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1901-10-03

House of Representatives.

Mr. Speaker took the chair at 2.30 p.m., and read prayers.

PETITION

Sir LANGDON BONYTHON presented a petition from 270 residents of South Australia, praying that the Commonwealth may retain the monopoly of the retail liquor traffic of the Federal Capital.

Petition received and read.

QUESTIONS

OLD-AGE PENSIONS

Mr O'MALLEY

- I desire to ask the Prime Minister, without notice, if he will be able to set apart a day next week for the discussion of the motion I have on the notice-paper dealing with old-age pensions? I ask this because Fridays have been taken away from private members.

Minister for External Affairs

Mr BARTON

- I cannot at the present moment give an answer to the honorable member's question, but I shall be glad to do so if he will place it upon the business-paper for to-morrow.

TELEGRAPH TO TARCOOLA

Sir LANGDON BONYTHON

asked the Treasurer, upon notice -

Whether, in view of recent developments, the Government have made any provision in the Estimates for the extension of telegraphic communication to Tarcoola ?

Treasurer

Sir GEORGE TURNER

- I hope to be able to deal with the matter on Tuesday next.

COST OF CANE CUTTING

Ordered (on motion by Mr. Ewing) -

That a return be at once obtained and laid before this House, showing -

The actual cost of cane cutting per ton in Queensland -

By contract (specifying white or other labour).

In wages to white men. (c) By employing kanakas. [If rates range in different districts, examples to be given.]

IMMIGRATION RESTRICTION BILL

Motion (by Mr. Barton) proposed -

That the Bill be recommitted for the purpose of reconsidering clauses 4, paragraph (a), 8a, 9, 10, 10a, and 11.

Sir MALCOLM McEACHARN

- I should like clause 15 to be reconsidered in order to allow of the insertion, after the word " regulations," of the words "not inconsistent with this Act." As those words appear in the Customs Bill, the Excise Bill, and in other measures, I do not see why they should not be used in this Bill.

Minister for External Affairs

Mr BARTON

. - If the Governor-General is authorized, as he is in the Bill, to make regulations for carrying out its provisions, it stands to reason that he cannot make valid regulations inconsistent with those provisions, because if they were inconsistent they could not be for carrying them out. Under the circumstances, however, I consent to the reconsideration of the clause.

Motion amended accordingly.

Mr Watson

- It seems to me that a return should be made of the offspring of coloured people residing in the Commonwealth. I think it would be possible to get the information from the Registrars-General.

Mr BARTON

- Although it would be desirable to obtain that information, a provision for a return would not find an

appropriate place in the Bill, because the subject is not one with which the measure deals. If, however, the honorable member will move for a return separately, his motion will not be opposed, and I shall see that the information is provided for at the same time as the return referred to in the clause is furnished. Question resolved in the affirmative.

In Committee(Recommittal) :

Clause 4 -

The immigration into the Commonwealth of the persons described in any of the following paragraphs of this section (hereinafter called "prohibited immigrants ") is prohibited, namely -

Any person who when asked to do so by an officer fails to write out and sign in the presence of the officer a passage of 50 words in length in an European language directed by the officer.

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Mr REID

- I wish to say a word or two upon this paragraph before the Prime Minister moves his amendment. I was not in the House when the words at the end of paragraph (a) were inserted, and I feel even now that in justice to myself I must draw the attention of the committee to the effect which it appears to me the words "directed by the officer" will have. Is it really intended to put upon the statute-book a provision that an officer in the Customs shall be left to administer this very important part of the Bill at his own discretion ; and, secondly, that an officer of the Customs shall be quite competent at his own discretion, or under Government instruction, to subject a French subject to the test of writing out at dictation 50 words in the Turkish language ?

Mr Barton

- A full explanation was made on that point when the paragraph was under discussion.

Mr REID

- Yes, no doubt ; but I have to deal with the Bill as it stands, and I do not see how any explanation could be read into a Bill of this sort. If the explanation were in the Bill it would be all right. I should like to point out - with all respect to the committee - that this is a matter affecting the credit and character of this Federal Parliament. Can it possibly be contemplated that we intend calmly to put in this Bill words which would permit of a Frenchman being set a task in Turkish, or a German being called upon to write out a passage in the Spanish language, and so on right through the category? I do not say that that would be done by the present administration, or by any administration, or by any Customs officer apart from any administration, because I do not suppose that any Customs officer would really do that sort of thing without some direction from a superior authority. I do not think he would be capable of such trickery, because I do not suppose that this Government intends to publish to the world that the real meaning of this legislation is that, unless a Frenchman comes here prepared to submit to a test in every European language, he is to be regarded as a prohibited immigrant.

Mr Crouch

- It does not say "is to be" ; it says he may be prohibited.

Mr REID

- I do not know whether the honorable and learned member requires to have it pointed out to him that the possibility of doing a thing under any statute is worthy of consideration. I see the words " may be " staring me in the face. The officer may be directed to take a certain course and he may not, and the Government may or may not direct certain action to be taken. But do we mean to contemplate the possibility of a subject of France coming to Australia and having put before him the task of writing out a passage in any other language but his own - in any one of the other European languages but his own? Do we contemplate such a possibility ? If we do not, why should we embody it in our legislation ? This legislation will be keenly canvassed, and properly so, in all civilized countries, and really we should endeavour - without re-opening the matter - to make the Bill quite clear. I do not wish to refer to the long debate we had upon paragraph (a), but, without opening that issue, and simply directing my remarks to the structure of the Bill, as the committee has determined to accept it, I would appeal to the Prime Minister, since I do not think he contemplates any such possibility as I have indicated, to make the meaning of the clause perfectly clear. I very strongly dislike any words which would leave it open to us to contemplate the possibility of anything such as I have described happening. I quite admit that under these words it would be perfectly easy for the Government to see that no injustice is done. The Government can see that a

Frenchman, or a German, or an Italian, or a Dane shall be tested only in his own language ; but what I object to is that the words are put in such a form that the other course to which I have referred might be taken, and that then it might be said that that course was expressly provided for by this legislation. That is so, but any such action would indeed be an outrage upon any feelings of equity we may have. I feel the inconvenience of bringing this matter up at this late period, and, therefore, I do not wish to press my view upon the committee too strongly, but in justice to myself I feel that it is due that I should make my attitude clear.

Mr Glynn

- I moved in the same direction as that indicated by the right honorable and learned member.

Sir Malcolm McEacharn

- I tried to do something in that way, too.

Mr REID

- Since the matter was brought up and debated, I do not wish to go into it any further ; but I hope the committee will pardon me for making these few observations as a matter of record.

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Minister for External Affairs

Mr BARTON

. - It is due to my right honorable friend's position to say that, after dealing with the amendment I have to propose, I shall make an explanation, which I think he will be quite ready to accept, as to the action of the committee, and as to the reasons why we think the words referred to should be retained. In the meantime I shall move -

That the words "at dictation" be inserted after the word "out."

Considering this clause, as we have had an opportunity of considering it again, it is quite clear, to my mind, that unless the passage to be written out is dictated, an opportunity will be afforded of defeating the Bill. The Acts which deal with the writing out of an application - as some of them do, notably the New South Wales Act - are free from the difficulty I mention, because there is a form of application which the intending immigrant has to write out. There is a certain liability of defeat there, but in the case of a passage to be written - not being a mere application, but selected from some author, as this is to be - unless somebody dictates the passage, the difficulty will be that the otherwise prohibited immigrant might have no other way of writing out the passage except by seeing it, and in that case a man could learn the thing by rote, and would have matters all his own way. We do not want to say that the officer shall dictate the passage, as was originally provided, but we wish to leave it open to the officer to have the passage dictated under proper instruction. The words " directed by the officer " were introduced as a concession to the honorable and learned member for South Australia, Mr. Glynn, because he pointed out that the officer would not always be able to dictate, but that there should be a dictation by some person ; and the words now proposed to be inserted will make the Bill closer and tighter in its provisions.

