Adelaide at the end of the week, whether what I have stated is true, and shall subsequently endeavour to have the clause recommitted.

Amendment negatived.

Clause agreed; to.

Clause 95 -

Warehoused, goods subject to an ad valorem, duty which have deteriorated in value may be revalued on the application of the owner, and duty shall be paid according to the result, if the collector is satisfied that the deterioration has been accidentally caused.

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Senator PULSFORD

- I desire to move an amendment to . extend the operation of this . clause. I propose to .make it read - If the collector is satisfied that the deterioration results from unavoidable accident or natural causes.

Senator O'Connor

- It would never, do to say that, because consignees would- never have any perished stuff on their hands- at all under that:

Senator PULSFORD

-?- These are goods subject to- ad 'valorem duty, and. if. by some natural decay the value has fallen away by one-half, surely the duty should be equally reduced? We might at least- provide' for the reduction of duty where deterioration results from unavoidable accident, even if there is a solid reason for not inserting the words- " or natural, causes.''

Senator O'Connor

- "Accidentally caused" surely means the same thing, and if anything, is more in favour of the owner of the goods.

Senator PULSFORD

- I will not press that amendment, but I wish to propose another amendment as- an addition to the clause, or it may- be found desirable to submit it as a new clause. At present I move -

That* the following words be added to the clause : - " If any goods duly entered for delivery from the warehouse for removal or exportation shall" be lost or destroyed by unavoidable accident, either in the delivery from the warehouse or the shipping thereof, the comptroller may remit the duties thereon. "

Senator O'CONNOR

- I think that ought to be a new clause, but at the present time I see no necessity or reason for it. It seems

to me that without amendment the clause serves precisely the same purpose. It provides that where goods subject to an ad valorem duty have deteriorated in value, and the deterioration has been caused accidentally, there may be a re-valuation, and duty shall be paid according to the result of the re-valuation. I take it that is the object of the honorable senator's new clause.

Senator PULSFORD

(New South Wales). - No, it is not; because the provision I suggest would refer to goods which may be subject to specific duties.

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Senator O'Connor

- The honorable senator wishes to put goods subject to specific duties in the same position as goods subject to ad valorem duties ?

Senator PULSFORD

- It goes a little further than that. The clause we are dealing with allows a re-valuation of goods which have deteriorated, but which are actually in the warehouse ; but what I suggest would permit a re-valuation for the purpose of fixing the duty whether the goods were subject to ad valorem or specific duty, and though they may have been destroyed in the course of delivery, either from the ship or from the warehouse after duty has been paid.

Senator O'CONNOR

- If a general right of that kind were allowed, it would mean the possibility of a very great leakage of revenue. In any case where there may be any hardship I think the matter is sufficiently provided for by clause 156, which says -

Whenever goods have received damage, or have been pillaged during the voyage; or have, whilst under Customs control, been damaged, pillaged, lost, or destroyed : or whenever duty has been paid through manifest error of fact, or patent misconception of the law, a refund, rebate, or remission of the duty, as the case may require, shall be made in manner prescribed. .

Surely that carries out everything that can be fairly asked. Wherever any such case arises, the comptroller or collector will inquire into the circumstances, and I think we may trust him to see that where a fair case is made out the duty will be remitted. If, as the honorable senator proposes, we are to permit the remission of duty where goods have been destroyed in delivery after the duty has been paid, why should we stop at the warehouseman ? Why should we not extend the privilege to the shopkeeper, and from him to the householder ? Surely, once goods have been delivered out of Customs, and duty has been paid upon them, all control by the Customs is at an end, and it would not be a wise thing to permit persons to make claims for destruction of goods, and get a return of duty on goods that have gone altogether beyond the ken of the Customs ? Suppose a tobacconist's shop is burned down, after goods have been delivered to him upon which duty has been paid, why should the Government be compelled to refund the duty ?

Senator CLEMONS

- I think I shall be able to persuade the Vice-President of the Executive Council that there is something in the contention of Senator Pulsford, because that honorable senator has behind his suggestion the provisions of the English Act. Section 87 of the English Act provides -

If any goods warehoused or entered to be warehoused, or entered to be delivered from the warehouse, shall be lost or destroyed by unavoidable accident, either on shipboard or in removing, landing, or receiving into the warehouse, or in the warehouse, the Commissioners of Customs may remit or return the duties due or paid thereon.

That section appears to be fairly comprehensive, but in the opinion of the persons who framed the English Act it was not comprehensive enough, and they went further in section 116, which provides -

If any goods duly entered for delivery from the warehouse for removal or exportation shall be lost or destroyed by unavoidable accident, either in the delivery from the warehouse or the shipping thereof, the Commissioners of Customs may remit the duties thereon.

That is what Senator Pulsford is contending for, and the provision he suggests would cover the case of goods being lost or destroyed in delivery from the warehouse. Whether the honorable senator's proposal is right or wrong, with such good authority to back him as the English Act it is worthy of some consideration.

Senator PULSFORD

- My amendment is a copy of section 116 of the English Act, except that instead of the term Commissioner of Customs I adopt the requisite term comptroller.

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Senator Major GOULD

- Senator O'Connor has pointed out that a later clause will practically deal with the point which is raised by this amendment. Clause 156 provides that where goods have received damage or been pillaged on the voyage, or have been damaged, pillaged, lost, or destroyed whilst under Customs control, a remission of the duty shall be made. The amendment carries this opportunity of giving the remission a little further in favour of the importer, who loses his goods by some unavoidable accident; but it does not carry it so far as was suggested earlier in the evening. - that is, beyond the first man who has to receive the goods. It would not be construed as some honorable senators seem to anticipate, to enable not only the first man, but possibly the second man, to demand a refund of the duty. Supposing a tobacconist had taken a lot of dutiable goods out of bond, and that they were destroyed by fire on his premises, he would not be entitled to a remission of the duty because the operation of the amendment is limited to those cases where the goods are destroyed in the delivery from the warehouse, or the shipping thereof. It could only apply to some accident which occurred immediately after the payment of the duty. When a man pays the duty he anticipates the sale of the goods in order to recoup himself the amount of the duty and the cost price, and when he has -had no opportunity of making a sale of his goods, surely it is reasonable to refund the duty he has paid. Once the goods are put into a man's premises he has an opportunity to protect himself by insurance. If the principle is once admitted that a man is to be entitled to a refund of the duty under such circumstances as are mentioned in clause 156, surely it is equally reasonable that he should not be put to the loss of the duty where an accident happens immediately after the duty is paid, although the goods are not at that moment under Customs control, but are on the way to his place of business. If any man who lost his goods by fire or avoidable accident could come down on the Government for a refund of the duty, it would be manifestly unjust in the interests of the Commonwealth generally. Such a provision, would lend itself to fraud and robbery in all directions. "Under the amendment there would be no more opening for fraud than there would be under clause 156, if the goods were pillaged on the voyage. It is a reasonable and fair amendment, and when we find that it has been the law of Great Britain since 1876, and perhaps for years previously, we may assume that there is very good reason for having such a provision in our law. ' It may be urged that the fiscal policy of Great Britain is different from what the fiscal policy of the Commonwealth will be ; that while only a few goods are subject to duty there, a large number will be subject to duty here. That objection could not apply to this provision because, whether it is inserted in a protective or a free - trade Tariff, the principle is based on abstract justice, fair play toward the importer and honesty. It will not defraud the Government in anyway, because the goods which have been destroyed will have to be replaced by dutiable goods. Only a certain amount of dutiable goods can be consumed within the year, and whether a large quantity of dutiable goods is consumed by fire or not, practically the amendment will not make any difference to the Government, but will enable them to do an act of justice towards a person who, through no fault of his own, has had valuable property destroyed before he has had an opportunity of getting back a Celll. of the duty he has paid.

