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1901-09-27

Senate

The President took the chair at 10.30 a.m., and read prayers.

#### QUESTIONS

##### POST OFFICE, MOUNT MORGAN

Senator STEWART

asked the Postmaster-General, upon notice -

Whether he has received any complaints as to insufficient post-office accommodation at Mount Morgan, Queensland?

If so, is it the intention of the Department to provide such accommodation, and when ?

Postmaster-General

Senator DRAKE

No complaint has been received as to insufficient accommodation at the Post-office at Mount Morgan, Queensland. Inquiry is being made respecting, the matter.

##### POST AND TELEGRAPH DEPARTMENT

Political Influence

Senator DOBSON

asked the Postmaster-

General, upon notice -

Whether, in future, he proposes to continue or discontinue allowing Members of Parliament to confer with him as to the position or complaints of officers of the Commonwealth service, and what difference (if any) it will make in his practice in this respect in the case of those officers whose contract of service binds them to obey regulations forbidding them to communicate with the Minister or the Public Service Board except through the permanent head or chief officer of their department ?

Postmaster-General

Senator DRAKE

- I shall take no action which will in any way curtail the right of Members of Parliament to bring under my ' notice any matters of complaint whatever against the administration of the Post and Telegraph department.

##### CIVIL SERVICE

Ordered(on motion by Senator Stani- forth Smith) -

That a return be laid upon the table of this House showing -

The number of Commonwealth civil servants taken over from the services of the several States, giving the number from each State separately.

The number of these that are entitled to superannuation pension or retiring allowances.

The number of other civil servants employed by the Commonwealth.

##### TELEGRAPHIC RATES

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Ordered(on motion by Senator Keating) -

That there be laid upon the table of this Senate a return showing -

The telegraphic rates prevailing at the time when the Commonwealth took over the Post and Telegraph Departments of the States -

For messages (distinguishing press from ordinary) from Tasmania to each of the other States of the Commonwealth, and the proportion of such rates receivable by the Eastern Extension Telegraph Company ;

For messages (distinguishing press from ordinary) from Victoria to each of the other States of the Commonwealth.

The reductions (if any) that have been made in the foregoing rates since the taking over of the Past and Telegraph Departments by the Commonwealth.

The amount (if any) payable to the Eastern Extension Telegraph Company by the Commonwealth or by any of the States in respect of the working by such company of the connexions between the Bass Straits cable and the telegraphic system of the Commonwealth.

The hours of opening and closing for interState communication the principal telegraph offices of each of the State capitals, distinguishing in the cases of Saturdays and Sundays from other days.

## EXCISE BILL

### Second Reading

Vice-President of the Executive Council

Senator O'CONNOR

. - I move -

That the Bill be now read a second time.

This is one of the necessary machinery Bills for the collection of taxation to be proposed under the Tariff. The excise provisions are similar to those in the measures in force in the States. The object of the Bill, of course, is to collect excise duty ; but, in order to insure that that object shall be carried out, to prevent fraud, to enable the Customs authorities to know exactly what manufacturing is going on, what quantities of excisable goods are manufactured, and the amount of duty which ought to be paid, it is necessary to have the somewhat elaborate machinery which we find in the Distillation Bill, the Beer Excise Bill, and other measures of that kind. It will be found that the Bill provides the ordinary safeguards for the revenue - the powers as to supervision by officers with which in the Customs Bill, the Distillation Bill, and the Beer Excise Bill, we are familiar. First of all, the application of the Bill is to material subject to excise duty, or proclaimed to come under the Act. It is then provided that producers and sellers of material - that is excisable material - shall register their places of business. On this registration no fee is to be charged, but the registration is provided for in order to enable the Custom-house officials to know where this sort of material is being produced or sold. Then, with regard to the manufacture of excisable material, the licences to manufacture are issued on payment of certain fees ; and in the manufacture of such material care is taken that the supervision of an officer may be always called in. Certain books and records of different kinds are to be kept which will enable the Government to always have within their knowledge the quantities of excisable goods which are being manufactured in a particular place, and the amount of duty which is payable. Provisions are also made for giving powers to officers very much the same as those in the Customs Bill - in fact identical in most particulars. Then there are provisions for the protection of officers very much the same as those in the Customs Bill, and there are similar provisions in regard to prosecutions. I need not detail these matters, because honorable senators are more than familiar with the corresponding provisions in the Bills we have discussed. In several respects, where the Senate has already made amendments, they have been followed, and in some cases, where amendments have not yet been made, I shall make them so as to bring the Bill into conformity with the similar provisions in the Customs Bill, Beer Excise Bill, and Distillation Bill. I do not think it is necessary at this stage to make any further observations, because I am sure that we all recognise that there must be such a Bill passed, and this Bill only contains the provisions which ought to be in a general measure of this kind.

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Senator Sir FREDERICK SARGOOD

- This is essentially a Bill to be considered in committee, and I only rise to call attention to one or two points which may have escaped the attention of Senator O'Connor. I have circulated some amendments, but they are all in the direction of bringing the Bill into harmony with other Bills of a cognate character with which we have dealt. Clause 65 says -

All tobacco, cigars, cigarettes, and snuff manufactured in a factory shall be put up in packages of the prescribed weights and sizes.

I am informed that the Minister of Customs has been seen about this provision with a view to omitting the word " cigars; " inasmuch as the clause cannot possibly be applied to cigars, seeing that they are not sold by weight, but by the thousand, and that it is impossible to prescribe the weights, as no two boxes are alike. I have a letter from some of the largest manufacturers, in which they say -

I beg to hand you copy of letter sent to Dr.

Wollaston, and only wish to add that our cigars weigh between 7 ozs. and 2 lb. per box, and the gross as well as the tare of every box of cigars is rarely alike.

The letter referred to is in these terms -

As to giving a consecutive number and the weight on each package we feel sure that this has reference to manufactured tobacco only, and is not intended to be applied to cigars, although, of course, they are

embraced in the clause under review. Your officers will, we are sure, be able to satisfy you that such provisions as applied to cigars would be highly vexatious in practical operation both to your department and the manufacturers, and are quite unnecessary. We do not think such provisions are to be found in either the British, Canadian, or American Acts.

Then clause 66 of the Bill says -

The manufacturer shall mark upon every package of manufactured tobacco, cigars, cigarettes, or snuff his name and address, a consecutive number, the gross weight of the package, and the net weight of the contents before it is removed from the factory.

It is pointed out that it is very objectionable to compel the names of the manufacturers to be placed on boxes of cigars. That does not apply in the case of tobacco, because that is sold under proprietary names, nor does it apply, I am informed, in the case of cigarettes.

Senator O'Connor

- What does the honorable senator mean by proprietary names?

Senator Sir FREDERICK SARGOOD

--Trade names. There is no question about the honesty of what is in the box. It is simply that neither the buyer, on the one hand, nor the manufacturer on the other, desire that the name should appear on the box. The Minister, as an expert, knows perfectly well that buyers do not care to let the world know where they get their goods from. This is met in both the Canadian Act and the United States Act. Section 10 of the United States Act of 1892 contains this provision -

Every cigar manufacturer must brand, stamp, indent, or impress into the boxes containing the cigars manufactured by or for him in a legible and durable manner, his factory number, the number of cigars in each box, the number of the district, and the State.

Section 261 of the Canadian Revenue Act of 1899 provides that -

All boxes containing cigars shall have stamped, burned, or impressed into them or indented in a legible and durable manner the registered number of the manufacturer, where made, &c.

It is merely a different way of arriving at that which the Customs want - security. I have received from a number of manufacturers in Sydney a letter to which I think it well to call the attention of honorable senators. It is as follows : -

We, the undersigned cigar importers and merchants of the city of Sydney, in the State of New South Wales, have the honour to respectfully submit for your consideration the following suggestion, which, if adopted, would tend to safeguard the interests of those engaged in the particular branch of business referred to, while protecting the public from being imposed upon by unscrupulous traders.

At the present time it is notorious that cigar boxes bearing the brands and labels of the most reputable manufacturers in Havana and elsewhere are being locally refilled with inferior cigars.

With a view to remedying this evil, we venture to suggest that the forthcoming Bill for the government of cigar factories should include a clause prohibiting the refilling of cigar-boxes, unless all brands and labels originally on such boxes have been effectually removed and destroyed.

In the United States of America the previous existence of a similar grievance led to the imposition of stringent Customs regulations which, while effectually dealing with this matter, have given satisfaction to all honorable traders and the public generally.

Senator Major Gould

- Whom is the letter from ?

Senator Sir FREDERICK SARGOOD

- It is signed by Sutton & Co. ; W. D. & H. O. Wills; Scott, Henderson, & Co. ; Anglo-Spanish Tobacco Co. ; Dixon & Sons : A. Blaski ; S. H. Hoffnung & Co. ; Rutty & Co. ; M. Rintel ; Frossard, Levic, & Co. ; Feldheim, Gotthelf, & Co.

Senator Pulsford

- Practically the whole trade.

Senator O'Connor

- Does it refer to any particular clause?

Senator Sir FREDERICK SARGOOD

- No, but I thought it of sufficient importance to justify me in bringing it before the Senate.

Question resolved in the affirmative.

Bill read the second time.

In Committee.

Clause 3 -

Senator PULSFORD

- I do not notice a clause which appeared in other Bills between clause 2 and clause 3. Has it been left out intentionally ?

Vice-President of the Executive Council

Senator O'CONNOR

. - Yes ; it is really provided for by the definition of material in clause 4 - "Material" includes all material used in the manufacture of excisable goods, and declared by proclamation to be material within the meaning of this Act.

Clause agreed to.

Clause 4 (Definitions).