Amendment agreed to.

Mr BARTON

- With regard to the suggestion of my right honorable friend, the leader of the Opposition, I would point that the matter was raised in the committee on Tuesday last, and the honorable and learned member for South Australia, Mr. Glynn, suggested that the passage should be dictated by or at the instance of the officer in any European language selected by the immigrant. The feeling of the committee then was that it should not be left to the immigrant to select any language for the test, because he would then be to a certain extent administering the Act himself. It will be impossible to administer the Bill to the satisfaction of this House, unless the Minister who has the administration of it sees that injustice is not done to Europeans, and I gave very full guarantees on that point, which I think were accepted by the committee. I pointed out that any desirable classes of European immigrants, such as those to which the leader of the Opposition has referred, would not be touched by the application of this Bill, because it is not the purpose of the Bill that they should be affected. I find that in the New South Wales Act, passed by my right honorable friend in 1898, the words are " fail to write out in some European, language, and send in, an application," &c.

Mr Reid

- I never intended to use the word " some " in that way - it was to be some language at the option of the

immigrant.

Mr BARTON

- The Minister who has the administration of the Bill will, no doubt, have regard to the recognition of the nationality of the applicant ; but we may get fraudulent applications from persons who might learn off certain passages by rote, and write them at dictation even better than a paragraph in their own language. It would be very easy to do that, with a certain amount of learning. We wish to do two things. We wish the officer to be able to dictate the language so as to prevent fraud ; but we do not wish to touch Europeans unless they come under the application of the other prohibitory provisions of the section. We also desire to change the test passage in such a way that nobody can slip in by learning it off, and so defeat the operation of the Bill. These matters were explained the other day, and I think the sense of the committee was that we should leave paragraph (a) in its present form. I do not think we could do any good by inserting now words which the sense of the committee then rejected.

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Mr BRUCE SMITH

- As one of those who assented to this European test, and who echoed the sentiments expressed as to the hypocrisy of the Bill in the form in which it was first introduced, I have listened with astonishment to the explanation that has been offered with regard to this clause. If paragraph («) were left in its present condition on account of the explanation offered by the Prime Minister, the committee will be a much more credulous one than I have ever in my wildest moments credited it with being. It is the deliberate intention apparently to leave this clause in an equivocal condition, so that if some improbable case should arise the officer would have it in his power to call upon a Frenchman to pass an examination in Russian or Turkish, in order that he might by some insidious means be excluded under the wording of the Bill.

Mr Barton

- No Minister in the world would do it.

Mr BRUCE SMITH

- I say that this is an astounding explanation for the Prime Minister of Australia to make, because it means nothing more nor less than I have said. This committee has over and over again stated that we must, above all things, say what we mean on the face of this Bill.

Mr Watson

- Which we have not done.

Mr McDonald

- The honorable and learned member voted against doing that.

Mr BRUCE SMITH

- I made a very full explanation of my attitude on this Bill, which may be expressed in half-a-dozen words now. When the Bill was introduced in its original form it provided that the test should be made in the English language, and it was made quite clear by the Prime Minister that although the English language was made a *si/ne qua non*, it was not intended to touch the other nationalities of Europe. I stated then that the Bill was a hypocritical measure, and I say so again.

Mr Barton

- That does not make it so.

Mr BRUCE SMITH

- But I said that as soon as this Bill was put into such a form that any European language might be used for the purposes of the test, the hypocrisy would, to a large extent, be taken out of it, because it would be a plain statement to the people of Europe, and for that matter, to the people of Africa and Asia, that they must pass an examination in some European language, and it would place the Bill on an infinitely more honest and above board plane than it was before. Now the hypocrisy is to be carried to an extent to which it has never been carried before in an Act of Parliament, because although the committee- - and I am quite sure that no honorable member will dissent from this proposition - has assented to the proposal that any immigrant shall be allowed admission to Australia if he can write out a passage of 50 words in any European language, the Prime Minister has practically told us that it is the intention of the Government to use this provision, not for the purpose which every honest reader would understand, but for the purpose of imposing upon any undesirable European the necessity of writing out 50 words in some language other than his own.

Mr Barton

- Will my honorable and learned friend allow me to say that I never said that, and I never meant it ?

Mr BRUCE SMITH

- I hope that honorable members on my left will not encourage the Government in their endeavour to retain this clause in its present equivocal form so that it can be used for ulterior purposes. They have had their opportunity. They have had a division upon this matter, and I think that when once a majority has registered a decision against them they ought to recognise it fairly and honorably as the verdict of the committee. The simple question which honorable members have to put to themselves is : " Does not this provision mean that any European coming to this country shall be entitled to admission to the Commonwealth if he can pass the prescribed examination in his own language 1 " The Prime Minister has said that he does not wish to express that meaning so plainly, because, forsooth, a Frenchman might learn off by rote a passage of 50 words in some other language.

Mr Barton

- I was not speaking of Europeans, and the honorable and learned member ought to know that.

Mr BRUCE SMITH

- It is perfectly clear, from the explanation of the Prime Minister, that he wishes to leave to administration something which is not explained in the Bill. I ask the committee whether it is not their intention that any European shall be allowed to enter the Commonwealth if he can pass an examination in his own language ? Then who is to choose the language? Is it to be chosen by the immigrant or by the Custom-house officer ?

Mr Reid

- The committee has negatived a proposal that the immigrant should choose the language in which he is to be examined.

Mr BRUCE SMITH

- I do not think that there was a division upon the proposal,

Mr Glynn

- It was quite hopeless to try to carry it.

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Mr BRUCE SMITH

- It was proposed, and the Prime Minister made an explanation. The outside world is concerned in this question. The honesty of purpose of this Parliament is involved in it. If we mean that any European is to be allowed to come into the Commonwealth if he can write out a passage of 50 words in his own language, should the provision be left in such an equivocal condition that it is in the power of the officer to ask the immigrant to pass a test in a language other than his own? If we mean that an immigrant is to be allowed to enter the Commonwealth upon passing an examination in his own language, what possible objection can there be to intimating that fact in the form of some amendment in the Bill? At present it is clearly expressed that the immigrant himself shall be able to name the language in which he is to be examined.

Mr.Reid. - No ; that has been negatived.

Mr BRUCE SMITH

- I would point out that there was no division upon that proposal. The Prime Minister made an explanation, it is true. I read that explanation, and I am bound to say that I thought it quite as plausible as the one which he has offered to-day. For that very reason, prior to the leader of the Opposition rising to deal with this question, I intended to say something about it. It is one of the points which I raised at an early stage of the debate upon this measure, because I felt that so long as any European could come into this country by passing an examination in his own language we had nothing to fear from the criticisms of other nations. But when it goes forth to the world that the Prime Minister refuses to allow the meaning of this clause to be made so unequivocal that it will be plain to every one that a European can gain admission to Australia by passing an examination in his own language, we make ourselves the laughing stock of other civilized peoples. I take it that, failing to pass the amendment providing for absolute prohibition, even the members of the labour party are prepared to honestly carry out what is contained in the Bill, and what is evidently intended by it. It would be very unfair after that amendment has been lost for the members of the labour party to encourage the Government to leave this clause in such a condition

that another construction can be placed upon it than that which every one reading it would understand. The Prime Minister moved a resolution just now of a much more microscopic character. He inserted words to provide against the possibility of any immigrant choosing or learning a passage of which he had heard. He has inserted words of a highly technical character. What for? As he said "to make the provision closer and tighter." Why is there this anxiety for closeness and tightness? To make it equivocal - to make it impossible of understanding. Why is closeness and tightness desired in one case and deliberate laxity provided for in the other.? Are the Government not creating what is popularly called a "loop-hole" in order that cases may be provided for which are not otherwise included in the drag-net measure ?