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Senator O'CONNOR

- I do not think there is really very much difference of opinion as to the principle which ought to be adopted, but this amendment is very different from the one which was suggested, as I understood it, when the matter was first mentioned. Whilst it may be a very fair thing to allow a remission of duty where the goods have been damaged while under Customs control, it is a different thing when the goods are damaged after they have passed out of Customs control. By comparing clauses 156 and. 30, it will be seen that we have done in a shorter way everything that Senator Pulsford asks for. Clause 156 says - Whenever goods have, while under Customs control, been damaged, pillaged, lost or destroyed, a refund, rebate or remission of the duty, as the case may require, shall be made in manner prescribed. In order to find out when goods are under Customs control, we look at clause 30, which says - Goods shall be subject to the control of the Customs as follows-
As to all goods imported - from the time of importation until delivery for home consumption or until

exportation to parts beyond the seas whichever shall first happen.

If the loss occurs before the actual delivery is made, the goods are under Customs control, and under these circumstances the owner is entitled to a remission of the duty. Until the goods are in the ship in which they are to be taken away, they are under Customs control, and the Bill provides for every contingency which the honorable senator's amendment aims at. If the accident takes place in transit from the warehouse, and before the actual delivery is complete, say, in the case of transshipment, we give the owner the right to demand the remission of the duty, and that is all the English Act gives. While I thoroughly concur in the principle the honorable senator wishes to adopt, I say that that principle is already carried out in the clauses I have mentioned.

Senator PULSFORD

(New South Wales). - I am gratified to find that

Senator O'Connor

approves of the principle of the amendment ; but he is in error in supposing that that principle is already carried out in the clauses he has read. Clause 30 does not refer to goods on which the duty has been paid, but refers to goods for exportation beyond the seas, under which circumstances there is no payment of duty, and the goods remain under Customs control until finally exported. My amendment covers a case of loss in which duty has actually been paid on the goods.

Senator O'Connor

- It is only in cases where goods have been imported that the duty would be paid; otherwise they are under drawback until sent away.

Senator PULSFORD

-The goods are imported in all cases. When goods are sent from one part of the Commonwealth to another, the duty is paid.

Senator O'Connor

- Then they are beyond Customs control altogether.

Senator PULSFORD

- Just so. I understand there is a refund of the duty when goods are destroyed while being delivered or shipped in order that they may be taken to some other part of the Commonwealth. Senator O'Connor says he agrees with the principle of the amendment.

Senator O'Connor

- I agree with the principle that if the goods are destroyed while they are under Customs control, there should be a reimbursement of the duty.

Senator PULSFORD

- There is no payment of duty when goods are being shipped beyond sea, and there can be no reimbursement.

Senator O'Connor

- Then the question does not arise.

Senator PULSFORD

- What I want is a remission where duty has been actually paid, and where delivery has not been finally completed.

Senator O'CONNOR

-I am willing to accept the principle up to the point that, wherever an accident happens while the goods are actually under Customs control, there should be a reimbursement of the duty; and that is provided for in the Bill. If the duty has been paid and anything happens when goods for home consumption are being delivered by lighter from the warehouse to a wharf, then, delivery not having been completed, the owner of the goods is entitled to a reimbursement of the duty under the clauses I have quoted. But if the goods have been actually delivered on the wharf or in some other way, and they are being sent to somewhere far inland, surely the honorable senator does not ask that in case of accident the Government are to be held responsible for a reimbursement of the duty until the goods actually reach the place of final delivery! When once the Customs officials deliver the goods for home consumption they ought to be able to wash their hands of the matter, otherwise there would be a great deal of difficulty with claims made in respect of the subsequent destruction of the goods. The English section does not go a single step further than the clauses to which I have directed attention.

Senator Lt Col NEILD

- Surely Senator O'Connor knows that delivery for home consumption means delivery at the bond where the goods are stored ?

Senator O'Connor

- That altogether depends on which way they are sent. If they are delivered at the doors of the warehouse, of course they are out of Customs control.

Senator Lt.-Col. NEILD. - It would never happen that goods for home consumption would be sent in a lighter to the wharf . When the Customs officers part with the goods at the door of the bond, there is an end to their control. However, I do not think that the question is worth fighting. If goods imported for home consumption are lost in transit in the Commonwealth, the duty would be only a small portion of the loss, unless the goods happened to be spirits or something of that kind ; and so long as goods are water borne all risk can be covered by marine insurance, which would entail no more trouble on the owner of the goods, while the expense would be infinitesimal.

Senator PULSFORD

(New South Wales). - I do not want honorable members to be under the impression that I desire to ask the Customs authorities to continue their liability while goods are being removed for hundreds of miles by railway. I should think that delivery of goods for conveyance by rail, say, to Bourke, would be complete when they had been handed over to the railway people, and delivery of goods for conveyance by sea to a port in Queensland when they had been placed on board the steamer. It is to meet the internal only that, in accordance with the English practice, I ask the committee to accept the amendment.

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Senator O'Connor

- I am not at all sure that Senator Neild is not right when he says that delivery means delivery at the Custom-house door.

Senator MCGREGOR

- If Senator . Pulsford were a merchant,, and I took delivery -at his warehouse of some goods for 'which I had paid, would, he. give me back :any portion of the money if those goods got destroyed on the way to the. railway station or to some ship ?

Senator Pulsford

- I, do- not suggest. recovery 'for loss, .during transit.

Senator MCGREGOR

- If I deposited 1,000 .sovereigns in a bank and received notes in exchange, .would the bank refund any part of that money if on my- way to the railway station I were knocked down and robbed of the notes ? That is exactly what Senator Pulsford is asking the Commonwealth Government to do with reference to the just dues of those who have Customs transactions. If it is unreasonable 'in one respect. it is unreasonable in .another. When Senator Pulsford first made this proposal, I was inclined 'to .waver .a bit on account of .my generosity ; but realizing the position in which the- Commonwealth has placed i itself in respect to -those goods while they are under Commonwealth control, I hold that the Customs department has done all that is necessary, and that could be expected of it. I hope that honorable senators will take the truly, commercial .and financial view, and treat the customers of the Commonwealth Customs department just as financial and commercial men -treat their customers.