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Senator Sir FREDERICK SARGOOD

- When the Beer Excise Bill and the Distillation Bill were before the committee, I called attention to the fact that the definition of the word " officer " did not agree with the definition in the Customs Bill, and I understood the honorable and learned senator to say that he intended to make the definitions in the Excise Bill, the Beer Excise Bill, the Distillation Bill agree. In the other two measures the definition is " an officer of Customs." Here it is " all persons employed in the service of the Customs." I do not know that there is very much difference, but I think it is wise that the Bills should be in harmony. I have also given notice of an amendment in the definition of the word " licence," which is defined to mean " a licence to manufacture excisable goods. I move -

That after the word " Licence " the words " under this Act " be inserted.

Senator O'CONNOR

- The amendment may lead to a difficulty, because there are existing licences spoken of in the Bill which are intended to be brought under the measure. There can be no ambiguity by leaving the definition as it stands, because here licences can only mean licences under the Act. There is no other way in which a licence to manufacture can be given except under the Act.

Amendment withdrawn.

Clause 15 (Time for compliance with this Act).

Senator Major GOULD

- I find that provision is made in this clause that in the event of any excise being hereafter imposed in relation to any manufacture previously free, two months shall be allowed from the commencement of the Act imposing the excise, for compliance with the provisions of this measure relating to registration and licences.

Senator O'Connor

- That means that where an excise duty is imposed on an article not previously taxed, two months shall be allowed for compliance with the provision.

Senator Major GOULD

- Two months is rather too short a period considering the extent of the Commonwealth. I suggest three instead, because the measure has to be promulgated throughout the States. It is only reasonable that if excise is imposed upon articles which have not hitherto been dutiable, there should be time allowed within which persons may be made acquainted with the law. They ought to have ample time for registration.

Senator O'CONNOR

- It is not desirable to give any more time than is absolutely necessary. So long as we insure that sufficient time is given that is enough. Two months is surely time enough to enable manufacturers to comply with the provisions of this measure. What are the provisions? The manufacturer has to register with the collector of the State in which the work is carried on. He has not to register with some central officer situated in Melbourne or in the federal capital, but with the collector in his own State. If it is a case of a material producer or a material seller he simply registers ; but if it is a manufacturer, he takes out a licence. Of course as soon as the licence is applied for it will be attended to.

Senator Major Gould

- In the more settled States no doubt two months would be ample, but in the larger States, where population is more sparse and smaller manufactures are carried on, a longer time might be allowed.  
Senator O'CONNOR

- No doubt a week would be enough in the more settled States, but in States like Western Australia or in the northern part of Queensland, two months is ample. The difficulty about granting any longer time, is that during the three months illicit manufacturing might be going on, and a large quantity of excisable goods might be made without paying duty. It is not desirable to give any longer time than is necessary.

Senator PULSFORD

- There are two questions I wish to ask in regard to this clause. Does the word "free" mean previously free from excise duty or previously free from excise and Customs 1

Senator O'Connor

- We are only dealing with excise under this Bill.

Senator PULSFORD

- The other point is : What will be the position where a Commonwealth excise duty is imposed on an article which previously has been subject to duty in one State, but has been free in another State 1

Senator O'CONNOR

- I do not think there is any difficulty. It is perfectly clear that "previously free" must mean free before the commencement of this measure. In the case of States where there has been an excise duty on particular articles, those articles have\* not been "previously free." In that case the manufacture has been canned on under excise conditions. Under the licensing part of this Bill it will be found that existing licences are continued. Where goods have been free before, and there has been no licence hitherto, this clause will apply.

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Senator Pulsford

- The position is, as I imagine, that we may have a Commonwealth duty levied in certain States and not levied in other States until the expiration of two months.

Senator O'CONNOR

- That is not so at all. When we come to the portion of the Bill dealing with the imposition of duties, it will be seen that there are provisions by which every excisable article manufactured must be of a certain weight, standard, and so forth, and must pay duty. Wherever the manufacture of an excisable article is going on, it must pay duty, but two months are allowed for complying, with the measure. That, however, does not affect the imposing of the duty, which must be imposed simultaneously throughout Australia.

Clause agreed to.

Clause 31 (Notice of ceasing to produce or deal in material).

Senator WALKER

- This clause says that a dealer " shall " forthwith give notice. Is there any penalty if he does not?

Senator O'Connor

- There is a general clause later on imposing penalties.

Clause agreed to.

Clause 34 (Manufacturers to be licensed).

Senator Sir FREDERICKSARGOOD (Victoria). - I have given notice of an amendment in this clause. In comparing this Bill with the Excise Bill and the Distillation Bill, I find that there is a difference between this clause and the corresponding clauses of those Bills. This clause reads -

No person shall manufacture except pursuant to this Act, and a licence granted thereunder.

I intended to propose the omission of the words "and a licence granted thereunder," with the view of substituting the following words : - " Unless he is licensed to do so under this Act, or under a licence already granted under some State Act." The clause would then read -

No person shall manufacture except pursuant to this Act unless he is licensed to do so under this Act or under a licence already granted under some State Act.

If this amendment were agreed to, it would make the clause exactly agree with clause 8 of the Beer Excise Bill, and clause 11 of the Distillation Bill. If the honorable and learned senator gives no reasons why the amendment should not be made, I will move it.

Senator O'CONNOR

- The amendment is not necessary because " pursuant to this Act" refers to the legalizing of State licences.

Senator Sir Frederick Sargood

- Why is the clause different in the Beer Excise Bill and the Distillation Bill ?

Senator O'CONNOR

- Because there are different provisions in those Bills with regard to State Acts. A State licence may be granted and may be in existence, but the Federal Act may not have been complied with. There are certain provisions in this Bill by means of which State licences may be continued, but if something happens which makes the State licence not continuable, why should there be a provision in the form proposed ?

Clause agreed to.

Clause 35 (Saving existing licences).

Senator Sir FREDERICKSARGOOD (Victoria). - Another point arises under this clause in comparison with clause 9 of the Beer Excise Bill, and clause 13 of the Distillation Bill. To make them agree it is necessary to add, at the end of the clause, the following words : -

And every person at the commencement of this Act not having a licence, but lawfully carrying on the business of a manufacturer shall be allowed one month to obtain a licence.

Senator O'CONNOR

- This is a different matter. This Bill simply continues existing licences.

Senator Sir Frederick Sargood

- The provision is different in the other two Bills.

Senator O'CONNOR

- I do not see any object in absolute uniformity in these Bills, so long as each carries out its own purpose.

Senator Sir Frederick Sargood

- Very well.

Clause agreed to.

Clause 58-

All excisable goods manufactured shall until delivery for home consumption or exportation to parts beyond the seas whichever shall first happen be subject to the control of the Customs. . .

Senator PULSFORD

- I should like to be quite clear as to what is the construction to be put upon the word " delivery." It appears to me that the moment duties are paid goods ought to be free from the control of the Customs, but according to this clause, as I read it, until goods have actually been removed they are subject to the control of the Customs.

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Senator O'CONNOR

- There is an exactly similar phrase used in all Customs Acts - "delivery for home consumption." If the goods are in a bonded warehouse they may be there delivered for home consumption immediately the duty is paid. Where goods are manufactured there is a store in the factory, which is itself a bonded warehouse, and the goods cannot be delivered out of that store until the duty is paid..

Senator Pulsford

- Would it not be better to say " until delivery for consumption or exportation"? What is the good of loading up the Bill with these words ?

Senator O'CONNOR

- It might be delivery for consumption in some place other than Australia, which would be exportation. Delivery for home consumption means for consumption in Australia, and the expression " or exportation .to parts beyond the seas " is to make it quite clear that in that case the exportation is not from one State of the Commonwealth to another, but out of Australia. We are dealing now with a phrase which is used in all the Customs Acts, and is well known, and why should we make any departure from it when the meaning is perfectly plain ?

Clause agreed to.

Clause 60 (Power to prescribe scales for calculating quantities of excisable goods produced).

Senator Dobson

- I should like the Minister to explain this clause.

Senator O'CONNOR

- The object aimed at in the clause is to insure that there will be no loss to the revenue in the course of manufacture. There is a similar provision in the Distillation Bill and the Beer Excise Bill. There is a certain amount of material which the excise officers have measured and have before them, and they know it will produce a certain amount of dutiable article.

Senator Dobson

- Yes, in ordinary circumstances.

Senator O'CONNOR

- In order to know whether they are obtaining the duty which should be paid upon all excisable stuff produced, they must have under their hands and before their eyes the amount of dutiable goods which ought to be produced from the material in a factory. Otherwise an excise officer would be left in this position, for instance : There might be a quantity of material which should produce 50 tons of excisable goods, and he might find that only 25 tons were said to have been produced. The other 25 tons might be removed in some way and escape duty. This is an extra check. We can have no defined rules in the matter, and where there are hundreds of different processes of manufacture, rules will have to be applied to each of them. The clause provides for scales to show the quantity of excisable goods which may be deemed to have been produced from a certain quantity of material, and it will be an advantage to the manufacturer, as well as to the Customs official.

Senator DOBSON

- I quite agree that a clause of this sort is wanted ; but it is always the unexpected that is happening ; and, though we might agree that in ordinary circumstances, and in an ordinary season, a certain quantity of grapes or barley ought to produce a given quantity of spirit, still, for some reason which we cannot anticipate, the given quantity might not be forthcoming. Should not the manufacturer be protected in that respect ?

Senator O'CONNOR

- The honorable and learned senator will see that under the previous clause protection will be afforded in a matter of that sort. Clause 59 will be read with clause 60, and if according to the scale there is not the quantity of dutiable articles produced that there ought to be, the manufacturer can explain that through some accident, or for some sufficient reason, that quantity was not produced, then he will not be required to pay the deficiency.