Mr Deakin

- It is not only Europeans who can write a European language.

Mr BRUCE SMITH

- That shows another insidious purpose. I notice that the members of the labour party, if I may judge by their physiognomical expressions, rather rejoice in my discovery of another insidious purpose in this measure.

Mr.Fowler. - Because the honorable and learned member's own language test is equivocal at the best.

Mr BRUCE SMITH

- I am not advocating the discovery of any new words which shall be more or less equivocal than the ordinary words of our language, but I am asking the committee to use words which, according to common acceptation, will distinctly tell the world what we as a Parliament mean. The Attorney-General now supplies another meaning. He says that this provision is intended to prohibit the admission of people of other nationalities who may be able to pass an examination in one of the languages provided for in the Bill. Is that what the committee has said?

Mr McDonald

- Yes; and the honorable and learned member voted for it.

Mr BRUCE SMITH

- It is just as well to remember that we are a deliberative body representing the Australian people, who are a plain-speaking people, and who generally say what they mean, and mean what they say. I understand that some honorable members regard with some degree of flippancy--

Mr Page

- It is the honorable and learned member's attitude at which we are laughing.

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Mr BRUCE SMITH

- Some honorable members regard with a degree of flippancy the fact that the Attorney-General has revealed to the committee the possibility of stopping an Asiatic who can actually pass an examination in one of the languages prescribed in the Bill. I ask honorable members seriously to answer this question "Has the committee declared that any citizen of any state can come into Australia if he can pass an examination in any European language?"

Mr Piesse

- So, it has not.

Mr BRUCE SMITH

- I say that it has. It has distinctly declared that any one desirous of entering the Commonwealth can do so if he can pass an examination in a European language.

Mr Reid

- No, in any European language selected by the officer.

Mr BRUCE SMITH

- He can gain admission if he can write out a passage of 50 words in a European language dictated by the officer. But the language is not to be selected by the officer.

Mr Reid

- Yes.

Mr BRUCE SMITH

- It is to be dictated by the officer.

Mr Barton

- May I tell my honorable friend that what was done was a compromise between conflicting views.

Mr BRUCE SMITH

- I am not more interested in this Bill than is any other honorable member of this House, nor than is any citizen of Australia. But I am as much interested as any honorable member or as any citizen, in seeing that the meaning of whatever Act we pass shall be honestly and plainly expressed. I for one never intended - and I am quite sure a majority of this committee never intended - that by reason of its equivocal form the Bill should be used as a means to keep out of Australia any citizen who can pass an examination in any of the European languages. If honorable members choose that the Bill shall go forth to the world in its present form, and that our neighbours shall know from this debate that, though we have said that any European who comes here and can pass a test in his own language shall be admitted, we have up our sleeve, in true "heathen Chinese" fashion, a means of checking him, because we can prescribe a language other than his own. Well and good. I am not content that it shall do so. I am glad that my protest will be recorded in Hansard against the hypocritical and equivocal form of this clause, which is put into the Bill not merely with the consent but with the connivance of the Government.

Mr WATSON

- I quite understand the attitude of the honorable and learned member for Parkes, because he looks at this Bill from an utterly different stand-point from that of a large majority of this committee. Judging from his speech the other evening upon the main point at issue, he was prepared to allow into Australia any citizen of the world, coloured or white, so long as he was able to pass the educational test. But that attitude is not sympathized with by a majority of this committee; in fact, the honorable and learned member is almost in a minority of one.

Sir Malcolm McEacharn

- I was with the honorable and learned member, though I am not in favour of admitting blacks.

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Mr WATSON

- Just so; even the honorable member for Melbourne is not with the honorable and learned member for Parkes, as to the admission of blacks, and he is, therefore, in a minority of one. From the point of view of the honorable and learned member, I can quite understand the desirability of making this test of the character he suggests; but so far as subterfuge and equivocation are concerned, of which he speaks, he deliberately, with the assistance of his vote, committed himself to that course. A number of us thought that we should take only the straight-out course of declaring the desire, intention, and fixed determination of Australia on this point; but we were in a minority, owing to a set of circumstances it is not necessary to go into again. Those who went to make up the majority on that occasion are not at one in the intention or method. That the honorable and learned member for Parkes desires; and so those members, and the majority of the committee as a whole, being desirous of making this measure as effective as it will in its essence allow, favour the course proposed under present circumstances by the Government. That course is that although the Government have not seen fit to take the straight method - the straight method in our opinion, anyhow - those of us who desire to see coloured people kept out must leave a weapon in the hands of the Government of the day that will allow them to bar any person who may have qualified in one particular language, but who, nevertheless, is a most undesirable immigrant. If we make the alteration suggested by the honorable and learned member for Parkes, it will be quite possible that the millions of coloured people about whom he spoke the other evening as being well educated and, therefore, able to pass a test in some European language, may gain admission; and while he may look with equanimity on such a possibility, I for one cannot do so. Having no desire to let those people in, although they can pass in some European language they might select, I intended to support the alteration proposed by the Government.

Mr. REID(East Sydney). - I shall not enter into the old discussion of which we have had so much, because I do not think to do so would be fair having regard to public business. At the same time I wish to make my position in this matter perfectly clear. I was with the honorable member for Bland in his proposal, which the committee refused to adopt when it adopted the proposal of the Government. In my remarks this afternoon I was quite disposed to put out of my mind the Japanese or the coloured race question, and to simply direct my attention to the European phase. It is perfectly clear that the committee have decided to deal with the coloured races in this indirect method, and I was simply thinking of the question as it bears on European races and nations. It is from that point of view that I wish to get this matter put in a more

satisfactory form, but it now appears from the statement of the Prime Minister that this is another indirect method of blocking the Japanese.

Mr Barton

- We do not deal with the Japanese apart from other people.

Mr REID

- Well, coloured races. I will put it that way, and say that this is another indirect method of securing the blocking of coloured races which the majority of the committee have sanctioned. As that matter has been fixed up between Mr. Chamberlain and the Government, it is, of course, impossible to have it altered. But with reference to the European nations we, I think, are under no sort of embarrassment. We are perfectly free, in my opinion, to alter the clause in reference to Europeans at any rate. I really did hope we should have been able to put the clause in a more definite form, but I admit now that the intention of the Government is that if any of the people of these coloured races come here and are educated enough to speak one European tongue, the officer is to be on the watch for them to find which tongue they do speak, and then to test them in some other language which they do not know. We, wishing the exclusion of those races, cannot personally be very bitter about that. It is carrying out our more direct method in a manner which the Government are making characteristic of themselves.

Mr Mauger

- It is not an educational test to let people in, but a test to keep them out.

Mr REID

- The honorable member for Melbourne Ports, who at one time was the twin brother of the honorable member for Wentworth on the broad path of national progress, will admit that the general idea as to the educational test was not that a man should be able to pass in any language under the sun at a moment's notice, but that he should be able to pass in one given language at least. But I see now that this is one method of carrying out what we all have in view. I take the assurance of the Prime Minister that, in point of fact, this Bill is not aimed at European nations. I accept that assurance, though I regret the form in which the proposal is made.

Mr Barton

- It is not more aimed at Europeans than was the Bill of my right honorable friend. The right honorable member knows what that Bill was.

Mr REID

- Exactly ; and if the Prime Minister wants to go back to that old matter I am ready to do so. That is not my desire, however, because I do not think it would be fair to the transaction of public business. So far as this House and this committee are concerned at the present moment, we make a very silly and undignified appearance before European nations.

Mr Piesse

- No, no.

Mr REID

- I do not say that the honorable member for Tasmania, Mr. Piesse, does so, but simply that we, who are anxious to pursue a straight course, and who desire to express our minds in so many words, are made to occupy that position. The Prime Minister used another expression which I do not wish to misunderstand. 1 was that this clause might be used in a case where some person was otherwise objectionable. Do I understand the Prime Minister to mean " otherwise objectionable," under the definition of this particular clause ?