Senator 'CLEMONS

(Tasmania). - It seems to me that this debate hinges almost entirely on the meaning to be attributed to the word "delivery."

Senator O'Connor

has given to that word a meaning that is limited practically to a single act. In other words, "delivery" according to him seems to represent something instantaneous. Clause 30 says that goods shall be subject to the control of the Customs department from the time of importation to the time of delivery. We have to give to the word " delivery " in. that clause an instantaneous effect. We have to regard it as a single act. It would allow no opportunity for loss. But it is evident from reading the English Act that " delivery " can mean something else. It seems to me to distinctly imply a process spread over a certain amount of time. The English Act says -

If any goods duly entered for delivery from the warehouse, for removal or exportation, shall be lost or

destroyed by unavoidable accident either in the delivery from the warehouse .or the shipping thereof, the Commissioners of Customs may remit the duties thereon.

It is obvious that if delivery were an instantaneous act, the word " loss " could not be used in connexion with it. ,It would be absurd to say that one could lose an article subject to duty if it only underwent a change of hands. But inasmuch as a loss in delivery, is contemplated, I contend that " delivery" must mean .a , process. In the English Act it means something represented better by a process than by .an instantaneous act.

Senator O'Connor

- It has the same meaning in our Bill in paragraph («) of clause 30.

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Senator CLEMONS

- If Senator. O'Connor grants that, I think. he .will admit that there is something in Senator Pulsford's contention that an additional protection to the importer, or additional responsibility, on the Customs department, is -necessary. The contention is that until delivery is completed the department should be responsible. The only .argument I have heard against Senator Pulsford's contention is that "delivery " is an instantaneous act. Senator O'Connor now admits that .the word has not that meaning - that there is a certain period, to elapse in which the article in question is in the strict control of the Customs department, .and the department should be responsible. With whatever desire this Bill has been drafted, it certainly does not give that complete protection to the - owner of the goods which he gets under the English .Act, in which there is a wider responsibility attaching to the Customs than there is in this Bill. .

Senator PULSFORD

(New South Wales). - Allow me to give .an illustration . to > the committee. Supposing that 100 tons, of sugar lying in a bonded warehouse at the water's side- have had ;£500 cash paid in duty upon , them. it may take one, two, three, or fo.ur days perhaps to deliver that sugar in lighters to the warehouse. When one-half of the sugar has been .delivered there may be .an accident . on the river. Some, vessel may collide with the lighter and half the sugar mav be- lost. Is it not a fair thing that the Customs department should refund to the owner of the.sugar the amount represented by. the sugar that has been lost ' at the .very door of the warehouse1? That is a thing that might easily happen, and in a great country like Australia it is a fair and proper thing that we should have a reasonable clause in our Customs Act so as to secure that the revenue derived from goods refers only to goods that are consumed; and not to goods that do not go into consumption.

Senator O'Connor

- The English Act would not cover such a case as that mentioned.

Senator PULSFORD

- I think it would. The goods clearly would be undelivered.

Senator O'CONNOR

- The difference of opinion is reduced to a very narrow point. My honorable friends, Senators Pulsford and Gould desire to go beyond the English Act. The English Act uses the words - Goods shall be lost either in the delivery from the warehouse, that is from the bonded warehouse, or the shipping thereof.

That is, where it is delivered into a ship. In those cases where there is an accident unavoidably occurring in the delivery, there may be a remission of duty. Senator Neild is perfectly right in his statement about the meaning of the word " delivery." It means handing over the goods out of the warehouse into the hands of the person who takes them out for home consumption. I quite agree that that is not one instantaneous act. Supposing there is a water-side bond; that goods are being slung out of the bond into the ship in sling brakes, and that they are damaged, neither under the English Act nor under this Bill could there be any doubt that there is a right to the remission of duty. Supposing the goods are delivered into a lighter safely, and that they are damaged while the lighter is taking them to another ship or to another store, it is quite clear that the English Act would not give protection under those circumstances. The English Act does not give anything more than protection before delivery, or while the delivery from the warehouse is going on, and until it is complete. It is complete when the goods are handed over into the control of the owner of the goods, or into the control of his agent, or into his lighter, or to his drayman, or to whoever else maybe deputed to receive them. If the owner sends his dray for the goods, and in the course of taking them a

cask falls, and all the bottles in it are smashed, no duty would be payable, or there would be a right to remission ; but if, after the cask is got on the dray, and while it is being taken through the streets, an accident happens - after the goods are outside the control of the Customs - why should the Customs be obliged to remit the duty? Under those circumstances the Customs, having no control, could not know what was happening to the goods. It must be obvious that the cases I have referred to are the only cases contemplated by the English section. It must be admitted also that the words " until delivered for home consumption " must mean until completely delivered for home consumption, because if while the goods are being delivered any * accident takes place, they are still under the control of the Customs. This is the way to test it. Suppose that while the goods are actually in the slings it is found that there is something wrong about them - that there has been some smuggling - the Customs would undoubtedly have the right to stop them in the slings. Undoubtedly, therefore, delivery is not complete at that stage. Just in the same way, there may be at that stage a claim for remission of duty. Under these circumstances there is no need for the amendment, as all that the English Act provides for is provided in this clause.

Amendment negatived.

Clause agreed to.

Clause 96 -

If the warehouse dues on any warehoused goods shall be in arrear for six months, the goods may be sold by the collector.

Senator MACFARLANE

(Tasmania).I suggest that the six months mentioned in this clause should be increased to twelve. I know many instances in which goods have not got into the possession of the owner within six months. Perhaps the ship's agent has taken more than six months to find the real owner. There can be no harm in making the term twelve months. I move -

That the word " six" be omitted, with a view to insert, in lieu thereof, " twelve."

Senator CHARLESTON

- The amendment might involve a considerable burden on the warehouse. The goods may be taken off the ship, sent to the warehouse, and the warehouseman may have had his premises used for the whole of the six months. It is not right to impose another six months upon him.

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Senator O'Connor

- I cannot consent to the suggested amendment. I think six months is after all a fair time to allow an arrear.

Senator PULSFORD

- I shall be glad if Senator O'Connor would explain the reason why the Customs department should interfere at all? The clause appears to be for the protection of the warehouse-keeper. It is a strange thing that because a warehouse-keeper has not been paid for six months the Collector of Customs should interfere.

Senator O'CONNOR

- The department interferes because there are two sets of charges running up against the goods. There is the duty payable upon them when they first go into the warehouse, and there are also the charges of the warehouseman.