Clause agreed to.

Clause 65 (Size of packages).

Senator O'CONNOR

- Senator Sargood has referred to this and the following clause. They have both been under the consideration of the Minister for Trade and Customs and myself, and we have had before us certain representations which we think reasonable. We are now considering the best way of carrying out something which, I think, will satisfy those who are making complaints, and will also protect the revenue. The amendments we intend to propose are not ready yet, and I shall therefore postpone this and the following clause.

Senator Sir FREDERICK SARGOOD

- I wish to ask if the honorable and learned senator will be able, also, to look into the other matter to which I referred - the refilling of boxes bearing well-known brands.

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Senator O'CONNOR

- There are provisions with respect to refilling, but we shall look into that matter also.

Clause postponed.

Clause 66 postponed.

Clause 69-

A refund of the Customs duty paid on the importation of leaf tobacco may be made in respect of all stalks refuse, clippings, or waste arising from the operations in any factory and destroyed in the manner prescribed.

Senator BARRETT

- I am told by those interested in the manufacture of tobacco and cigars that a great deal of evaporation

takes place in their manufacture, and I wish to ask whether that evaporation will be considered as " waste " under this clause.

Senator O'CONNOR

- Not under this particular clause, but there will be an allowance made for waste in the scale to be provided. If the honorable senator will look at clause 70 he will find that no manufacturer is to have in his factory any manufactured tobacco containing more than 30 per cent, of moisture. If there is more than a certain amount of moisture it will not be taken into consideration . Then under clause 71 any manufactured tobacco which, on being dried at a temperature of 212 degrees, is decreased in weight by more than 30 per cent., will be deemed to have contained more than 30 per cent, of moisture. There is an allowance made for a certain amount of moisture, but nothing beyond that.

Clause agreed to.

Clause 74 (Drawback on goods passing into Western Australia).

Senator PULSFORD

- I wish to raise now a point which should properly have been raised when the Customs Bill was before us. Under this clause, power is given to allow drawback if Western Australia exercises its right of imposing duty, but there is nothing to say that the drawback shall be " as prescribed," or shall be a drawback on a scale. The duty which Western Australia may impose is decreased by one-fifth every year, and in the fifth year it will be only 20 per cent., but, according to clause 74, it appears that the full amount of the drawback may be paid.

Senator O'Connor

- Not necessarily. It is as " may be prescribed."

Senator PULSFORD

- Perhaps it would not be out of order to ask how this matter is arranged under the Customs Bill?

Senator O'CONNOR

- There is a clause in the Customs Bill dealing with the matter. So long as Western Australia exercises its power of imposing duty it will treat the products of the other States as foreign products, and for the same reason we shall treat imports into Western Australia as imports outside of Australia, and therefore the same allowance will be made on imports into Western Australia as would be made on exportation. No doubt if the duty was continuous and uniform in regard to Western Australia for the five years during which they are allowed to charge duties a fair drawback to allow would be the whole of the excise. But the power of drawback allowance should be graded in accordance with the scale applicable to the five years decrease in duty. This matter is therefore dealt with under clause 73 which in such case provides that the drawback may be allowed " to such an amount and in such a manner as may be prescribed." Of course it altogether depends upon what Western Australia does. It may see fit not to exercise that power, or it may exercise it in some way which we do not anticipate.

Senator Pulsford

- I admit that the matter is full of difficulty. If the honorable and learned senator thinks that the clauses as they stand will suffice, I am content.

Senator O'CONNOR

- I do not see in what other way we could deal with it.

Clause agreed to.

Clause 80-

Officers shall at all times have complete access to every part of any factory, and may examine, take account of, and note all vessels, utensils, material, and excisable goods in the factory and every stage of process in the making of excisable goods.

Senator Sir FREDERICK SARGOOD

- I have an amendment to move upon this clause. The processes referred to are secret processes, and that has been recognized already in the Customs Bill and in the Beer Excise Bill by an amendment which we have made, and which has been agreed to by the House of Representatives. I move - That the words "and every stage of process in the taking of excisable goods" be omitted.

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Senator O'CONNOR

- What the honorable senator no doubt is referring to is the provision in the Beer Excise Bill as to watching



all processes. It was pointed out that some of the processes were secret, and that so long as supervision was given over all those parts of the process necessary for ascertaining the duty that ought to be paid, that would suffice. We consented to an amendment in that Bill, striking out some words which would have given an opportunity needlessly to pry into a patent. Similar words were used in connexion with distillation, but it seems to me that it would not do to strike out these words ' here, because we require to deal with these processes all through. Unless the Customs officers are allowed to have some inspection at every stage of the process of manufacture, how can they know whether they are safeguarding the revenue in seeing that all the material is manufactured into dutiable goods 1

Senator Sir Frederick SARGOOD

- They are all checked in and checked out.

Senator Major Gould

- The same objection would apply to the Distillation and the Beer Excise Bills.

Senator O'CONNOR

- The honorable senator must see that there is a great deal of difference between the processes of brewing beer and distilling spirits, and the processes which may be covered by this Bill. We know what we are dealing with in the processes referred to in the Beer Excise Bill and the Distillation Bill. The processes there are well known, and there is nothing in connexion with them which will prevent the amount of dutiable or excisable goods from being ascertained. Here we are making a general provision as to all processes. We do not know what we may be dealing with. We do not know whether it will be necessary to examine and have access to the process in order to be quite certain that there is no leakage of revenue.

Senator Major Gould

- Is it necessary to have all this power in a case where they ave manufacturing .tobacco 1

Senator O'CONNOR

- I think it is. It applies to all the processes of manufacturing, not only tobacco but other articles. There may be- other articles of excise which may have to be dealt with. And it may be impossible to trace out the material from its raw state, until it is manufactured into an excisable -article without having a power to be present at all the processes. With regard to the other matters we know that it is not necessary ; but where we are legislating in regard to processes which we do not know anything about it would be most unwise to tie the hands of the excise officers in such a way that they might have to stand back and know nothing about the very processes during which the leakage might take place. It is only a permissive power. It need not be exercised unless it is necessary, and I think the Government may be trusted in exercising this power not to permit their officers, not to compel or even to allow them, to look into matters or to be present at processes which involve trade secrets, and which at the same time it is not necessary to inspect in order to ascertain whether dutiable goods are being properly produced.

Senator Major GOULD

- It occurs to my mind that the rule which we applied in the Beer Excise Bill and the Distillation Bill would be a good one to follow in this Bill. It may be perfectly true, as Senator O'Connor says, that at times the Government may be placed in a difficulty. So they may be with regard to distillation and beer excise. But it is recognised that there may be some special feature which is protected by patent, which the manufacturer does not wish to be disclosed. So it may happen in the manufacture of tobacco or a dozen other things which may be liable to excise. Senator O'Connor says that the Minister would probably not allow the collector to unnecessarily peer into any secrets of that character, but before any action could be taken his attention would have to be drawn to - it, and the manufacturer might be compelled to desist from his manufacturing whilst his representation was being considered. The very fact of a man applying to a Minister to prevent an officer from being present during certain processes, might raise a suspicion at once as to his honesty and integrity. The rule which we laid down in the Beer Excise Bill and the Distillation Bill is one which we cannot fairly depart from with regard to the imposition of excise on other articles. Senator Sargood has pointed out that there are full and ample opportunities to find out what goes into a factory and what comes out. Why then should we follow up the material and watch how it is being dealt with ? All reason is against the retention of the words, and I hope the Minister will give way.

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Senator DOBSON

- Can Senator O'Connor tell me whether under the words "examined, take account and note," the excise

officer can question the manufacturer as to his methods, so as to obtain, whether for right or for wrong purposes, trade secrets ?

Senator O'CONNOR

- There is no power given there to ask a single question.

Senator Major Gould

- There is a power given later on.

Senator O'CONNOR

- There is a power given to examine and make inquiries ; but, if an officer made inquiries which were not necessary, I should think he ought to hear of it from his superior officer.

Senator Sir FREDERICKSARGOOD (Victoria). - All that a sharp man needs to do is to keep his eyes open, and, if he does, he will soon ascertain what the secrets of a firm are. This matter was brought before the Senate in connexion with the Beer Excise Bill, and the same principle applies here. If we place trade secrets at the command of Customs officials, the temptation offered to sell a secret is very great. I know of one case where that secrecy was divulged, and the party entered into a partnership with an opponent, and made a very good thing out of it.

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

The committee divided -

Ayes..... 15

Noes ... .. 12

Majority ... .. 3

Question so resolved in the affirmative.

Amendment negatived.

Clause agreed to.

Clause 82 amended and agreed to as follows : -

Any officer having with him a writ of assistance or a customs warrant, under the Customs Act 1901, may at any time in the day or night enter into and search any house, premises, or place, and may break open the same and search any depository, chests, trunks, or packages in which excisable goods may be or are supposed to be.

Clause 90 (Notice to be given of goods seized).

Senator PULSFORD

- I shall be glad if Senator O'Connor will explain why the words " live animals " appear in the last line of the clause. Surely the Government do not contemplate the imposition of an excise duty on live animals ?

Senator O'CONNOR

- Has the honorable senator read the whole clause? It provides that when any goods have been seized as forfeited they include not only the goods themselves, but also the cart in which they are, and the animal that is drawing the cart. The Customs must do something with the animal. They cannot feed him ; they must sell him.

Senator PULSFORD(New South Wales). - I quite expected that the honorable and learned senator would get out of the difficulty in that way. I am willing to accept the explanation.

Clause agreed to.

Clause 95 (Reasons for arrest).