Mr Barton

- I do not quite understand the question.

Mr REID

- I understand that it is quite clear that under this clause the Government do not wish--

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Mr Barton

- When people come under the other paragraphs of the clause, and are clearly under them, then there is no necessity to apply the test.

Mr REID

- Of course nob ; but supposing the officer had a suspicion that a person came under sub-clause (d), he

could "dish" him under sub-clause (a) by putting, for instance, a Russian test to a German, who seemed to be suffering from some infectious disorder.

Mr Barton

- If the doctor gave a certificate that a man had not a loathsome disease when he apparently had, I do not know what we should do, but I think we should take care to keep the fellow out.

Mr REID

- But surely this sub-clause is intended as a convenient way of solving doubts. If a Customs officer has a suspicion that a man is likely to become a public charge, or that he has some disease, or has been convicted of an offence, he will catch him under sub-clause (a) by giving, perhaps, a Frenchman a test in the Turkish language.

Mr Barton

- There is no intention to play any tricks at all.

Mr REID

- Not any, but the one trick.

Mr Barton

- The trick the right honorable and learned member is familiar with.

Mr REID

- Do I understand that the Ministry are copying my old familiar trick? Is that the function of this galaxy of talent?

Mr Barton

- God forbid!

Mr REID

- Unfortunately the Ministry pick only my worst attributes, instead of my best; but I hope that during the next two or three days they will study my best attributes and my desire to keep taxation on a sound basis.

Mr Barton

- We should like a photograph of the right honorable gentleman's attribute, because that might not change so much.

Mr REID

- On the fiscal question, the Premier must not talk about change. I am where we were together 30 years ago, when he spoke of the Chinese wall that protectionists built round Australia. I have had the satisfaction of carrying out the glorious ambition he and I had, as young politicians in New South Wales, in the way of freedom of commerce. The Prime Minister went the other way; he had to do it, I admit, because there was not room for him on our side. But I do not want to go into any of these old matters, though the Prime Minister has tempted me to say a word or two. I hope there will be, at least, the satisfaction of an assurance that so far as Europeans are concerned this clause is not intended to be applied.

Mr Barton

- There is no necessity for any further declaration, which has been given over and over again.

Mr REID

- I understand that has been so stated.

Mr Barton

- The right honorable member knows that it has.

Mr REID

- I confess that I do not, because one has to read so many pages of what the Prime Minister says, in order to find out what he means. But I take his assurance across the table, because his assurances are always straight.

Mr Barton

- Nobody knows the debates better than the leader of the Opposition.

Mr REID

- I assure the Prime Minister that I have not read more than 200 or 300 lines of Mansard - at any rate I have not read my own speeches. I understand that this Bill is not aimed at Europeans, but that sub-clause («) may be used against Europeans of doubtful reputation, under the other sub-clauses. I cannot say much more. The Prime Minister has the ear of the House, and the Bill is practically through,

and I simply wish to do justice to the attitude I have taken up in the matter.

Mr POYNTON

- I rise to express my sincere sympathy with the honorable and learned member for Parkes in the way in which he now finds he is trapped. I am really astonished that the honorable and learned member takes such great exception to this new phase of the question. He must have known that the Bill as it stands to-day is in fact, or will be when it becomes law, a legalized lie. If a similar Bill had been administered as this one reads, it would have kept out half the pioneers of these States. We ought to blush for shame in this first Federal Parliament, when, instead of having the courage to state our case and make our position clear, we legalize a lie.

Mr Piesse

- Question!

Mr POYNTON

- The honorable member does not deny what I am saying 1

Mr Piesse

- Yes, I do ; the honorable member has not read the Bill.

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Mr POYNTON

- I have read the Bill often. Each day shows fresh developments in connexion with it. The other day the honorable and learned member for Indi, when trying to get an amendment inserted, uttered a tirade against the measure on the ground of its ineffectiveness. The honorable and learned member for Parkes stands in a different position in regard to the measure from other honorable members, because he made no secret of his intention to vote for the Bill on the ground that it would let people in.

Mr BRUCE SMITH

- Some of them.

Mr POYNTON

- Now he is complaining because he finds that it will not do so.

Mr BRUCE SMITH

- That is not why I complain.

Mr POYNTON

- The honorable and learned member complains that, if we passed the Bill as it stands, we should be the laughing-stock of the world. I am not so concerned about that, however, as I am about the fact that the Bill, on the face of it, is a living lie. If it had not been for the scourge applied to honorable members last week, the Bill would not have been passed through committee in its present form.

Mr Chapman

- Bunkum.

Mr POYNTON

- The Bill has been carried through because of the ignominious threats of dissolution made by the Government.

Mr V L SOLOMON

- And threats of resignation.

Mr POYNTON

- Yes. All those who have spoken against the provisions of the Bill have been characterized as disloyal. I think, however, that those who wish to exclude all but European races from this continent are more loyal from the stand-point of the future interests of this country and of England than are those who would allow aliens to come in so long as they can pass an education test.

Mr Mauger

- Who is prepared to do that ?

Mr POYNTON

- All who voted for the Bill as it stands. The honorable member spoke one way and voted the other.

Mr Mauger

- That is not true.

The CHAIRMAN

- I ask the honorable member for South Australia to confine himself to the amendment, and not to reflect

upon the action of other honorable members.

Mr POYNTON

- I feel very strongly upon this subject, and I shall speak my mind upon it. However, I have nothing further to say at this stage, though there will be some strong talking on the Bill before it finally leaves the Chamber.

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Sir WILLIAM McMILLAN

- The other evening, when this matter was discussed, there was really no debate so far as honorable members on the Ministerial side of the Chamber were concerned. Honorable members on this side represented the very anomalous position in which we should be placed if we passed the clause as it stood, and we only had the statement of the Prime Minister, which he reiterated this afternoon, that it would do what was desired. I think that the honorable and learned member for Parkes has been hardly dealt with, and that he did not foresee, when he took his previous attitude, the tremendous anomalies which would occur under the Bill. Perhaps, if he had done so, he would have voted for the amendment. What he desires to point out now is that in the action we are taking to-day we are to a certain extent transgressing the very principles of legislation. An ordinary person reading the clause would say that it meant that any European coming here might be required to submit himself to a test of his knowledge of his own language. That is the common-sense reading of the clause, and, under ordinary circumstances, when a question arises as to the interpretation of a provision in an enactment, Parliament is willing to assent to an amendment which will make its intentions perfectly clear. The honorable and learned member for Parkes asks that that be done in this case. We are dealing now with an international question, and our determination may have a serious effect upon shipping interests. Unless it is distinctly declared under what conditions persons may come here, how can a ship-owner or ship-charterer know whether he will be permitted to land certain passengers? The clause as it stands would prohibit all immigration, because it practically amounts to a statement to the world that we do not want any people, whatever their race or language, to come here. What ship-owner would take the risk of bringing any large number of manual labourers to this country if there were the slightest risk of having to take them back again? If the clause is passed as it stands, we shall declare ourselves to be an absolutely uncivilized people. In my opinion we should clearly state what our intention is. It is all very well for the Prime Minister to say that he will issue certain instructions and regulations, but it must be remembered that they will have to be carried out by subordinate officers all over the Commonwealth.

Sir Malcolm McEacharn

- And they will not be known to persons at home.

Sir WILLIAM McMILLAN

- If he is not going to straightforwardly carry out the provisions of the clause, how can he give definite instructions which will be applicable to every case? It is only definite and distinct instructions that the Customs officers can act under. By passing the clause as it stands, we publish it to the world that we not only prohibit the immigration of aliens from Asia and Africa, but make it questionable whether any ship-owner or ship-charterer may bring to our shores any body of men from European countries as well. Mr. BRUCESMITH (Parkes). - I should like to say a word or two in the nature of a personal explanation. I am, and I hope always shall be, desirous of being clearly understood by honorable members. A remark made by the honorable member for Bland, however, showed that that honorable member quite misunderstood the attitude I have taken up. He practically suggested that I was sorry for something I had done.