Senator Pulsford

- The duty may remain unpaid for 20 years. They may be rewarehoused.

Senator O'CONNOR

- Supposing goods are left in a warehouse until the value of the dues and the duties is 'equal to the value of the goods, what would be the position of the Customs then, and where are they going to get their duties from ? That should show that they have an interest in these warehouses. Although the Customs are here dealing with private individuals, the warehouses are in a sense public, and under public control, and there seems to me no reason why the Customs officials should not aid in the collection of the dues for these warehouses, it is a common provision which honorable senators will find in all these Customs statutes.

Senator WALKER

- Senator O'Connor is mistaken regarding this matter. In my capacity as a bank manager, I have often

had bond warrants for bonded goods that have been in a warehouse for much longer than twelve months. So long as the rents are paid I do not see what the Customs officers have to do with it. If they are not paid it is for the bonded warehouseman to see that his rents are recovered.

Senator Sir Frederick Sargood

- The duty is a first lien.

Senator WALKER

- Nobody knows better than Senator Sir Frederick Sargood that goods are often in a warehouse for much longer than six months without the rent being paid. I hope Senator Macfarlane's amendment will be accepted.

Senator MILLEN

(New South Wales). Senator O'Connor pointed out the double charges that are running through this matter, and advanced that as a reason why this clause should remain as it is. But the double charges only run for six months, and we have a provision in the Bill under which the Government may have to wait for three years before they get their duty. If the owner of the warehouse is prepared to wait for three years for his rent, why should he not be allowed to do so? It should be entirely a matter of private arrangement between the owner of the goods and the owner of the warehouse in which they are bonded.

Senator Sir WILLIAM ZEAL

- The reason for the clause is that the warehouses are licensed, and pay a rent to the Crown, and, to a certain extent, it is the manifest duty of the Government to protect the owners of them. It is not as if this clause entailed needless interference on the part of the Government, because the power given is permissive and not mandatory, and under certain conditions it is desirable that the Government should be able to move in the matter. The clause seems to me to be a reasonable one.

Senator MILLEN

- I would point out that the following clause provides that the comptroller may cause any warehouse goods, which in the opinion of the collector are not worth the duty payable on them, to be destroyed. But it still leaves the amount of the warehouse charges a liability for which the owner is responsible.

Senator O'CONNOR

- The honorable senator who has moved the amendment wants the period fixed at twelve months. With the exception of Tasmania, the period fixed in the State Acts is six months. I understand that the honorable senator has no desire to sweep away the clause altogether. He wishes only for a longer period, and if he is prepared to accept the compromise, I will agree to make it nine months.

Senator Macfarlane

- I will accept that.

Amendment amended accordingly and agreed to.

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Senator Major GOULD

- I think there is a great deal of force in the contention of honorable senators in regard to the recovery of these warehouse dues. The owner of a warehouse should recover his money as any ordinary person would have to do. I could quite understand this proposal where goods were bonded in a King's warehouse. It would be reasonable in such a case that the collector should have power to sell goods for the purpose of defraying the warehouse charges; but it is not reasonable to give an ordinary individual owning a warehouse this extremely summary way of collecting his money.

Senator CLEMONS

- I am inclined to agree with Senator O'Connor in his original attitude with regard to this clause. In changing from the arbitrary number "six" to the arbitrary number "nine" I do not think we can be said to have done any one any good. Whether we leave in "six" or "nine" it is desirable that the person who owns the goods should have some notice of the intention to sell, and there is no such provision in the clause as it stands. Before Senator O'Connor accepted the amendment to insert the word "nine," I was about to suggest that a way out of the difficulty would be to give the collector power to sell at one month's notice. These warehouse charges may be looked upon as a second mortgage for a fixed term of six months, the Government having the first mortgage for the fixed term of three years, for the payment of duty. A mortgagor has the right to one month's notice, even if his term is fixed. But under this clause, unless the owner of the goods keeps his eyes open, and has a full knowledge of the due date, he may see his goods

sold entirely against his inclination. I think the clause should provide -

If the warehouse dues on any goods shall be in arrear, the goods may be sold by the collector at any time upon giving one calendar month's notice to the owner.

I am certain that as the clause stands it will do injustice. It is most essential that notice should be given of the intent to sell.

Senator O'Connor

-The certificate held by the owner of the goods, from time to time, whoever he may be, shows on the face of it when the goods were put in.

Senator CLEMONS

- I shall not press the matter.

Senator MILLEN

(New South Wales). - I propose to vote against the clause, but I would like to ask whether there is any provision in the Bill directing what is to be done with the money obtained by the sale of these goods?

Senator O'Connor

- Yes, clause 267.

Clause, as amended, agreed to.

Clause 97 (Goods not worth duty may be destroyed).

Senator PEARCE

- While under this clause there is a power given to destroy goods which, in the opinion of the collector are not worth the duty payable on them, there is no provision made for consulting the owner, who may think that the goods are worth considerably more than the duty payable on them. The consent of the owner should be got before the goods are destroyed. In the second portion of the clause it is provided that the licensee of the warehouse shall be able to recover rent and charges on the goods from, the owner, and under these circumstances it seems to me that it is not fair to the owner that the collector should destroy the goods without his consent, merely because, in the opinion of the collector, they are not worth the duty payable upon them.

Senator Drake

- Supposing the owner does not give his consent ?

Senator PEARCE

- In that case the goods should be sold, and the money held over for a certain term.

Senator CLEMONS

(Tasmania).- When we were discussing clause 96, I was told by the Postmaster-General that it was absolutely impossible to find out an owner in order to serve a notice on him. But under this clause, when the Customs authorities propose to do something else, there is the owner ready to hand. I am troubled to know how they are to find the owner under this clause if he cannot be discovered when required under clause 96, when a notice is to be served on him for his own benefit.

Clause agreed to.

Clause 98 (Combustible or inflammable goods).

Senator Major GOULD

(New South Wales). - I am anxious to know what class of goods comes within the category of combustible or inflammable. Almost all goods are of that character. It is just as well we should understand that it is to be left to the collector to say whether any goods are of an inflammable or combustible nature. I cannot find any explanation of the term in the interpretation clause. Perhaps

Senator O'Connor

can enlighten the committee on the subject.

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Senator O'CONNOR

- Power must be given to a Customs-house officer to shut out goods which are likely to damage other goods because of their being inflammable.

Senator Major Gould

- Take ordinary calicoes or muslins.

Senator O'CONNOR

- Surely my honorable friend does not say that the term " combustible or inflammable goods " means only

goods that will burn. What is clearly intended are such goods as benzine, naphtha, fireworks, petroleum, kerosene, gasolene, and matches. Why should there not be a power in the Customs-house officer to see that care is taken in the storing of such goods? If there must be a power placed in his hands it cannot be limited by putting a definition by the Bill, because there may be a combination of goods which it may not be possible to foresee in any system of regulations. It is so much to the interest of the Custom-house itself, as well as to that of the owners of goods and the keepers of these stores, that everything should be worked amicably, and to the mutual convenience of all parties that it must not be presumed that the Customs-house officials will take upon themselves unnecessarily the power of throwing out goods, or making any unreasonable conditions. They will exercise these stringent powers only when they are essential. It must be admitted that there ought to be a power of this kind, to be used when the occasion arises.