Senator PULSFORD(New South Wales). - Clause 94 reads that " Any officer of the Customs or Police" may arrest a person. This clause says " Any officer arresting any person." The consequence of this difference is that if the arrest is made by an officer of Customs, he is required to give a statement in writing of the reasons for the arrest : but if it is made by an officer of police, the statement in writing may be omitted. I am aware that the clause has been framed in accordance with the Customs Bill as amended by the Senate, but I suppose there is no objection to making another further correction in it now. The word " officer" is governed by the interpretation clause.

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Senator O'CONNOR

- There is a great difference between an arrest by a police officer and an arrest by a Customs officer. A constable does not want to give a written statement of the reasons for an arrest. Surely the honorable senator does not want to alter the whole law in regard to arrests by the police?

Senator PULSFORD(New South Wales). - I want to make the Bill express what the Senate desires. When we were discussing this matter in regard to the Customs Bill, honorable senators desired that if any person was arrested a statement in writing should be given to him as soon as practicable after the arrest. It did not enter into the mind of any honorable senator that in case the arrest took place by a policeman, this statement in writing was not to be given.

Senator O'CONNOR

- When a similar clause to this was before the Senate in the Customs Bill it was discussed for hours, and the result was that the clause was put into the shape in which we have it in this Bill. The reason for the difference in an arrest by the Customs officer and by an officer of police, is that a police officer is one whose duty it is, amongst other things, to make arrests, and to see that offences are not committed. He is a person skilled in that particular kind of work, and not only knows how to do it, but also under what circumstances an arrest may be made. It is not usual for a constable to give a reason in writing for any arrest he makes. There is a great difference between giving power to arrest to an officer who would not otherwise have this power, and enabling an arrest to be made by a police officer.

Senator PULSFORD(New South Wales). - I do not think that because a man is arrested by a police officer for an offence against the Customs, he should forego the right to have furnished to him a statement in writing of the reasons for the arrest. The clause is too arbitrary. New offences are being created by this machinery Bill. I am certain that when the Senate agreed to similar clauses in previous Bills, they quite expected that if any man were arrested by a policeman or Customs officer, he would be furnished with the reason for the arrest. An alteration should be made, but I am not prepared to move an amendment.

Senator Major GOULD

- It may be of some assistance to Senator Pulsford in connexion with this matter to find that the case is not so absolutely clear as one would be led to believe from the statement of the Vice President of the Executive Council. The word "officer" is not defined to mean merely an officer employed in the service of the Customs, but it includes all persons. It may therefore be assumed that the word officer may in some cases include some one else besides an officer of Customs. As the clause provides that any officer may arrest, and that an officer arresting has to do certain things, it may follow that a policeman making an arrest under this Bill would have to give his reasons just the same as an ordinary Customs officer. Of course, if the definition of the word officer had excluded all persons but officers of the Customs, it would have been a different thing.

Clause agreed to.

Clause 103 consequentially amended and agreed to.

Clause 104-

No notice under the last preceding section shall be deemed invalid by reason of any defect or inaccuracy therein unless the court is of opinion that the defect or inaccuracy would prejudice the defendant in his defence.

Senator Major GOULD

- Is it not necessary to make an amendment in this clause to bring it into conformity with the Customs Bill as agreed to last night? I think we should add to the clause the words we inserted in the corresponding clause of the Customs Bill.

Senator O'Connor

- I have no objection to that.

Senator Major GOULD

- I move -

That the following words be added to the clause - "and the court may give leave to amend such notice as it thinks just." Amendment agreed to. Clause, as amended, agreed to. Clause 118 (Collusive seizures penalty).

Senator PULSFORD

- I presume that Senator O'Connor will be willing to make an amendment in this clause similar to that made in the Customs Bill - making the term of imprisonment for an officer committing one of the offences enumerated five years instead of three.

Senator O'Connor

- I do not object to that.

Senator PULSFORD

- I move-

That the word "three," in the last line of the clause, be omitted, with a view to insert in lieu thereof the word " five."

Amendment agreed to.

Clause, as amended, agreed to.

Clause 129-

Every excise prosecution in the High Court of Australia or the Supreme Court of any State may be commenced, prosecuted, and proceeded with in accordance with any rules of practice established by the Court for Crown suits in revenue matters, or in accordance with the usual practice and procedure of the court in civil cases, or in accordance with the directions of the Court or a Judge.

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Senator Major GOULD

- Is there a provision in this Bill similar to that in the Customs Bill, enabling the individual prosecuted to require the prosecution to be instituted either in the High Court of Australia or the Supreme Court of a State?

Senator O'CONNOR

- In the Customs Bill there is a provision of that sort, dealing with cases involving very high penalties. I believe it is where the penalty is £500, or anything over that, that the case may be taken to the High Court. But I do not think that is required in every case. This clause is exactly the same as clause 238 of the Customs Bill.

Senator Major GOULD

- Under clause 237 of the Customs Bill, the penalty is £100. There the defendant may, within seven days after the service of the process, require to have the case tried either in the High Court of Australia or the Supreme Court of the State in which the prosecution has been instituted. I think we should have a clause of that character in this Bill, because the position is exactly the same so far as the nature of the offence and of the prosecution is concerned.

Senator O'Connor

- I shall consider the matter.

Clause agreed to.

Clause 136 -

In every Excise prosecution the defendant shall be competent to give evidence.

In every Customs prosecution except for an indictable offence or for an offence directly punishable by imprisonment the defendant shall be compellable to give evidence and if called as a witness for the prosecution shall be liable to cross-examination as a witness adverse to the prosecution.

Senator O'CONNOR

- It is necessary to move an amendment on this clause to bring it into conformity with the amendment we agreed to in the Customs Bill last night. I move -

That all the words after " evidence," in subclause (2), line 4, be omitted.

Amendment agreed to. Clause, as amended, agreed to. Clause 148-

If any dispute shall arise between any officer and any person with reference to any non-compliance with or contravention of this Act, the Minister may in manner prescribed with the written consent of such person, inquire into and determine the dispute.....

Amendment (by Senator Sir Frederick Sargood) agreed to -

That the words " non-compliance with or," lines 2 and 3, be omitted.

Clause, as amended, agreed to. Clause 152 verbally amended and agreed to. Schedule 10 (Tobacco regulations).

Senator MCGREGOR

- Under regulation 7, of schedule 10, there is provision made for a store-room in a factory being provided at the direction of a Custom-house officer. It is not that any one wants to raise opposition to this, but in the case of a number of small factories it will be absolutely unnecessary, and would put the proprietor to such expense that he would be almost compelled to close up. I should like some explanation from Senator O'Connor as to whether this direction of the Customs departments is optional or whether they would

compel a manufacturer employing only half-a-dozen hands to supply this elaborate accommodation, when it would only be required in cases where large quantities of excisable goods were dealt with? If this is a discretionary power with the Customs officers, and may be exercised only where there is a real necessity for it, there will be no opposition to the regulation.

Senator O'CONNOR

- The view the honorable senator has last stated is the correct one. The honorable senator will see that a manufacturer is to provide this storeroom in his factory only " when directed by the collector so to do." It must be left to the Customs officers to direct that this accommodation shall be provided where, in their opinion, it is absolutely necessary in the interests of the revenue. But, as the honorable senator has said, there are, of course, some cases in which it would be absurd to require this store-room to be provided.

Senator BARRETT

- I desire to draw attention to regulation 13, dealing with the removal of goods. It provides - Every manufacturer at whose factory a supervising officer is not permanently stationed shall give at least 24 hours' notice in writing to the collector when he wishes to remove tobacco, cigars, cigarettes or snuff. The period of notice should, I think, be reduced to 12 hours. I am speaking in the interests of the smaller manufacturers. Senator O'Connor will know that in the State of Victoria there are what are known as " the £5-licence men," who manufacture their own cigars, and in many cases sell them. It is rather hard in their case that they should be asked to give 24 hours' notice in writing as provided for under this regulation.

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Senator O'CONNOR

-The difficulty is that the officer requires to be present at a time when he can see what is going on, and the removal should take place in daylight. If a notice of 12 hours only was required it might be given one evening at five o'clock, and it would expire next morning at five o'clock. The 24 hours' notice is necessary in order to give a full day. This regulation provides for a notice of at least 24 hours, and the honorable senator knows that where there is any special hurry these are matters in which the officers of the department are always willing to meet the small manufacturers. There might not be so much difficulty in dealing with factories in towns, but we might have a factory at a place some distance removed from the collector. It seems to me that under all the circumstances the 24 hours' notice is not too long to require.

Senator PULSFORD

- The regulation says " at least " 24 hours' notice, and, therefore, no Custom-house officer dare deliver any goods under the 24 hours as Senator O'Connor seemed to indicate. A small manufacturer may desire to remove a small quantity of tobacco or cigars on a certain day, and if the 24 hours' notice is required it may happen that the delivery cannot take place until the day after. I think Senator O'Connor might, with advantage to all concerned, consent to the request of Senator Barrett, which is a fair one.

Senator O'CONNOR

- I should be very glad to consent to it, only it seems to me that it would put the Custom-house officers in an absolutely unfair position, if less than 24 hours' notice was necessary. As I have pointed out they require plenty of daylight time in order to see what is going on. With regard to the removal, it is the manufacturers and not the officers who remove the article.

Senator MCGREGOR(South Australia). - In the case of the small manufacturers referred to by Senator Barrett, the notice required seems to me to be rather long. Under a measure of this description it should be possible for a small manufacturer to have small lots cleared in the factory. Is there any provision to dispense with the notice where the goods are cleared and excise paid, and if not, is it possible to insert such a provision?

Senator O'CONNOR

- There would be no difficulty in doing that where the supervising officer was always in the factory. But this is a case where the supervising officer is not permanently stationed in the factory. Of course, if leave is given, when he goes there . at any time to remove a quantity, or a certain quantity is entered for home consumption, and the duty paid, the removal could be made, I presume, at any time.