Mr Watson

- No. I said that I quite understood and appreciated the position of the honorable and learned gentleman, which was distinct from that of any other member of the committee.

Mr BRUCE SMITH

- I understood the honorable member to say that I seemed to be harking back on a question which had been decided against me. I do not, however, wish to do that. My responsibility was gone the moment a division was taken, and my vote recorded. What I found fault with was that, while the committee evidently intend that any European shall be allowed to come here if he can pass an examination in his own language, they are not stating that intention on the face of the Bill.

Mr WATSON

- We admit that.

Mr BRUCE SMITH

- If it is admitted that the intention of the committee is that any European may come in here who can pass an examination in his own language

Mr Reid

- Without passing an examination. That is the statement of the Government.

Mr BRUCE SMITH

- Is the right honorable and learned member, with his experience of political life, satisfied that an important matter of this sort should be left to the Government or a Custom-house officer ?

Mr Reid

- I should think not.

Mr BRUCE SMITH

- As the clause stands, if a Messageries steam-ship came here with a number of Italians on board, the captain could not be sure that, because of some ephemeral excitement, the Government would not instruct the Customs officials that it was undesirable to allow them to land ; because it would be open to the Government, acting strictly within the provisions of the Bill, to require those Italians to pass an examination in Russian, which, of course, would be tantamount to prohibiting their landing. In the State of New South Wales there was for a short time a most violent agitation against Italians, because of the large number of persons of that race who had engaged in fruit-selling in Sydney, and it was felt that they were interfering very much with English, Irish, and Scotch people who were following the same pursuit. Honorable members will recollect, too, that some time ago there was an agitation in New South Wales in regard to the importation of a large number of Italians who came with some special knowledge of street asphaltting. I mention these instances to show that I am within the province of the practical in dealing with this difficulty. But under the clause it is open to the Government to instruct a Custom-house officer to do what would result in the shutting out of a body of Italians, or of any other persons of European race, by requiring them to pass an examination in a European language not their own. But the committee never intended that an European should be submitted to an examination in some language other than his own. I can see now how the difficulty has arisen. When I left the House on Friday last, the word " dictated " was in the place now occupied by the word " directed," and any one reading that clause would understand that the word dictated did not refer to the language but to the words, and therefore it was intended that the 50 words should be in an European language, which words should be dictated to the immigrant.

Mr Glynn

- That was read otherwise.

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Mr BRUCE SMITH

- The word " dictated," which obviously referred to the words constituting the passage, was taken out, and the word " directed " substituted, and now the paragraph is open to the interpretation, not that the words, but that the language, shall be directed by the officer, and the alteration has, no doubt, rendered the words of the paragraph open to a double interpretation.

Mr Glynn

- We have got rid of one difficulty and created another.

Mr BRUCE SMITH

- Very likely, but that is not my fault. When I was last acquainted with this clause, it was in such a condition that it would have permitted any European to come into the Commonwealth after passing an examination in fifty words of his own language, dictated by the officer. Even as the clause stood then it was open to objection, which I privately pointed out to the Prime Minister before I left. I stated that the form of words was liable to misinterpretation, because it might be contended that the officer or person administering the Act could determine the language to be used for the test, whereas the intention might be that the language should be selected at the option of the European who came here. As to my being caught in a trap, I am not at all anxious to clear my reputation with regard to my liability to be caught in traps - not at all - and the honorable member's little " twitting " phraseology does not affect me. I admit that I saw the danger last week - I saw the danger even before the word "directed" was substituted for

"dictated " - and I have the satisfaction of knowing that I pointed it out to the Prime Minister. I remember now, and read in quite a new light, the answer he gave me on that occasion, because I can see that this equivocal feature of the clause has been kept back as a means of shutting out people who are not directly and honestly excluded by the Bill. I am very much obliged to the honorable member for Wentworth for his sympathy, but I do not at all regret having voted against the amendment to exclude all Asiatics, Africans and Pacific islanders. If I had voted for that I should have remembered it with great regret, and I have the satisfaction of knowing that joined in passing the clause in such a form that, read in the light of common every-day interpretation, it would have allowed a civilized European citizen to come into Australia so long as he could pass the test in his own language. If it is now open to the Government by an insidious method to exclude Europeans by asking them to pass a test in a language other than their own, that is one of the unfortunate results of using language which is sometimes capable of two or three interpretations ; and I protest against any measure which goes forth to the world conveying a meaning other than that which any person reading it in an every-day way would put upon it.

Mr GLYNN

- What took place the other day was this : - I suggested that the paragraph should be amended by providing that the test should be " a passage of 50 words in length dictated by or at the instance of the officer, in any European language selected by the immigrant." That, of course, would have been perfectly fair, and would have been an ingenuous method of legislating in order to secure our object. The Government, however, abandoned my suggestion, and substituted the word " directed " for the word " dictated and as I could not carry my own amendment I had to accept theirs. I did, however, object to it as being bad for the reasons given by the honorable member for Parkes - that it made it more clear that the choice of the language was to be in the hands of the officer. We got rid of one difficulty, which would have arisen if the officer were not able to read some of the European languages, but we created another difficulty which has been pointed out by the honorable and learned member for Parkes.

Mr BRUCE SMITH

- It was the honorable and learned member who was caught in a trap.

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Mr GLYNN

- No; because if we had left in the word "dictated" the officer might not have been able to read a passage in, say the Hungarian language, and might perhaps exclude an immigrant who would otherwise be able to pass the test, and the amendment was made so as to give an opportunity to the officer to act to some extent honestly.

Mr. REID(East Sydney). - I desire to make a suggestion quite apart from the matter we have been discussing. It has been represented to me by the manager of one of the big shipping companies that arrangements might be made for the appointment of inspectors, who might subject intending passengers to the necessary supervision at the principal ports of departure. This is a matter of administration, and it might involve some alteration of the Bill, but I commend it to the earnest consideration of the Government as a practical suggestion which might relieve the Government as well as the shipping companies and the intending immigrants. I think it must be obvious that with regard to prohibited immigrants of the classes set forth in this clause, such as persons likely to become a charge upon the public, idiots, persons suffering from infectious diseases and so on, it would be a great protection to the shipping companies if the Government were to take power to appoint agents at the principal ports abroad so that an opportunity might be given for examining passengers before they leave for the Commonwealth. The great bulk of our immigrants come from a few ports in the mother country and in Europe, and it would not be necessary to make many appointments. The Government, therefore, might consider the propriety of altering the Bill - in another place, if it is too late here - in the direction I have indicated. The agents should of course be men in whom the Government could implicitly trust, and the shipping companies could afford every facility for the examination of their passengers so as to insure the rejection of prohibited persons.

Attorney-General

Mr DEAKIN

. - I think that the Bill as drawn would permit of such appointments, because the definition of " officer " means not only an officer of Customs, but any officer appointed under this Act, and clause 14 provides that subject to any Act relating to the public service, the Governor-General may appoint officers for

carrying out the provision of the Bill, and may prescribe their duties. Practically, therefore, there is no limitation to the appointments that may be made. The suggestion made is practical from every point of view. It is not desired that persons who are certain to be rejected should be brought here at great expense and inconvenience, and it would facilitate the operations of the shipping companies, and also our own, if an inspection were made at the port of departure. So far as ship-owners are concerned, we might consider whether by affording facilities for a prior practical scrutiny of passengers, they might not be absolved from any accusation of wantonly bringing undesirable immigrants to our shores. Of course the Government would not renounce its right to reject those passengers if circumstances should arise to render that course advisable.

Paragraph («), as amended, agreed to.