Senator Major GOULD

(New South Wales). - I am very glad to know that the combustible or inflammable character of goods will be determined on the lines which

Senator O'Connor

has explained.

Clause agreed to.

Clause 109-

Before any goods are taken on board a ship for export -

The ship shall be entered outwards and the goods shall be entered for export, but -

In the case of free goods it shall suffice if they be entered not later than three days after shipment ; and

The ship may be stiffened by permission of the collector before entry outwards or export entry.

Senator PULSFORD

- It ought to be made clear in the clause that a ship cannot be entered outwards, and goods taken on board for export, until cleared of her inward cargo. Paragraph (b), as it stands, is nonsense, and I shall propose that it be altered so as to read -

The ship may be stiffened by permission of the collector before being entered outwards, or before the goods have been entered for export.

Senator CLEMONS

- I am unable to find the word " stiffened " in the interpretation clause. The meaning of it should be satisfactorily explained, or it should be removed and a more expressive word substituted.

Senator Macfarlane. - It is the ordinary trade term which is used in all contracts.

Senator Lt Col Neild

- It means putting goods or ballast in a ship to keep her stiff.

Senator Major GOULD

- I wish to know whether Senator O'Connor will agree to the omission of the word " shipment " in paragraph (a), with a view to the substitution of the words " the clearance of the ship. " The goods may be shipped, and the vessel may not be cleared for some considerable time afterwards.

Senator O'CONNOR

- The expression used here is the correct one. The object of having free goods entered at all is that the Customs-house officials shall have a complete knowledge of what is on board a ship. When the clearance is given the ship may go away, and the three days may run after she has gone. We must keep control, and the object of the provision is to compel an entry to be made, so that we shall know all about the goods before we give the certificate of clearance.

Senator Major Gould

- On the other hand, the ship may clear almost immediately after the shipment; the goods may be put on board to-day and she may clear tomorrow.

Senator O'CONNOR

- The ship cannot clear until she gets the certificate of clearance, and it will not be given by the authorities unless they are satisfied that everything is right. My honorable friend will see at once that it is better to leave the provision as it is.

Senator Major Gould. - I am satisfied with the explanation.

Senator PULSFORD

(New South Wales). - I move -

That the word "entry," line 9, be omitted, with a view to insert in lieu thereof the words "being entered"; and that the words " export entry," line . 10, be omitted, with a view to insert in lieu thereof the words " having been entered for export."

Senator O'Connor

- Is not that what it means, although it is put in a much shorter way ?

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Senator PULSFORD

- I believe it is exactly what it means, but it is not what it says. The words "export entry" are senseless.

Senator O'CONNOR. - The paragraph says exactly what the honorable senator says, only' that one word is used instead of two. Does not the expression, " before entry outwards," mean before the ship is entered outwards? And does not the expression, " before export entry," mean before entry for export ?

Amendment negatived.

Clause agreed to.

Clause 112-

The collector may require the owner to produce documents for any goods entered for export, and in the case of goods subject to the control of the Customs to give security that the same will be landed at the place for which they are entered, or otherwise accounted for to the satisfaction of the collector.

Senator MACFARLANE

- I move -

That all the words after "export," line 2, be omitted.

The words to which I take exception are not necessary for the protection of the revenue. The revenue cannot suffer, because the exporter cannot get any drawback until the goods are actually beyond his control, and in possession of the ship. It is unjust to the exporter to ask for security from him when such goods are beyond his control. Any one wishing to send to England some Boomerang Brandy would be surprised if he were asked to give security that the goods should be delivered in London. The general practice in Tasmania is that security is given by the ship-owner or agent by a general bond, It is evident that this provision is taken from a very old Act, passed at a time when the owner of the ship was usually the owner of the goods. I know that Senator O'Connor said the other day that the clause was inserted to prevent goods being returned. But the exporter could not prevent goods being returned. The revenue is sufficiently protected under clause 12.1, where it is provided that no drawback may be recovered unless a certificate is secured from the port of landing.

Senator O'CONNOR

- Clause 121 certainly gives a very great security for the carrying out of the law, because it is required that a certificate shall be given to the Collector of Customs of any goods subject to the control of the Customs. This certificate is to be produced in proof of the due landing of the goods exported. The collector may refuse to allow any other goods to be exported by any person who has failed to produce a certificate concerning, any previous goods exported by him. The clause now under discussion makes the person who has exported the goods give a certificate that they have been dealt with according to the entry, and in default he is not allowed to export any other goods. It puts a block upon his dealings with the Customs-house, and makes him careful to see that the entry is carried out. That is to say, if the goods are to be exported to a certain place, he takes good care that they go there. That is the purpose the clause has in view. I am not quite certain that clause 121 is sufficient. It seems to me to be necessary that the Customs should have some provision with regard to the goods themselves. Clause 121 is all very well after the goods have gone, because it provides that a certificate shall be given. But that certificate can only be made effectual as a remedy if the person who has given a wrong certificate wishes to export more goods. In this clause it is provided that a certificate shall be given that the goods are landed at the place for which they are entered. Therefore the person who exports goods will take good care to know what is going to be done with them. I do not see any hardship in the owner of goods having to give a security of this kind.

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Senator Sir FREDERICK SARGOOD

- I do not think that the Vice-President of the Executive Council thoroughly understands this matter. He

speaks of it as being a simple affair. As a matter of fact the clause is really a copy of a very old section of a very old Act. An exporter may send goods to New Zealand ; all he does is to pass the drawback entries absolutely correctly. The goods then go on board a ship, and the exporter loses all control over them. Whether the ship reaches its destination, or whether the goods are re-landed in Victoria, he has no power whatever over them. The Bill asks the exporter to give a certificate to the effect that the goods shall be landed at the place to which they are entered. To ask him to do that is to ask an impossibility. What happened when this provision was in force in Victoria? There was then a considerable trade between Victoria and New Zealand. The Customs department required a certain form to be signed by the merchant in Victoria and then a declaration had to be made by the customer in New Zealand that he had received the goods. It was carried out for a few months, after which the New Zealand buyers simply rebelled. They said they would not bother to sign these declarations, and that the Victorian Customs must look after their own interests. Our friends in New South Wales very wisely stepped in, and, not requiring this absurd declaration, took the trade from Victoria. A similar thing will happen again if this provision is to be enforced. First of all it is impossible for the seller to sign such a declaration honestly, and, secondly, he cannot carry it out. It is nonsense to punish him for what he cannot do.