Schedule agreed to.

Progress reported.

SERVICE AND EXECUTION OF PROCESS BILL

In Committee(consideration of House of Representatives' amendments):

Motion (by Senator O'Connor) agreed to-

That the committee agree to the amendment of the House of Representatives omitting the word " and " after the word " Majesty " in the enacting words. .

Clause 2 -

The Acts of the Federal Council of Australasia mentioned in the first schedule hereto, so far as the same may be in force in any State, are hereby repealed.

Senator O'CONNOR

- The House of Representatives has inserted the following sub-clause : -

This repeal shall not affect any right, privilege, obligation, or liability acquired, accrued, or incurred under any Act so repealed, or affect any legal proceeding or remedy in respect of any such right, privilege, obligation, or liability ; and any such legal proceeding or remedy may be instituted, continued, or enforced as if this Act had not been passed.

When an Act of Parliament is repealed, it is usual to preserve existing rights; therefore I move -

That the committee agree to the amendment of the House of Representatives inserting a new sub-clause.

Motion agreed to.

Clause 3 -

In this Act, unless the contrary intention appears -

"Court of a State " includes the Vice-

Admiralty Courts in the States of New South Wales and Victoria respectively.

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Senator O'CONNOR

- The House of Representatives has omitted paragraph (d), which defines the " Court of a State." The amendment is necessary, because later on the Vice- Admiralty Courts in New South Wales and Victoria are struck out of some clauses. I move -

That the committee agree to the amendment of the House of Representatives omitting paragraph(d).

Motion agreed to. Clause 5 (Indorsement on writ for service outside State). Motion (by Senator O'Connor) agreed to-

That the committee agree to the amendment of the House of Representatives, inserting the following sub-clause -

Every such writ of summons to which, by the law of such State or part, an appearance is required to be entered, shall have indorsed thereon a notice to the following effect (that is to say) -

Senator O'CONNOR

- As the clause left the Senate, it was provided that the place to be fixed for giving an address for an appearance was a place within five miles of the office of the court in which the proceedings issue, and the other House has reduced the distance to one mile.

Senator Sir William Zeal

- Supposing, that it is in the bush.

Senator O'CONNOR

- If it is in the bush I should think it would be all the easier to get within one mile of the court. It must be within a convenient distance of the court so that officials may be able to act. If the proceedings go on, and notice must be served, it has to be served in this place. - It seems to be reasonable that the distance should be so close to the court that the process may take place there conveniently. So far as the party himself is concerned, as he is in another State, it cannot make much difference to him whether the place is within five miles or one mile from the court, but for the convenience of the officials and of the procedure of the court it may make a good deal of difference.

Senator Dobson

- I think it ought to be two miles.

Senator O'CONNOR

- It is hardly worth while to disagree with the amendment for the sake of turning one mile into two miles.

Senator Sir WILLIAM ZEAL

- The only question to be considered is the public convenience. I would ask Senator O'Connor to take his own State and consider how people living in places beyond Booligal, Hay, Narandera, and Wagga can get in touch with the court if a one mile limit is adopted % There are huge districts in New South Wales

where there is no township within 20 or 30 miles. Unless some latitude is given, I do not see what use this service of process will be to people living in such localities. 15 t

Senator O'CONNOR

- This is not like the ordinary case of process issued against a man in his own State. If he is in the State of Victoria, the Act does not apply ; it can only apply when he is in another State. A writ of summons may be issued in Victoria in respect of a cause of action which may be brought in that State under this Act, and the person on whom it is to be served may be away in some other State. There is a notification on the summons to him - " Your appearance to this summons must give an address at some place within one mile of the office of," say, " the Supreme Court of Victoria, at which the address, proceedings, and notice to you may be left." As he is in another State at the time, it is not a question of his getting to this place or of his having anything to do personally. He simply by his appearance, which will be in writing, fixes some place within Victoria and somewhere near the court.

Senator Playford

- That means that he will have to employ an attorney to do his work.

Senator O'CONNOR

- He may employ an attorney or he may not ; he simply sends back a notice in any form he likes, saying that he appears to the writ, and appoints such and such a house, or such a farm or place, to be the place at which notice and proceedings shall be served. It may be a store or a private house in a town. But so far as the person himself is concerned it does not seem to matter very much whether the distance is five miles or one mile from the court. On the other hand, so far as the other party and the officials of the court are concerned, there is every reason why it should be in some place conveniently near to the court.

Senator Dobson

- If the place he named happened to be a mile and a few yards from the court, would not the appearance be void ?

Senator O'CONNOR

- No, because this is only the notification to him.

Senator Dobson

- Under clause 9 it would be void if it were a few feet over the mile.

Senator O'CONNOR

- -The same question would arise if it were two feet over the five miles.

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Senator Dobson

- In some cases a solicitor's office is more than a mile away from the court, but not more than two miles away. One mile is too little, I think, to . fix.

Senator O'CONNOR

- I do not know ,hat there is any hardship likely to arise from that.

Senator CLEMONS

- do not at all agree with Senator Dobson. It seems to me it is idle to argue that a distance of two miles will be better than a distance of one mile. What we have to consider is the desirability of adhering to the original distance, or accepting an amendment of one mile. I cannot quite agree with Senator O'Connor. If the defendant merely had to name a sort of receptacle, into which notices and other necessary papers were to be placed, and if he could ignore it so far as personal attendance was concerned, then there would be no difference between one mile and five miles. Obviously what is in conflict is the convenience of the court and the convenience of the party on whom the notice is to be served. I do not think the position is at all altered owing to the fact that the Bill deals with processes which are to be served in substitution, that is on a defendant living in another State. It is probably intended to serve these notices at some town. It is quite obvious that in this continent many defendants may be living five miles outside a small town where there is a court, and to say to such a man : - "You must name some place where notices are to be served within one mile of the court," is to put him to expense which I venture to think is unnecessary. As Senator Playford has interjected, it obviously would in many cases compel a defendant to employ an attorney. There may be cases in which a defendant does not wish to employ an attorney. Further, if he did not employ an attorney he would have to employ somebody else, probably at cost to himself, and obviously additional expense would be imposed on him, because he would have to leave his

own place of residence to get there. I do not think there would be any hardship in fixing the distance at five miles, but I consider that there would be some hardship on the defendant. At the same time I am not going to support any qualified amendment such as Senator Dobson suggests. I do not think that by juggling with a few figures, and altering " one " to " two," we shall do much good. We have either to insist upon the original distance of five miles or accept this amendment.

Senator Dobson

- I have not moved an amendment

Senator CLEMONS

- No; but the honorable and learned senator has indicated his intention of doing something if he finds that he is likely . to succeed, as we have known him to do before.' There can be no hardship in fixing five miles.

Senator O'CONNOR

- I think that, on the whole, it would be safer to adhere to the five miles. One reason bearing upon my mind is that a man may appoint some person who resides a little outside the town to appear for him ; and another is that in a larger town a man might be restricted to the choice of a particular solicitor. We do not desire that. I move -

That the committee disagree with the amendment of the House of Representatives, omitting "five miles," and inserting "one mile."

Motion agreed to.

Amendments, 6 and 7 agreed to.

Clause 6 -

If a writ of summons, or copy thereof does not bear all the endorsements hereby required it shall be void.

Senator O'CONNOR

- Amendment No. 8 is, I think, a very desirable one. In the clause, the summons was made void altogether if it did not comply with the conditions, but inasmuch as it is a summons not only to be served outside the State in which it is issued, but also inside the State, it is not necessary to make it void altogether. I move -

That the committee agree to amendment of the House of Representatives omitting the word "void," and inserting in lieu thereof the words " ineffective for service under this Act."

Senator CLEMONS

- At first I regarded these words as giving more precision to the clause, but I gather from the remarks of the Vice-President of the Executive Council that to a certain extent they alter the meaning of the clause and change its operation.

Senator O'Connor

- Instead of making the summons void altogether it is made ineffective for the purposes of this measure. I think that we went too far in the original clause.

Motion agreed to.

Amendments 9 to 13 agreed to.

Clause 9 (Appearance to State address for service).

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Senator O'CONNOR

- In this clause the House of Representatives have made an amendment which is consequential upon a previous one with which we have disagreed. I therefore move -

That the committee disagree with the amendment of the House of Representatives omitting "five miles" and inserting "one mile" in lieu thereof.

Motion agreed to.

Senator O'CONNOR

- The next amendment is in the form of a new clause which the House of Representatives has inserted, and I think we might agree to it. This legislation is entirely new, and there is no doubt that it is desirable that the exercise of the power should be hedged in by every proper precaution. It seems to me to be not unreasonable to assume that there may be cases of persons at one end of Australia suing persons at the other end ; and there should be some provision by which, when the Judge thinks the case a trivial one, he may direct that security for costs be given. This new clause is entirely optional. The Judge may act upon it



or he may not, according to his judgment. I move -

That the committee agree with the House of Representatives' amendment, inserting the following new clause: - "9a. Any defendant who has been served under this Act with a writ of summons may apply to the court out of which the writ was issued, or a Judge thereof, for an order compelling the plaintiff to give security for costs, and upon such application the court or Judge may make the order."

Senator CLEMONS(Tasmania).- I entirely concur in Senator O'Connor's view, that this amendment is an improvement.

Motion agreed to.

Amendment 16 agreed to.

Clause 10 (Proceedings where no appearance entered).

Senator O'CONNOR

- In this clause the House of Representatives has made what I regard as a necessary amendment. They have inserted a provision to meet the case of a corporation. Of course there must be some provision as to how a corporation is to be served. I move -

That the committee agree with the House of Representatives' amendments inserting after the word "defendant " the following words : - "Or in the case of a corporation served on its principal officer or manager or secretary or within the State or part in which service is effected."