Clause 8a: -

Any person coming within the definitions of a prohibited immigrant contained in section four and not naturalized within the Commonwealth, who is convicted of any crime of violence against the person, shall be liable on the expiration of any term of imprisonment or penal servitude imposed on him therefor to be deported from the Commonwealth pursuant to any order of the Minister.

Mr DEAKIN

- This clause was accepted at the instance of the honorable member for Coolgardie. As it stands it relates back to people now here who would have been prohibited immigrants, and provides that if they are afterwards convicted they shall be liable to be deported. There are persons in Australia at the present time, who if they come within the scope of any part of clause 4, will be liable to be dealt with in the manner described in this clause. Clause 4 not only deals with persons who come under paragraph (a), but prohibits persons who are likely to become a charge upon the public, idiotic or insane persons, persons suffering from infectious or dangerous diseases, or persons coming here under contract to perform manual labour. So that if honorable members look at the clause as it stands it will be seen that it relates back to a great variety of persons. A man, for instance, might contract an infectious disease, and be brought within the scope of this clause.

Mr Higgins

- What harm would there be in that 1

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Mr DEAKIN

- This- clause covers Europeans as well as others, and is very extensive in its scope, and I am sure the honorable member who moved it did not intend that it should be so far-reaching. If you admit that what is required here, as in other places, is, without putting it on the face of the Bill, to as far as possible reach those not of European birth, then it is necessary to introduce some restriction, It is not sufficient to limit it to clause 4, paragraph (a), because that provision applies also to Europeans. Consequently, the only manner in which I can suggest a limitation which will get rid of most of the coloured people - for after all this is not an important power, and it is one which will rarely be exercised - is by the proposal which has been submitted. As the honorable member for Coolgardie proposed it, it would not apply to those who are naturalized in the Commonwealth. This is the only form in which I find it possible to restrict the operation of the provision in such a way as to carry out the intention of its mover, without sweeping into the net the whole body of Europeans who might, from some circumstances, come within the meaning of clause 4.

Mr Isaacs

- How will that work? It refers to prohibited immigrants under subclause (a), and it must be assumed that a prohibited immigrant does not enter the Commonwealth.

Mr DEAKIN

- It refers to any person who comes within the definition of a prohibited immigrant. The aim is that it shall date back, and that any person found in the Commonwealth under the circumstances set forth, who cannot comply with the requirements of clause 4, either in whole or in part, shall be capable of being deported.

Mr Glynn

- It is not worth talking about, because it is impossible to deport these men.

Mr DEAKIN

- There is no physical impossibility in deporting them.

Mr Glynn

- But there is a financial one.

Mr DEAKIN

- I do not think that the clause is likely to be used in many cases. My object is to restrict its application to those who are not Europeans, and to provide that when convicted, although they are in the Commonwealth, if they are unable to comply with the requirements of clause 4. paragraph (a), they may be deported.

Mr ISAACS

- The object of the Attorney-General I am afraid will not be achieved by this clause. If the provision remains in its present form, or if it is passed in the amended form suggested, it will be an impossibility to apply it in any case, because a prohibited immigrant within the meaning of paragraph (a) of clause 4, is a person who is prevented from landing.

Mr Deakin

- There are prohibited immigrants within the Commonwealth.

Mr ISAACS

- What I think the Attorney-General wishes to do is to say that any person who is not a British subject either naturalized under the laws of the United Kingdom, or of the Commonwealth, or of the State, and who is convicted of any crime of violence against the person may be, asked by the officer to comply with the conditions of paragraph (a) of clause 4. If he is unable to do so, the Attorney-General wishes to have the power to deport him. That, I understand, is the end intended to be arrived at. But it is necessary first of all that such a person shall be lawfully within the Commonwealth. Then we need to describe him as a person who is not a British subject. We also require to have the power to ask him to comply with certain conditions, and if he fails to do so to order his deportation. At present it seems to me that the clause will not effect the object desired.

Mr WATSON

- I think that the wording of the provision bears out the contention of the honorable and learned member for Indi. If the clause remains in its original form, it will simply be inoperative. I think that the honorable and learned member for Northern Melbourne made a suggestion a few moments ago, the adoption of which would render the clause effective in regard to those who had arrived in the Commonwealth after the passing of the Act. At present I do not see the necessity of exempting Hindoos from the operation of this clause.

Mr Deakin

- We should only exempt them in order to get at all the other Asiatics. If I could see any other way of doing it I should be glad to take it.

Mr HIGGINS

- I suggest that we should provide that any person who, if he attempted to enter the Commonwealth after the passing of this Act would be a prohibited immigrant within the meaning of paragraph (a) of clause 4, and who is convicted of any crime, &c, shall be liable to be deported.

Mr Deakin

- Thatsweeeps in the whole of the Europeans.

Mr HIGGINS

- I do not think it is possible on the spur of the moment to draft a provision accurately enough to meet the difficulty. If the Attorney-General postpones this clause till after the adjournment for dinner, perhaps some such clause might be drafted.

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Mr GLYNN

- I wish to direct attention to paragraph (2) of clause 6. I think that the words employed there might with advantage be adopted here. The para graph sets out that -

Any immigrant may at any time within one year after he has entered the Commonwealth be asked to comply with the requirements of paragraph (a) of section 4, and shall if he fails to do so, be deemed to be a prohibited immigrant offending against this Act.

Could we not amend this clause by providing that any person who upon being asked to comply with the requirements of paragraph (a) of clause 4, was found to be a prohibited immigrant, shall be liable to be

deported ?

Mr KIRWAN

- I fail to see what the educational test has to do with a matter of this kind. It seems to me that the clause should be made to provide that any person naturalized under the law of the United Kingdom, or of the Commonwealth, or of a State, can under certain circumstances be sent back to the country of which he is a citizen.

Mr Deakin

- That would not be dealing with immigrants.

Mr KIRWAN

- That is a mere matter of detail. To my mind, if any man who is an undesirable citizen of Australia comes from another country, there is no possible reason why the Commonwealth should not return him to the country from which he came. That is a law which is recognised all over the world.

Mr Deakin

- I think that the suggestion that this clause should be postponed is a good one.

Mr MAHON

- I wish to make a brief explanation. The original object of this clause was to give power to deport from Australia, on conviction of any serious crime, persons now within the Commonwealth who, if this Act was in existence when they arrived, would be within the «lass of prohibited immigrants. The difficulty with which I was confronted was that we could not return any persons except those who entered the Commonwealth subsequent to the passing of this Act. I took into account the statement of the Attorney-General made during the progress of this debate that there were already between 70,000 and 80,000 coloured aliens in Australia, and I considered it very desirable that a clause of this kind should be made to apply to them as well as to those who may enter the Commonwealth after the passing of this Act. The difficulty arose through attempting to make the people who are already here liable to the consequence of deportation for any crime which they might commit hereafter. If the words " prohibited immigrant" are retained, the Attorney-General will confine the operation of this provision -to those persons who enter the Commonwealth after the passing of this Act. I want the Bill to be retrospective to the extent of reaching aliens already here, and in so far as future crime is concerned, but not as the honorable and learned member for Corio desires - retrospective in regard to past crime- that is, I desire it to deal only with crimes committed after the Bill becomes law. As I had the clause drafted originally, it dealt with any person who, if this Bill had been in force, would have been prohibited, and who is now within the Commonwealth. But I found great difficulty in regard to that provision. My immediate object is to ask the Attorney-General whether, if he uses the words " prohibited immigrant," the Bill will not then be confined to people who come into Australia after the Bill becomes law 1

Mr DEAKIN

- I shall take care to word the amendment which I shall submit, so as to avoid any possibility of that construction. I desire to carry out the views of the honorable member, but the old difficulty arises of so wording the amendment that, without our saying so, it shall not apply to Europeans.

Mr Mahon

- I leave the matter entirely in the hands of the Government.

Clause postponed.