Senator O'Connor

- I notice that in nearly all the Customs Acts a similar provision exists.

Senator Sir FREDERICK SARGOOD

- I know; but it is time it was done away with. A declaration had to be made in connexion with exports over the Victorian border to New South Wales that the goods did not come back to Wodonga, but the provision was such an absurdity that it remained a dead letter.

Senator Walker

- I hope the Vice-President of the Executive Council will accept the amendment. It seems common sense.

Senator O'Connor

- Common sense is a very dangerous guide sometimes.

Senator Major GOULD

- I have no personal knowledge of this matter, but Senators Sargood and Macfarlane have spoken from very great experience, and have pointed out that a similar provision has been a serious hindrance to business. It is absurd, in the face of such evidence, to impose this condition.

Senator O'CONNOR

- This provision is on the statute-book in all the States except Tasmania, where an amendment was adopted a little while ago putting the duty of giving the certificate on the master of the ship. But the master's certificate may be of little value to the Customs officials in the event of his never coming back again. I really do not see that there will be very much advantage in adopting the Tasmanian system. On the other hand, I freely admit, after the statement of experienced gentlemen like Senators Macfarlane and Sargood, that there is a good deal of difficulty in carrying out the provision, which has been to some extent a dead letter. As the same effect can practically be obtained under clause 121, and as the amount of benefit which is derived from having this clause upon the statute-book does not appear to be worth talking about, I shall consent to the amendment.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 114 -

Before any certificate of clearance shall be granted the master of the ship shall -
Deliver to the collector an outward manifest in duplicate.

Answer questions relating to the ship and her cargo, crew, passengers, stores, and voyage.

Produce documents relating to the ship and her cargo.

Senator PULSFORD

- It is necessary now for us to remember the practice that ships clearing for Europe generally adopt. When our uniform Tariff comes into existence, and we have one Custom's law instead of six, there will, I presume, be a number of clearances instead of one. The English Act gives in detail the method of clearing any ship, and then it provides in section 129 -

When any ship, having been cleared at one port, proceeds to take in goods at any other port, the master shall, after due shipment of such goods, at such other port, deliver to the collector or other proper officer

there, an additional like content of the goods so shipped, and so on from port to port, until the final clearance outwards of the ship, and in each instance the additional certificate, if any, and other necessary documents, shall be attached to the label used at the first port of departure.

The English Act requires a separate manifest in each port, and I presume that that will be the practice here. But I do not see that any arrangement has been made in this Bill for the recognition of our changed circumstances.

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Senator O'CONNOR

- The honorable senator is quite right in thinking that it will be necessary to have a clearance at every port. That is provided for in the Bill. The long elaborate section of the English Act is not really necessary. The honorable senator will see that the clause as it is will apply. If a ship going from one port to another - say, from Perth to Adelaide - does any business at Adelaide, it must be entered with the Customs there, and then the ship must get another clearance if she is going out again. If there is no dealing with the Customs-house at all, and the vessel simply lands passengers, her clearance outwards may not be necessary, but wherever it is necessary to get a certificate of clearance, these particulars must be given. Clause agreed to.

Clause 115 -

The master of any ship shall not suffer ' any goods other than passengers' baggage not specified or referred to in the outward manifest to be taken on board his ship.

Penalty : Fifty pounds.

Senator Sir FREDERICK SARGOOD

- As a matter of fact some of these goods go on board at the last moment, and before the outward manifest can be completed. In order to cover the whole matter and prevent any friction, and to be perfectly safe at the same time so far as the Customs are concerned, I move -

That the words " except as provided in section 109" be inserted after the word "ship," line 4.

Senator O'Connor

- I have no objection to that.

Senator PULSFORD

- What is meant by the word " manifest " ? There is no definition of the term in the Bill. I know that it means a detailed statement of the cargo carried, and that it does not include stores. But according to this clause the master of a ship would be precluded from taking stores on board, because they would not be referred to in the manifest. I think, therefore, that stores should be specially mentioned in the clause.

Senator Pearce

- At Fremantle, outward-going boats take in coal' up- to the last moment before sailing.

Senator CLEMONS

- If we had time, we might mention a number of things that are not included here. Could coal be properly classed under ship's stores ? There is no doubt it would not be included in the ship's manifest, and it is a very important item. If this clause were interpreted strictly as it stands, I should be sorry to be a master of any ship, because he might innocently, and in a hundred-and-one ways, render himself liable to a penalty of £50.

Senator O'CONNOR

- It is the invariable practice to have a list of the ship's stores attached to the manifest, and referred to in the manifest, and that accounts for the form in which the clause has been drafted. The cargo is specified in the outward manifest, and stores are referred to in this way - " Ship's stores, as per list attached."

Senator Clemons

- Would coal be included too?

Senator O'CONNOR

- I do - not know j but what is generally known as ship's stores,, which are provisions for the use of the ship, would be included,- by a reference in the way I have stated, in the manifest. This clause is really in accordance with the . practice generally followed.

Senator Charleston

- Ships' stores are taken in up to the last moment.

Senator O'CONNOR

- There is another reason why stores should, not be specially referred to in the clause, and it is that we are dealing now with a matter which is regulated by a well-recognised and established practice, and if we depart from it by inserting here; words that are not usually found in existing Acts, we may be doing something to the disadvantage of - the ship-owners themselves. I understand that the same kind of provision is to be found in other similar Acts.

Senator MILLEN

- The explanation of Senator O'Connor appears to me entirely satisfactory, so far as it goes. But the honorable and learned senator admits that it does not make provision for coal. So far as we know, there is no other portion. of the Bill which deals with coal, and I suggest that it is worthy of consideration whether some provision should not be made for it.

Senator MACFARLANE

(Tasmania). I do not think any amendment of this clause is necessary. It is in accordance with the existing practice, and if we interfere with the existing practice we shall do more harm than good.

Senator PULSFORD

(New South Wales). - The clauses in this Bill are cut so short that they give rise to uncertainty. Other Acts of the kind contain paragraphs like this, but they also contain explanations of them which prevent any trouble. I presume that when this Bill has been finally passed we shall- be favoured with a list of regular tions, extending perhaps to twice the length of the Bill, and which will be added legislation.

Senator Clemons

- I wish to ask Senator O'Connor whether he will, be prepared to recommit this clause ?

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Senator O'CONNOR

- I have not been able to make 'it quite clear whether coal is dealt with. That is a matter for further inquiry, and if I find it is not clearly dealt with I promise to recommit the. clause.

Amendment agreed to.

Clause, as amended, agreed, to.

Clause 121 -

If required by the collector a certificate in such form and to be given by such person as may be prescribed shall be produced in proof of the due landing according to the export entry of any goods subject to the control of the Customs; and the collector may refuse to allow any other goods subject to the control of the Customs to be exported by any person' who fails within a reasonable time to produce such certificate of the land" ing of any such .goods previously exported by him or to account for such goods- to the satisfaction of the collector.