Motion agreed to.

Amendments 18 and 19 agreed to.

Senator O'CONNOR

- The House of Representatives have omitted the following words from clause 10, namely : -

And that he neglects to appear to a writ or is living out of such State or part in order to defeat 15 t 2 or delay his creditors or deprive the plaintiff of the relief to which he is entitled.

This amendment is at the end of clause 10. The general idea of the clause is that where no appearance is entered by the defendant to the writ of summons served upon him in certain cases, and where it appears to the Judge that the writ of summons was personally served, and the defendant is living out of the State to evade his creditors, the Judge may order the proceedings to go on in his absence. I think we might agree to the amendment made by the House of Representatives. The words - "he neglects to appear 'to a writ" are not necessary, because the first part of the clause provides for cases where no appearance is entered by the defendant to the writ of summons served upon him. As to the latter part of the words omitted, it seems to me that they introduced a new element altogether into the matter. Because, after all, the defendant is not being proceeded against here in the same way as where a man is proceeded against for defrauding his creditors. It does not matter whether a man is living out of the jurisdiction to defeat his creditors or in the ordinary course of his business. On considering the matter, the amendment appears to me to be a proper one. As the clause will stand, there is every safeguard, and the measure may be put into operation whenever the subject of the action is within its operation and there is no appearance entered. I move -

That the committee agree to the amendment of the House of Representatives omitting the following words : - "And that he neglects to appear to the writ or is living out of the State or part in order to defeat or delay his creditors or deprive the plaintiff of the relief to which he is entitled."

Senator Sir JOSIAH SYMON

- I agree that the first part of the provision omitted by the House of Representatives is unnecessary. We may very well assent to that omission, because the essence of the clause is that the proceedings are not applicable unless there is no appearance. But I think the other part is necessary, for this reason : That although there is a power given to rescind or set aside the order, or amend it on the application of the defendant, the whole object of the measure is that judgment may be given behind a man's back.

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Senator Dobson

- It must be proved that the action came to his knowledge. Judgment could not be given behind his back if the matter came to his knowledge.

Senator Sir JOSIAH SYMON

- He must have knowledge as to the recovery of judgment. But he may say that he does not appear because the court has no jurisdiction. He may say - "I am not going to appear." One way is to appear and

plead, and another way is to ignore the summons. A final judgment can be obtained against the defendant, and then -clause 11 gives that judgment the same force and effect as if the writ had been served on the defendant in that part of the Commonwealth in which the writ was issued. So that the judgment if any against the defendant would be absolutely unchallengeable unless there was fraud. That is the ground, I venture to think, upon which "these words were originally inserted. It must be remembered that Australia is a large place and that this is experimental legislation to some extent, though I admit that it is very necessary legislation. We can always amend the law later on if it is found that further facilities are necessary, and I think at present it would be better to retain the latter part of the amendment.

Senator DOBSON

- I would agree with the honorable and learned senator if it were not that it must be made to appear to the court from which the writ is issued, not only that reasonable efforts were made to effect personal service thereof on the defendant but that "it came to his knowledge." If the plaintiff is able to prove that, he practically proves by implication that the defendant is keeping out of the way. I think with Senator O'Connor that we should be rather limiting the effect of the clause unnecessarily, if after proof that the -writ came to the defendant's knowledge we made it necessary also to prove that he was doing certain things for a certain purpose.

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Senator O'CONNOR

- With regard to what Senator Symon has said it is really a question of the cases to which we intend to apply this procedure. I think it is right that this procedure should be applied not only in the cases in which the defendant is acting fraudulently in keeping out of the way of his creditors ; but in all cases in which the defendant is residing out of the jurisdiction of the court of his own State without any limitation at all. We should very largely limit the usefulness of the clause if we made it compulsory to prove that the defendant was really acting fraudulently for the purpose of delaying or defeating his creditors. Although I was myself a party to drawing up the Bill, I must admit that it is one of the matters of legislation that is quite new and exceedingly difficult ; and it appears much more clearly to me now that these words were not necessary, that they introduce a limitation of the Bill, and a new element altogether. If we intend to extend the jurisdiction generally in every case where these provisions may be applied with all their safeguards, I think we ought to accept this amendment. There is every possible safeguard against any judgment being obtained fraudulently or inadvertently, because under sub-clause (2) it is provided that -

Any such order may be rescinded, or set aside, or amended on the application of the defendant.

If he has any facts to bring before a Judge, he can do so, and the judge has power under that sub-clause practically to allow him to do anything he likes with regard to the matter.

Senator Sir JOSIAH SYMON (South Australia). - There is no doubt, as Senator O'Connor has pointed out, that this provision is surrounded by a very important safeguard in sub-clause (2), which enables a defendant to go before a Judge and seek to have an order qualified or even rescinded. I acknowledge the force of what Senator Dobson has said as to it being necessary to prove that it came to the knowledge of the defendant that efforts were being made to effect personal service of the writ upon him, and where that was shown, the judge, in entering judgment, would imply that the defendant was keeping out of the way. Of course it is important that, wherever possible, the defendant should be served with processes, and be made answerable to proceedings in the court of the State to which he belongs. That is the foundation of the jurisdiction of the States, and it is important that it should be preserved. Owing to the obliteration, largely of these lines of division between the different States under Federation, it is desirable that facilities should be given for the service of processes, irrespective of these boundaries. But while that is the case, it was never intended that judgment should be entered up against a person who might be in a remote part of the Commonwealth, in cases where the jurisdiction might be doubtful, and in cases, too, in which it would be more proper that he should be served by a process issuing from a court of his own State. If proceedings are taken against him outside his own State it is a serious thing to enter final judgment against him unless he is absolutely keeping out of the way - not of the whole of the Commonwealth, but out of the way of process of his own State.

Senator O'Connor

- No; but he is living out of his own State in order to defeat his creditors.

Senator Sir JOSIAH SYMON

- That is what I wish to point out to the honorable and learned senator, that while he is in another part of the Commonwealth, perhaps remote from the court of his own State and the scene of the transaction out of which the litigation arises, we are making him liable to have a final judgment signed against him which shall have the same effect as if it were entered in the court of his own State, which presumably would have full jurisdiction. We are placing him in that position without any additional element than the mere fact that a writ has been issued against him. I think he should not be made subject to a final judgment in a court of his own State under such circumstances as are described in clause 10, unless it is proved that he is keeping out of it for the purpose of delaying or defeating his creditors, or is depriving the plaintiff of relief to which he is entitled. I quite admit the advantages of the Bill, but it seems harsh, under the circumstances described, to enter up a final judgment against a man which will have the full effect of a judgment entered in his own State.

Senator CLEMONS(Tasmania).- While I agree with a good deal of what Senator Symon has said, I cannot help feeling now that if these words were restored they would impose unnecessary restrictions upon the operation of the Bill. I think that, for the sake of simplicity, and in order not to impose a restriction which we set out to avoid when this Bill was framed, these words should now be struck out. Sub-clause (2) will in itself provide every safeguard which is necessary, and I am therefore inclined to accept the amendment.

Motion agreed to.

Senator O'CONNOR

- The next amendment is really an addition to clause 11, and for more abundant caution it is, perhaps, as well we should have it. It really carries out the intention of the Bill, which is that there should be no greater jurisdiction conferred upon the court issuing process than it otherwise would have. As a matter of law, I do not think any new jurisdiction is given, but to save all arguments and difficulties that might arise by-and-by, it is better to express it on the face of the Bill. I move -

That the committee agree to the amendment of the House of Representatives inserting the following new clause : - 1 1a. This part of this Act does not confer on any court jurisdiction to hear or determine any suit which it would not have jurisdiction to hear and determine if the writ of summons had been served within the State or part of the Commonwealth in which the writ was issued.

Motion agreed to.

Clause 13 (Summons for offence may be served in any part of the Commonwealth).

Senator O'CONNOR

- This clause provides that -

When a summons has been issued by any court or Judge or justice of the peace having jurisdiction in a State or part of a State..... certain things are to follow, and the House of Representatives proposes an amendment upon the clause, inserting the words "on information upon oath" after the word "issued," line 1. Generally speaking, these summonses and informations are issued upon oath, but as this is the foundation of the whole proceedings under this Bill, it is as well that it should be made clear, that an information upon oath will be necessary.

Senator Walker

- " Oath " includes " affirmation."

Senator O'CONNOR

- Yes, that would be so. Whatever the law is now with regard to informations, it will apply in these cases.. I move -

That the committee agree to the amendment of the House of Representatives.

Motion agreed to.

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Senator O'CONNOR

- In the next amendment, the House of Representatives proposes the omission of the words, in clause 13, "justice of the peace," with a view to insert in lieu thereof the words "police, stipendiary or special magistrate." The object of the amendment is not to allow the provisions of this Bill to apply to summonses issued by an ordinary justice of the peace.

A special magistrate has in some States the same functions and duties as a stipendiary or police magistrate, and he is what may be described as an official or professional magistrate, and is a permanent

judicial officer. It is right that the serious powers which follow under this Bill should be confined to summonses issued by officers of this kind, and I consider the amendment an improvement. I move - That the committee agree to the amendment of the House of Representatives.

Motion agreed to.

Senator O'CONNOR

- In the next amendment in this clause the House of Representatives proposes the insertion of the words, "and it appears to such court, judge, or magistrate that the summons was duly served on the defendant a sufficient time before the day appointed for the hearing," before the word "all," in sub-clause (3) of clause 13, so that the sub-clause shall read -

If such person fail to appear at the time and place mentioned in such summons, and it appears to such court, judge, or magistrate that the summons was duly served on the defendant a sufficient time before the day appointed for the hearing, all such proceedings may be taken as if the summons had been served in the State or part of the Commonwealth in which it was issued.