Clause 9 -

The master, owners, and charterers of any vessel from which any prohibited immigrant enters the Commonwealth contrary to this Act shall be jointly and severally liable to a penalty not exceeding £100 for each prohibited immigrant so entering the Commonwealth.

No penalty shall be imposed under this section on any master or owner who proves, to the satisfaction of the Court, that he had no knowledge of any prohibited European immigrant being landed contrary to this Act, and that he took all reasonable precautions to prevent it.

Mr DEAKIN

- There was an amendment which was accepted at the table, and which, as it at present stands, would lead to a very curious suggestion. I move -

That before the word " no," line 7, the following words be inserted : - ' provided that in the case of an European immigrant so entering the Com*: mon wealth."

There are two subsequent verbal amendments, which will give effect to the intention which the honorable member for Melbourne had in submitting the amendment previously, and will at the same time remove ambiguity.

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Mr ISAACS

- The words " European immigrant " may give rise to difficult considerations. There is a vast difference between " European language " and "European immigrant." The European language is the language of the United States, but an American immigrant is not an European immigrant, and this clause places American immigrants in the same position as Asiatics,

The clause says that, prima facie, a master of a ship is liable for bringing a prohibited immigrant here. But in the case of an European immigrant, and an European immigrant only, the captain may prove he took all reasonable care. A just complaint may arise, when least expected, that America is placed in the same category as Japan and China.

Mr Higgins

- American negroes were aimed at.

Mr Deakin

- The words " European race " might be used.

Mr ISAACS

- An European immigrant would, I imagine, be an immigrant from Europe, and we ought to be very careful lest we are led into a difficulty on that account.

Mr Deakin

- The words "European race" would cover white Americans.

Mr ISAACS

- This is a matter that requires a little consideration, because to my mind if the court had to construe " European immigrant " great difficulty indeed might arise.

Mr DEAKIN

- What we call America, or the United States, is after all only a portion of America. I think sufficient of the objection - which had not occurred to me in this connexion, though it had in relation to another part of the Bill - to be of opinion that we cannot do wrong in altering " European immigrant " to " European race." The latter words will cover the white inhabitants of the United States, where all, with the exception of the Indians and the negroes, are of European descent.

Mr Isaacs

- Would this clause not apply to even Canada ?

Mr DEAKIN

- The words "European race " or " European descent " would cover Canadians.

Mr Isaacs

- But " European immigrant " would not.

Mr Glynn

- Why not make compliance with sub-clause as the test 1

Mr DEAKIN

- I will postpone the clause for further consideration. Perhaps the suggestion of the honorable and learned member for South Australia will, meet the case.

Clause postponed.

Clause 10 (Powers of detaining officer) -

For the purposes of the detention, or intention to detain, and other lawful dealing with the vessel the officer so authorized shall be entitled to obtain such writ of assistance or other aid as is provided under any law relating to the Customs with respect to the seizure of vessels or goods.

Amendment (by Mr. Deakin) proposed -

That after the word "detention," the words " or intention to detain " be omitted, with a view to insert the word " of " in lieu thereof.

Sir MALCOLM MCEACHARN

- I would ask the Attorney-General not to omit the words as proposed. This paragraph was put in to avoid taking out the words " in the opinion of the officer," and I feel certain that the words "intention to detain"

were suggested by the Prime Minister.

Mr DEAKIN

- That was so, rather than accept another phrase which the honorable member for Melbourne suggested to the same effect. But notice has to be given forthwith, and it can be proved what " forthwith " is in regard to the actual detention of which notice must be given ; but how to give notice forthwith of the " intention," it is very hard to say.

Sir Malcolm McEacharn

- There is not much in the matter except that a shipowner would like to know the intention ; he could then give a bond immediately.

Mr DEAKIN

- Any business man knows that when it becomes a question of "intention," we are at large. Who is to prove intention 1

Sir Malcolm McEacharn

- When an officer is sent to detain the vessel, could the authorities not at the same time communicate with the owner i

Mr DEAKIN

- Yes ; and that can be done without these words. It is after consideration of that point that I propose they shall be omitted.

Sir Malcolm Mceacharn

- To comply with the Bill, has there to be actual detention 1

Mr DEAKIN

- No; notice can be given without any detention.

Sir Malcolm McEacharn

- If notice is given, there will not be the indignity of being detained.

Mr DEAKIN

- Notice will be given.

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Sir Malcolm Mceacharn

- I accept the assurance of the Attorney-General.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 10a -

Save as in this Act provided, no contract or agreement made with persons without the Commonwealth for such persons to perform manual labour within the Commonwealth shall be enforceable or have any effect.

Mr DEAKIN

- I move-

That the words, " Save as in this Act provided," be omitted, and that after the word "Commonwealth," the following words be inserted : - " whereby such persons become prohibited immigrants within the meaning of paragraph (g) of section four."

The amendment previously made in the clause is obviously too wide.

Sir MALCOLM McEACHARN

- If the words which it is proposed to insert were to stop at " immigrants," the case would be met.

Mr Deakin

- This limits the operation, otherwise we are at large.

Sir MALCOLM McEACHARN

- I do not think it is necessary to have this limitation.

Mr Isaacs

- These people become prohibited immigrants by reason of the contract.

Mr Deakin

- Yes, and for no other reason.

Amendments agreed to.

Clause, as amended, agreed to.

Clause 11 -

Any person who in any way wilfully assists any other person to contravene or attempt to contravene any of the provisions of this Act shall be guilty of an offence against this Act.

Mr DEAKIN

- I move-

That before the word "shall," the following words be inserted: - "or makes any contract or agreement, the performance of which would be a contravention of this Act."

This amendment is to carry out a suggestion made by the honorable and learned member for Indi, in order to provide that clause 10a shall, as far as possible, be given effect to. The amendment is to make people liable who enter into such a contract.

Mr ISAACS

- To make the clause effectual, it is necessary to put in the words " or authorizes to be made." These contracts are made abroad.

Mr Glynn

- Could we convict for a contract made abroad ?

Mr ISAACS

- If the authority to make a contract were given within the federal jurisdiction, the person would be liable. This being a penal offence, the clause would be construed strictly, and as a person might say he did not make the contract though it was made on his behalf, the words I have suggested ought to be inserted to meet such cases.

Mr Deakin

- I agree to the insertion of the words " or authorizes."

Amendment amended accordingly.

Sir MALCOLM McEACHARN

- I think that the words proposed to be added are very objectionable. It often happens that contracts are made for the performance of special work. I have made such contracts in connexion with works at Brisbane. Where the delivery and erection of perhaps a certain kind of boiler is contracted for, the contractor will not intrust the work to any but men of whom he has had considerable experience. But, under the amendment, if a contractor sent out experienced men to do special work he would render himself liable to a penalty. I ask the Minister if he cannot amend the clause so as to provide for these cases?

Mr GLYNN

- I do not think that the amendment should be agreed to. Throughout the Bill, what is punished is an act of immigration or attempted immigration ; but the amendment goes further, and makes it a penal offence to enter into a contract to import labour, although the immigration never takes place. I do not think we should put a provision of this kind into the Bill. It is really not necessary.

Mr HIGGINS

- Without the proposed amendment, encouragement will be given to people to try to evade the provisions of the Bill. If a man succeeds in getting out labourers under contract, it will be so much the better for him, and if he fails he will suffer no harm.

Mr Isaacs

- But perhaps the workman whom he imports will suffer.

Mr HIGGINS

- Of course, the question arises - Are we able to punish persons living outside Australia for offences against this Bill ? and to that the answer is that if we can get hold of them we can punish them.

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Mr TUDOR

- I hope that the Minister will accept the suggestion of the honorable and learned member for Indi. In America the Act is directed against, not the persons abroad who make the contract, but those who in America agree to it, or authorize the making of it. The honorable and learned member for Northern Melbourne has stated very clearly what would be the position if the amendment were not made - that if the contractor succeeded it would be so much the better for him, whereas if he failed he would not suffer, although the workmen whom he tried to import might suffer. I think that any one who attempts to import

labour against the provisions of the Bill should be severely punished.