Senator Major GOULD

- This clause seems to be contingent upon clause 112.

Senator O'Connor

- I consented- to the amendment in clause 112. on the strength of this clause being retained, though I admit there is no obligation on the committee to, retain it.

Senator Major GOULD

- It was pointed out very clearly on clause 112 that it was not a reasonable thing to expect a merchant, who had disposed of his goods, to give a security of this character, and that is one reason why the clause was amended. Having amended clause 112, clause 121 is unnecessary, as well as undesirable. When a merchant has exported his goods and has lost absolute control of them, how can he be afterwards held responsible for the due landing of the goods in any other part of the world ? It is quite unreasonable to require a certificate of this kind, and how much more unreasonable is the latter part of the clause, which says that the collector may refuse to allow any other goods, subject to the control of the Customs, to- be exported by any person who fails within a reasonable time to produce such certificate of the landing of any such goods previously exported by him ? Is that a reasonable provision to put into any Customs Bill, and is there any necessity for it in order to protect the Customs revenue ? We have already recognised the fact that, once goods are exported, the man who exports them cannot by any possibility be responsible for the due landing of them in any portion- of the world, and now under this clause we are going to enact that the collector may require from' him a certificate of the due landing of the goods. We recognise that' the exporter cannot be responsible, and then we go on to say that if he does not give a

certificate on a matter which cannot be within his knowledge, he is not to be allowed in future to export any goods which are 'under Customs control.

Is it fair' or1 reasonable to insert a provision of that character1? Is it necessary in the interests of- the revenue? It will only unduly 'hamper - trade.

Senator PULSFORD

- Nearly all the- business which is done in goods which go out under drawback, or which, are subject to Customs control, is Inter-State business. After the uniform Tariff comes into force, there will be very little business of that kind done, and therefore' the- position is-widely different when the provision is made to refer to traffic which takes place between Australia and Europe: Supposing that a sailing-vessel takes such goods from Australia to Europe. In the ordinary course she will be from three to four months, perhaps five or six months.) in -making the voyage. Before it is- possible to get the certificate out, even if it can be obtained at the other side of the world, much more than six months may elapse, but all sorts of things may happen to prevent the obtaining of the certificate in Europe. For instance, the importer in Europe may fall out with his shipper, and may be unwilling to 'do anything to oblige him ; and. with every desire to obtain the certificate the exporter may find it absolutely impossible to do so. In this way month after month may elapse- and business may be- entirely blocked without any fault on the part of the shipper, and yet he may b& branded as being constructively a swindler. Again, a vessel which happens to founder at sea, in the absence of any information, will not be listed as lost until probably nine months after her 'departure from Australia, and until she is so listed it will be impossible for th'e shipper of the- goods to give a satisfactory explanation. That is an' instance iti which there would be prolonged delay in giving the required information. In many other cases it would be absolutely impossible for the shipper to give -the information.

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Senator O'CONNOR

- The committee will see from the form of the clause that it is really a reserve power. It is not to be enforced in' every case. It is not part of the ordinary routine on the outward shipment of goods ; it is simply a reserve power, and the question is whether it ought to be given. It is to be assumed that the powers given in the Bill! will be- exercised reasonably. If they are- not to be exercised reasonably we might just as well tear up' the Bill, and any Customs Acts in force in the States, because in all of them powers are given which if exercised unreasonably or unfairly would turn the Custom-house into the most oppressive engine of tyranny that one could possibly imagine. It is only because these powers are necessary and have to be exercised on certain occasions that they are to be intrusted to the hands of these officers with the belief, generally well justified, that they will not be put into execution unless the necessity arises. Government officers, like every body else, do not like to undertake heavy responsibilities without some reason. Customs officers do not take upon themselves the exercise of these powers unless there is some justification.

Senator Sir Frederick Sargood

- I would not say that.

Senator O'CONNOR

- The honorable senator is often in a position in which it may be to his interest to take one view of the Customs officers' duty, and to their interest to take another view. I think, considering his position, he shows a wonderful fairness in dealing with the Bill. At the same time, no one can deny that it is sometimes to the interest of persons not to take the same view of the matter as the Custom-house officer. What cases is this reserve power intended to deal with ? Goods are landed here to be exported to New Caledonia or some other place outside the Commonwealth. They go into a bonded warehouse and are re-shipped without payment of any duty. But, instead of going to New Caledonia or to the islands, or to whatever place they are shipped to, they are taken away to some part of the Commonwealth, for instance, to Northern Queensland or to Western Australia. To deal with such cases this reserve power is given. If it is found that there has been smuggling going on, and that a particular person has been identified with that smuggling, it is within the power of the Customhouse official to say to him, if he has been connected with the goods - "We wish to have a certificate from you that the goods have been disposed of in accordance with your export entry."

Senator Major Gould

- You could not compel a man who is living in New Zealand to give a certificate.

Senator O'CONNOR

- Of course we could not, and for that reason he would not be asked to give a certificate.

Senator Major Gould

- He is the only man who could give it.

Senator O'CONNOR

- Not necessarily, because there may be a person who was in charge of the goods. After all, the certificate is not like the evidence of a person who actually saw the goods landed. Any information which a person can depose to is sufficient. It is not to be sworn to ; it is simply a statement of information. It is a power which ought to be in the hands of Customs officials when they find that any suspicious dealing has been going on with regard to the export of goods. If a Customhouse officer suspects a particular person he will say - " I want a certificate of the landing of the goods in accordance with the entry." What difficulty is there in giving that power ? It is a power which must be exercised with care. It involves responsibility, and if it is exercised with care, can there be any doubt that it will be put in force except in cases where it is highly necessary that it should ? A similar power is in force in some States. For instance, in the law of New Zealand we find this provision -

A certificate in such form, and to be given by such person as the commissioner may require, shall be produced in proof of the due landing of goods exported from warehouse, and the collector may refuse to allow goods from the warehouse to be delivered for shipment by any person who fails within a reasonable time to produce proper certificates of the landing of any goods previously exported by him under bond. This clause follows that section. I have not got before me at present the form of the provision in the law of other States.

Senator Major Gould

- I think it will be found in very few States.

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Senator O'CONNOR

- It is in force in New Zealand for the very same reason as it is required in the Commonwealth. New Zealand is an island, with Australia not very far off, and it would be perfectly easy for a ship to clear from New Zealand for Australia, and to run back to that colony after a while and smuggle in the goods. So here, where Australia is one fiscal area, it would be perfectly simple for a ship to clear for New Zealand or the islands, or some other place outside the jurisdiction, and to , come back and run the goods into some part of the Commonwealth. This power cannot touch or affect the honest trader. The very form of the clause shows that it is intended as a reserve power to be put in force only where Custom-house officials have reason to suspect that some smuggling, or illegal dealing with goods, is going on, and to enable them to trace it out if necessary, or, at all events, to enable them to treat as a marked man any one whom they find has been so engaged. I hope that the committee will regard this as one of those powers which are necessary for the protection of the revenue, which really cannot affect the honest trader, and which, following the very good precedent of New Zealand, ought to remain for the collection of the customs of Australia.