The amendment, it seems to me, proposes a proper precaution, and is in the direction of providing greater safeguard in the operation of the Bill. I move -

That the committee agree to the amendment of the House of Representatives.

Motion agreed to.

Amendment No. 25 agreed to.

Clause 14 -

When a subpoena or summons has been issued by any court or Judge or by any justice of the peace in any State or part of the Commonwealth requiring any person to appear and give evidence in any civil or criminal trial or proceeding, such subpoena or summons may by leave of such court Judge or justice on such terms as the court Judge or justice may impose be served on such person in any other State or part of the Commonwealth.

Senator O'CONNOR

- The House of Representatives proposes the insertion of the words - "Upon proof that the testimony of such person is necessary in the interests of justice," after the word "may," line 6.

The amendment is really in the direction of hedging round still more the protection of the clause. It means that where application is made for a subpoena for a witness under this Bill, which may have to be served in order to bring a witness from some remote part of Australia, it will be essential in addition to proving the other matters required, to prove that the testimony of the witness is necessary in the interests of justice.

That is to prevent a plaintiff or defendant taking out these subpoenas for witnesses, and compelling them to attend from, perhaps, great distances, when they may not be necessary witnesses in the proceedings at all. I move -

That the committee agree to the amendment of the House of Representatives.

Motion agreed to.

Amendments No. 27 to 30 agreed to.

Clause 15 (Mode of proof of service).

Senator O'CONNOR

- The other House has inserted some words in paragraph (a) to provide that when a man cannot get a justice of the peace he may take the oath before a commissioner for affidavits or declarations or a notary public for that State. I move -

That the committee agree to the amendment of the House of Representatives inserting after the word "effected" the following words : "or before a commissioner for affidavits or declarations or notary public for that State or part."

Senator Sir Josiah Symon

- It ought to be a commissioner of the court from which the process issues.

Senator O'CONNOR

- We can hardly say that, because the process may issue from the county court or some inferior court.

Senator Sir Josiah Symon

- I see now that it is not substitutionary for a justice of the peace.

Motion agreed to.

Clause 16 (Warrants may be backed for execution in another State).

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Senator O'CONNOR

- The other House has inserted a paragraph to enable a warrant to be backed and served in the State where a person against whom an order has been made happens to be. It is a very proper extension of power in cases of maintenance. Very often an unfortunate woman is left to support herself, and there is no possibility of getting hold of the man and bringing him back, and making him do his duty, simply because he has gone into another State. I move -

That the committee agree to the amendment of the House of Representatives inserting the following new paragraph : -

Against whom an order for the maintenance of his wife or children has been made.

Motion agreed to.

Senator O'CONNOR

- The other House has also made two amendments in the clause to enable a person who wishes to have service set aside to go before either a justice of the peace, or a Judge of the State, as he thinks fit. I move -

That the committee agree to the amendments of the House of Representatives inserting before the word "that" the words "or to any Judge of the State," and omitting the word "he" and inserting in lieu thereof the words "the Justice or Judge."

Motion agreed to.

Clause 18 (Registrar of judgments and proceedings thereunder).

Senator O'CONNOR

- In this clause the other House has made an amendment which takes away the retrospective application of the Act. Considering the nature of the provisions, perhaps it is not unreasonable that it should apply only to actions begun after the commencement of the Act; other - wise persons would be put in the position of having remedies against them, and being put under obligations which they had not when the process was begun. I think we might agree to the amendment.

Senator KEATING

- We should not hurriedly agree to the amendment, because the Bill, to a certain extent, is taking the place of a Federal Council Act which has been in force in several States. I have not had time yet to see what will be the effect of this particular provision on that statute.

Senator O'Connor

- There has been a clause put in expressly to safeguard the rights under those statutes.

Senator KEATING

- Granted ; but in one or two States the statute does not operate. In many instances judgments have been obtained against individuals in the State when both parties were present, and the judgment debtor has got away to such another State where he could not be reached. Following the principle of the Act to which this Bill bears an analogy we ought to adhere to the original clause. We can do no harm to anybody if we do, and we simply give means for the enforcement of rights for which there was no remedy, but rights which existed prior to the passing of the Act. I cannot see my way to accept the amendment.

Senator O'CONNOR

- A very strong reason has been suggested by Senator Keating why it may be well to consider this matter. In all the States there is a process by which a judgment outside the State may be made effective. For instance, in New South Wales there is a memorial of judgment, and in all the other States I think there is some system analogous to backing warrants in some of the Acts. It may be that under the Constitution all these proceedings will come to an end when we pass this Bill, and although there is a clause saving all the proceedings, it certainly may lead to confusion as to what remedies are to be applied. As we are dealing with the case of judgments in this particular part of the Bill, perhaps there will be no harm in making it retrospective. Ordinarily speaking retrospective legislation is very objectionable. Until Senator Keating made the suggestion it had not occurred to me that there is that distinction, and it may be doubtful what the operation of the Bill will be on existing remedies if it is limited as the other House has suggested. I move -

That the committee disagree to the amendment of the House of Representatives omitting the words "whether before or."

Motion agreed to.

Amendments No. 36 and 37 agreed to.

Clause 19-

No certificate of a judgment shall be so registered after the lapse of twelve months from the date of the judgment, unless leave in that behalf has first been obtained from the court in which the certificate is proposed to be registered, or from a Judge thereof.

Senator O'CONNOR

- The other House has made an amendment to give a lapse of two years within which to register a judgment. There does not seem to be any particular harm in allowing two years.

Senator Clemons

- There is no hardship in a man having to register his judgment within twelve months.

Senator O'CONNOR

- We are dealing with a very large area.

Senator Sir Josiah Symon

- But twelve months is a long time.

Senator Keating

- The defendant might get away from the State in which judgment was obtained about twelve or eighteen months afterwards, and you could not follow him.

Senator Clemons

- Once a judgment is registered in a State it is registered throughout the Commonwealth.

Senator Keating

- That would necessitate registration in the Supreme Court.

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Senator Sir Josiah Symon

- The Judge could always extend the time.

Senator O'CONNOR

- The registration spoken of here is the registration under the Act. There is no necessity to register the judgment under the Act until the defendant has left the jurisdiction, and, as Senator Keating points out, he may not leave the district until twelve or eighteen months after it has been obtained. In that case, the period of two years runs from the date of the judgment, not from the date of registration.

Senator Sir Josiah Symon

- I would not alter the period, because the clause empowers a Judge to allow a plaintiff to register after the expiration of twelve months if the man has left.

Senator O'CONNOR

- That seems to provide a sufficient safeguard. I move -

That the committee agree to the amendment of the House of Representatives omitting the words "twelve months" and inserting the words "two years."

Senator KEATING

- The amendment of the other House is a very desirable one, and it would be . equally desirable if it were extended beyond that period. In the first instance, a plaintiff might recover a judgment against a defendant in a State, and he might issue process upon that judgment without any result. After the lapse of two years the defendant might go into another State, and there he might get into such a pecuniary condition that it would be advisable and advantageous to the plaintiff to follow him. But if we imposed a limit such as two years on the plaintiff for registration, or getting his certificate of judgment for registration, in that State, it would be impossible for him to follow the defendant unless by special leave of the Judge. His attorney would apply to a Judge to give the special leave under these circumstances, and I am not so sure but that very many Judges would act in accordance with the spirit of the section, which obviously is to limit the time for the registration of a judgment to a definite period. The Judge would, I think, say - "That is the spirit of the section, and the discretion which is reposed in me to extend the period it a discretion to be exercised, with regard to the possibility of an applicant being prevented, by some unusual circumstances, from registering within two years or one year as the case may be."

Senator Sir Josiah Symon

- The necessity for it not having arisen.

Senator KEATING

- I think the Judge would say, and very properly say, "Parliament contemplated the possibility of a man not leaving the State until the lapse of two years, but it made no special provision for it. I am given power to extend the period, but it has laid down a limit of two years."

Senator O'Connor

- Would it not be a very good reason to show to the Judge that the defendant had not left the jurisdiction ?

Senator KEATING

- I think so, and the Judge would say - " That was a very good reason to occur to the mind of the Legislature in framing the measure, but it has fixed a specific time." We can contemplate the whole of the possibilities. We have a large floating population in Australia. A judgment is recovered against a man, and he does not leave his State for two years and a half, or perhaps three years, after it was recovered and it is still unsatisfied. He may go to another State and be there for another two years before he is in such circumstances as would warrant the plaintiff in following him. That may be five years from the- recovery of the judgment. The plaintiff may apply to a Judge to allow him to take out a certificate in order to get his judgment registered in that State, and the Judge will say - " It is actually five years from the time when you obtained the judgment. Two years is the limit imposed in the Act, but you have allowed three years to go away in addition to the two years, and I do not feel disposed to give special leave."

Senator O'Connor

- That would apply to any limitation.

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Senator KEATING

- It would apply to a limitation of ten years, but it would apply with a far greater degree of force to such a small limitation as that of two years. The plaintiff, if he had the defendant in his own State, could follow him up for a far longer period than two years. The whole spirit of the measure is or should be to enable a plaintiff to follow a judgment debtor throughout Australia, so long as there is a reasonable prospect of recovering the amount of the judgment debt, having regard to the ordinary conditions which are imposed on a plaintiff in his own State as to the time for the recovery of the debt. I think two years, under these circumstances, is little enough to allow a plaintiff in which to take these necessary steps to secure his rights when a defendant has gone to another State. It may be said that the plaintiff should register his judgment at once, and the time limit is fixed with regard to the date at which he obtained the judgment. I think that is hardly the date at all. Due regard should be had to the date at which the judgment debtor got beyond the jurisdiction of the court in which judgment was recovered.