Senator WALKER

- It seems to me that there is a great deal of force in the explanation of Senator O'Connor, but may I suggest to him the propriety of substituting the word " comptroller" for the word "collector"? It is a great power to place in the hands of a collector, because that term includes a great many persons.

Senator O'Connor

- I have no objection to accept that suggestion.

Senator Major GOULD

(New South Wales). - The Minister has whittled away the value of the certificate. He says that there is no difficulty in giving a certificate. If anybody can give a certificate, as he says, what is the good of the clause, unless there is some proof required in support of it? If there is no means of punishing the person who gives a false certificate, what is the good of the provision ? I submit that, according to his own explanation, it is of very little value.

Senator O'Connor

- There is a means of punishment in the latter part of the clause.

Senator Major GOULD

- No; all the man has to do is to give a false certificate, and then the clause is no good at all. Does that not show how the value of the clause is being whittled down? If a man is going to defraud the Customs in the way which is contemplated, is he likely to make much trouble or difficulty in giving a certificate that his goods have been landed in the proper way? If the Customs officials require proof of the landing of the goods, they have to go outside the Commonwealth and get it from people over whom we have no control, who can snap their fingers in our face. It shows how little value the clause is. It is not necessary to have any suspicion of fraud; there is not even to be an allegation of fraud or any suspected case of fraud. How much better it will be, if the clause is to remain, to place this power in the hands of only the comptroller. As he has the right to delegate any authority to a collector or other official, it would get over the difficulty of the power being possibly acted upon by any Customs officer.

Senator O'Connor

- I am willing to accept Senator Walker's suggestion on that point.

Senator Major GOULD

- I would suggest, too, that we should insert the words "in case of fraud or suspected fraud."

Senator O'Connor

- The difficulty there is that you put the person you want to get the certificate from on his guard at once, and you practically accuse him of fraud.

Senator Major GOULD

- Do you not do that as soon as you ask him for a certificate?

Senator O'Connor

- You may want to be satisfied without suspecting fraud.

Senator Major GOULD

- Why should you exercise the power unless there is some ground for suspicion? If you did not suspect fraud on his part you would not go to a man and ask for a certificate. If you ask for a certificate in one case, you ought to do so in every case.

Senator O'Connor

- Circumstances may require explaining. You really may not have suspicion of fraud.

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Senator Major GOULD

- I am entirely opposed to the clause, but if it is to be retained, I desire that it shall be retained in as modified a form as possible.

Amendment, (by Senator Walker) agreed to -

That the word "collector," line 1, be omitted, with a view to insert, in lieu thereof, "comptroller."

Senator Major GOULD

(New South Wales). - I move -

That the clause be amended by the omission of all the words after the word "Customs," line 5.

That is not a reasonable provision to insert, and it would be almost unworkable. I would also suggest that if a man does not produce his certificate he shall be liable to a penalty. Put in a penalty of £100, or whatever sum you see fit, but eliminate those words. With that alteration you will be able to punish a man who fails to produce his certificate by inflicting upon him a pecuniary penalty, but if the Government have sufficient ground to charge the man with the commission of a fraud, such as smuggling, they can indict him and punish him. It may be that a man may 'not be able to give a certificate for some reason or other, and when it cannot be given he has a very severe punishment placed on him. Surely a penalty of £100 will be a sufficiently severe punishment, and it will be entirely in the discretion of the court to- say whether the penalty should be £100 or 100s.

Senator Sir Frederick Sargood

- The court could impose a penalty under clause 225.

Senator O'Connor

- There is a good deal of difficulty about the penalty, because we may be asking a man to do something which he honestly believes he cannot do, but which the Custom-house may think he can do.

Senator Major GOULD

- A man conscientiously thinks he cannot do a thing, and yet this measure imposes a penalty upon him.

Amendment agreed to.

Clause, as amended, agreed to.

Senator Major GOULD

(New South Wales). - Perhaps it is a little early for progress to be reported, but I would suggest that Part 7 of the Bill, which will give rise to a long debate, should be postponed.

Senator O'CONNOR

- We have certainly done very well this evening, but we should sit a little longer. The clauses to which Senator Gould has alluded will be debated. Some honorable senators might speak upon them before we adjourn.

Senator Millen

- We should not debate such an important matter with barely a quorum present.

Senator O'CONNOR

- Of course there is no use in taking up time unless we are going to get on with the work. Perhaps, under the circumstances, there is no real object to be served in sitting longer.

Progress reported.

PAPERS

Senator O'CONNOR

laid on the table the following papers : -

Return relating to Australian Cabling business for the year 1900.

Report of Conference upon the Federal Elections Bill.

Report of the Engineer-in-Chief of the Western Australian Railways on the proposed Transcontinental Railway from Coolgardie to Port Augusta.

Comparative statement concerning Commonwealth and State Salaries.

Further report of the Federal Military Committee, assembled in Melbourne on the 12th June, 1901.

Agreement between the Eastern Extension, Australasia, and China ' Telegraph Companies Limited.

Correspondence relating to the construction of a Railway from South Australia to the Western Australian border.

Correspondence referring to Staple Products, Minerals, and Financial position of the Northern Territory, South Australia.

Return re cost of Australian Auxiliary Squadron.

Return re Newspaper Carriage and. Revenue therefrom.

The PRESIDENT

- I presume that all these papers are laid on the table either by command or by order of the Senate.

Senator O'CONNOR

- Yes, by command. I move -

That the papers be printed.

Question resolved in the affirmative.

Senator Major GOULD

- Some time ago I asked a question about papers presented in another place, and as to whether they could not be presented in the two Houses simultaneously. I understand that these papers have already been laid on the table of another place. It is only fair that all papers shall be presented simultaneously, so that we may know exactly what we are doing in connexion with debates that arise.

Senator O'CONNOR

- Some time ago instructions were given that papers should be simultaneously laid on the table of both Houses, and I understood that that was being done. But it appears that there has been some mistake about the matter. I can assure the Senate that my honorable and learned friend the Postmaster-General and I have put matters in train for insuring that in all cases papers shall be laid simultaneously upon the table of both Houses. There may be a difficulty in cases where there is a heavy bundle of documents which have not been previously printed, and it may be necessary to have them formally sent from one Chamber to another. But where it is possible there will be a simultaneous laying on the table of both Houses of papers, so that the first intimation that documents have been presented shall be from the papers themselves, and not from any outside source.

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22:12:00

Senate adjourned at 10.2 p.m.