Senator Clemons

- You cannot wait until he gets out of the jurisdiction.

Senator KEATING

- It is of no use to register in another State until he does get out of the jurisdiction of the original State. Are you to take out a certificate and register the judgment in each State in anticipation of the possibility of the defendant at some time or other escaping from the jurisdiction?

Senator Clemons

- What you really want is a period of six years, not two years.

Senator KEATING

- I should like to see the period fixed at six years. On the analogy of the proceedings in the State, and having regard to the fact that we are trying, so far as these provisions are concerned, to break down the State barriers which have hitherto separated litigants in this position, I should think that six years was the proper term in ordinary circumstances to have made in the first instance. Seeing that we have limited this to one, and the House of Representatives has made it two, I am prepared to agree to the amendment and to go even further if it were possible to do so.

Senator Sir JOSIAH SYMON

- I agree with the Vice-President of the Executive Council that the clause as it stands, seeing that the provision is inserted in it to enable the Judge to give leave at any time, is not only an ample provision, but is founded on very excellent lines indeed. Senator Keating's very interesting observations open up a much larger question. To satisfy his argument it will be necessary to change this clause altogether, and make the period date from the time at which registration of the judgment with a view to ulterior

proceedings becomes necessary.

Senator Keating

- That is, if we are to have a small limit like this.

Senator Sir JOSIAH SYMON

- That is what the very vivid and effective argument of the honorable and learned senator comes to. But that argument would have been more applicable if it had been addressed to the clause when the Bill was going through committee on the first occasion. Now we are only dealing with an amendment which would really be ineffective. There is no difference, practically speaking, between one and two years in this respect, or for the matter of that any limitation at all ; because if we put in two years, at the end of that time recourse may still be had to the Judge, whose discretion has to be exercised.

Senator Keating

- Recourse to the Judge requires costs, as the honorable and learned senator knows.

Senator Sir JOSIAH SYMON

- But my honorable and learned friend himself stated that at the end of two years a person would be driven to the same position as at the end of one if he did not register, because he fears that it might be six years before the necessity for registering the judgment would arise. One month would be sufficient, so long as it was left to the discretion of the Judge to do justice to the plaintiff and to see that no injustice was done to the defendant in harassing him with a judgment which perhaps there might be circumstances to satisfy the Judge, ought not to be enforced against him. We know what often happens if a man has a judgment given against him which may be recovered after he has left the jurisdiction. He is allowed, to go away, and two or three years afterwards the poor man may be in the position of having retrieved his fortunes. The judgment is registered. It is sent away to the place where he is, to be enforced after a lapse of some years, when the enforcement of it may involve very great hardships. It is for that reason that it is left to the Judge to decide. Whether the period is one, two, six or ten years, there should always be that permission to the plaintiff to go to the Judge to say - " I did not register my judgment before; give me leave to do it now." Unless the matter can be opened up and dealt with on the larger basis, I hope the amendment will be agreed to.

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Senator CLEMONS

- It seems to me that the amendment suggested is in the nature of a compromise, and is delusive rather than ineffective. I think the Vice-President of the Executive Council will bear me out in the statement that under the Federal Council Act the term is twelve months. In some of the States the term is two years. This term of two years is something in the nature of a compromise between the Federal Council Act provision of twelve months, and the legislative of some of the States where the term is six years. For reasons which have been urged, I feel inclined strongly to do one of two things only - either to support twelve months, or, practically speaking, to support our original clause. "With regard to what Senator Keating has urged, I feel that in spite of the difficulty of going before the Judge, there is ample provision to meet every case.

Senator O'Connor

- It is an ex parte proceeding.

Senator CLEMONS

- That is so.

Senator KEATING(Tasmania). -With regard to the contention put forward by Senator Symon, that seeing that the Judge would have power to grant leave beyond the time we ourselves set down for taking out the certificate, the less time we give under the statute for taking out the certificate without leave, the greater the possibility of the plaintiff having to have recourse to the Judge for leave. If we limit it, as Senator Symon said we might possibly do, reasonably enough, to even a month, still reserving to the Judge the right to grant leave, we practically place -nearly all plaintiffs in this position : That it will be necessary for them before they take out their certificate to transfer the judgment, to make this ex parte application, and that cannot be done without costs. There are business men in our Larger centres who have judgments within the courts of their own States against traders who have gone from those States, perhaps for years, to distant parts of the Commonwealth : and perhaps these debtors have since become successful, but have forgotten their obligations to those in their original State. I adhere to the opinion that notwithstanding



the power given to the Judge under this clause to extend the time, unless we extend the time the Judge will nearly always determine his decision by a due regard to what he considers to be the spirit of this section, namely, limitation. We should have regard to the fact that we have imposed a limit - and a small limit at that - and in the cases to which I have referred, such as a man not finding the judgment debtor in a position to pay until five years after, it will be practically hopeless to get the leave that will be necessary to the plaintiff to proceed to recover what may be due to him.

Motion agreed to

Clause 20-

For the purposes of the last preceding section any court mentioned in any of the following subsections shall be deemed to be a court of like jurisdiction with any other court mentioned in such sub-section, namely : -

The Vice-Admiralty courts in the States of New South Wales and Victoria, and the Supreme Court of any other State in its Admiralty jurisdiction.

Senator O'CONNOR

- The House of Representatives have omitted paragraph (b) of this clause. There are certain courts enumerated in the clause which are to be corresponding courts for the filing of proceedings and judgments. We had inserted amongst those courts the "Vice-Admiralty Courts in the States of New South Wales and Victoria. A difficult question arises as to whether we have power to deal with these Vice-Admiralty Courts. In New South Wales and Victoria the Vice Admiralty Courts are really Imperial Courts, held under direct authority from the Imperial Government. In South Australia, and, I believe, in other States, they are simply State Courts. There may be a question as to whether we have power to deal with the registration of judgments in those courts correlatively. Perhaps it is safer to avoid any difficulty by leaving the paragraph out. . That, at any rate, is the view of the House of Representatives.

Senator Sir Josiah Symon

- I do not think the latter part of the paragraph should have been omitted.

Senator O'CONNOR

- The question really is whether we are running any risk in regard to the matter.

Senator Sir Josiah Symon

- The provision would be useful in the case of any ship:

Senator O'CONNOR

- It is one of those questions which are not of very much practical moment, but may become important. Perhaps it will be just as well to leave the paragraph in. I move -

That the committee disagree with the amendment of the House of Representatives omitting paragraph (6) of clause 20.

Motion agreed to.

Amendments 40 to 43 agreed to..

Clause 25 (Judges of Supreme Courts may make rules).

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Senator O'CONNOR

- The House of Representatives have inserted a new subclause in this clause which has regard to rules of procedure. I think the new subclause proposed is a very useful one for the practical working-out of the measure until rules are made. I move-

That the committee agree to the amendment of the House of Representatives inserting the following new sub-clause : - " (2) Until such rules have been made, and as far as any made do not provide for the circumstances of any particular case the practice and procedure of the State in which the process is issued or in which the service is effected or the execution is enforced respectively shall apply as far as practicable."

Senator Major GOULD (New South Wales). - I wish to know how this clause in regard to rules and regulations will apply in case of judgments recovered in district courts and county courts? It appears that there is no provision with regard to making rules to carry out the judgments of the inferior courts. Does this clause give power to deal with district courts and county courts as well as Supreme Courts?

Senator O'CONNOR

- Yes ; it gives power to deal with the whole subject. It is quite clear that there must be one authority in a

State to make these rules, and instead of giving the power to the Supreme Court, the county court, the district court, the mine's court, and the magistrates' court, we give it to the Supreme Court to make the rules that are necessary. There should be one authority to make these rules.

Senator Major GOULD

- Such should be the case. The Judges of the Supreme Court have their own power conferred upon them with regard to their own rules, but the Supreme Court does not make rules for the district court, which makes its own rules. I understand that in this case the Supreme Court will make rules for all the courts?

Senator O'CONNOR

- Yes ; the Supreme Courts will make rules for the inferior courts and all the courts. That is what is intended and will be the effect of the clause. Under our Federal Constitution our statutes are binding upon all the subjects of the Commonwealth, and the rules made will be applicable to all the courts.

Motion agreed to.

Amendments 45 to 49 agreed to.

Resolutions reported and adopted.

Motion (by Senator O'Connor) agreed to -

That Senators demons, Pearce, and the mover, be appointed a committee to prepare and bring up reasons for disagreeing to amendments Nos.5, 14, 35, 38, and 39 of the House of Representatives.

ADJOURNMENT

Bill Files

Motion (by Senator O'Connor) proposed -

That the Senate do now adjourn.

Senator KEATING

- On the motion for adjournment, I desire to ask whether between this and next week consideration will be given to the advisableness of providing members of the Senate with more up-to-date and more convenient files for Bills. I notice that in another place they have much more convenient files for papers. Those in use here are now becoming very cumbersome, and it is difficult to follow the various Bills and proposed amendments from time to time.

Senator Sir JOSIAH SYMON

- -Might I mention in the same connexion that it would be very useful if honorable senators could also have a file Of the journals and papers? In the State from which I come, each member is supplied with a file of the journals and papers, and the practice has been found very convenient. That matter might have consideration at the same time.

The PRESIDENT

- Both of these matters will be taken into consideration. I may remind honorable senators of the fact that a resolution has been passed directing that an estimate and plans shall be prepared for desks for members of the Senate. That is in course of preparation, and if the Senate agrees to that it will perhaps facilitate the preparation of these files for papers.

Question resolved in the affirmative.

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15:36:00

Senate adjourned at 3.36 p.m.