Mr. ISAACS(Indi).- I do not know if we should stop even at this point. It seems to me that where an Act of Parliament is clear and distinct, as this Bill will be, and the capitalist endeavours to introduce labour in contravention of its provisions, not only should we make the contract void, but he should be made liable to the Commonwealth for any expense incurred in the maintenance or deportation of the persons imported or attempted to be imported. I would apply to such a person a provision similar to that which applies to persons who introduce idiots or insane persons into the Commonwealth.

Mr E SOLOMON

- I agree with what has been said by the honorable and learned member for Indi. The person who really breaks the law is the person living within the Commonwealth, and it is he who should be held responsible.

Mr. GLYNN(South Australia). - I do not think that we shall want to send back men who are imported in contravention of this provision, because it must be remembered that it is directed, not against the importation of coloured aliens, but against the importation of Europeans under deceptive conditions. The men imported under a contract of this kind might be first-class citizens, whom we should rather welcome to our shores than deport from the Commonwealth.

Mr WATSON

- I think that there is a great deal to be said in favour of the suggestion of the honorable and learned member for Indi, that the person who is responsible for causing the contract to be made should bear at least some portion of any expense that the Commonwealth may be put to for the maintenance of the persons imported, or for returning them to their homes. I am doubtful whether the words proposed to be inserted by the Attorney-General will quite meet the case that we want to meet. It is very unlikely that the person in Australia who pulls the strings will actually make the contract himself.

Mr Deakin

- But we get at him by inserting the words " or authorizes."

Mr. TUDOR(Yarra).- I hope that the suggestion of the honorable and learned member for South Australia, Mr. Glynn, that the persons imported in contravention of this provision should be allowed to remain, will not be given effect to. He has pointed out that they may be valuable citizens ; but the chances are that, although the contract is rendered null and void, if they are allowed to remain here they will do the work at the rates of pay to which they originally agreed. I think they should be sent back at the expense of the person who authorized the contract to be made. If we do not provide for that, we shall probably have collusion between employers and employed in this matter.

Mr. L.E. GROOM (Darling Downs).I do not see how the insertion of the word " authorizes " will carry us any further, because it is an ordinary legal principle that qui facit per alium facit per se - that a person is responsible for what is done by an agent acting in his behalf. I have not the American Act before me, but I believe that its provisions contemplate the possibility of the person who desires the importation of labour encouraging some person elsewhere to send people out with a view to entering into a contract.

Amendment agreed to.

Mr. ISAACS(Indi).- I think, with regard to the matter of making the contractor responsible for any expense incurred by the Commonwealth in regard to an importation or attempted importation of workmen under contract, it would be better to postpone the further consideration of the clause until a suitable amendment can be drafted.

Mr Deakin

- We cannot postpone the clause now that we have amended it, but, with the permission of the House, I shall be ready to agree to a recommittal.

Mr MAHON

- I should like to point out that the head offices of many of the principal mining companies operating in Western Australia are situated in London, and all contracts are authorized and made there, no person in Australia being responsible for them.

Mr Higgins

- Are not most of those companies London companies ?

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Mr MAHON

- Yes; and it is a distinct evil, because in some cases I believe foreigners are imported by them to work at

very low wages. Of course it is very hard to say whether they are under contract or not. They are mostly men who cannot speak the English language, and it takes some time to find out the conditions under which they reach Western Australia. These contracts are entered into in Europe, and if the honorable member for Indi desires to make some one here responsible for them, it is just as well, before he completes his amendment, he should be aware that no person in Australia has authorized them.

Mr Deakin

- We could not reach them unless they came within our jurisdiction.

Clause, as amended, agreed to.

Clause 15 (Regulations).

Sir MALCOLM MCEACHARN

- I had intended to insert words here which would make it clear that no regulations should be passed that would be inconsistent with the Bill, but I will accept the assurance of the Attorney-General that the present wording of the Bill affords a sufficient safeguard on that point.

Clause agreed to.

Mr R EDWARDS

- With reference to paragraph (J) of section 4, which exempts the masters and crews of vessels who may land during the stay of any vessel in a Commonwealth port, I desire to know whether the masters and crews of pearl-shelling vessels are included in the exemption. I have to-day received a telegram from one of the leading men in the pearl-shelling industry, who says -

Immigration Restriction Bill and Kanaka Bill will, if passed, ruin pearl-shelliers Queensland and Western Australia unless we place our vessels under foreign flag and work outside 3-mile limit, which we are doing present time. Bequest yon will impress this on Federal Government with view getting pearlers exempt. Preferably let matters remain as they are, with Queensland and Western Australia deriving revenue and controlling fisheries, than having numerous aliens -alongside coast uncontrolled. Please reply.

It is well known that this industry is one of considerable magnitude, both in Queensland and in Western Australia, and it should be made clear whether the masters and crews of pearling vessels will be allowed to land on the shores of the Commonwealth at certain seasons of the year, when they are unable to carry on their ordinary occupation.

Mr. HIGGINS(Northern Melbourne).With regard to paragraph (g) of clause 4, I understood that the Prime Minister undertook to alter the wording of the clause so as to make the certificate of exemption of a temporary character, otherwise there will be means afforded for evading the Bill wholesale, because any officer appointed under the Act, whether within or without the Commonwealth, may give a certificate of exemption absolutely. When I called the attention of the Prime Minister to the fact that there was no restriction as to the issue of these certificates, he said he would revise the wording.

Mr DEAKIN

- He referred to the schedule, and said it showed that the certificate of exemption was intended to be of a temporary character. I made a note against the paragraph myself, but it seems to me that if anything is done it will have to be done under clause 5. If the substitution of the word " shall" for the word " may" in that clause will meet the case, I will make the alteration when the clause is recommitted.

Mr Higgins

- That will serve the purpose.

Mr WATSON

- With regard to clause 10a, I think the amendment that the Attorney-General was arguing in favour of a few minutes ago will have the effect of nullifying the clause altogether. The amendment limits the application of the clause to persons who come within the scope of paragraph (ff) of clause 4, and, seeing that these people are prohibited from entering the Commonwealth, I do not see that clause 10a is of any value, because it simply nullifies contracts in respect of people who do not come here.

Mr Isaacs

- The clause is very necessary.

Mr WATSON

- I think it is important to have a nullification of such contracts, but the nullification should be general, and should be in respect to contracts made with any immigrants, whether they happen to be prohibited or not.

Sir Malcolm McEacharn

- I think that all the honorable member desires is covered under the clause as amended.

Mr WATSON

- I think we might reconsider the position, because clause 10a, in its amended shape, does not carry us any further than paragraph (ff) of clause 4.

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Mr DEAKIN

- Referring first to the question raised by the honorable member for Oxley, I may say that the exemption under paragraph (J) is a very wide one, and refers to the masters and crews of all vessels, but not to any other persons employed on them. The preceding paragraph relates to all. public vessels, and paragraph (J) has reference to all private vessels generally, and does not exclude pearl-shelling or any other kind of boats. It relates, however, only to the masters and crews of such boats. With regard to clause 10a, the position is this : that first of all we prohibit the entrance of certain people into the Commonwealth, but some persons may, after all, reach the Commonwealth before we discover that they are under contract, and in clause 10a we take power to declare that the contracts under which they come are absolutely void. Clause 10a, therefore, affords a second and very valuable safeguard similar to what exists in the United States.

Mr Watson

- Yes ; but it is being restricted too much.

Mr DEAKIN

- I do not see that it ought to relate to any persons other than those under contract. It is limited to them and them alone.

Mr ISAACS

- I think I see the difficulty that occurs to the honorable member for Bland. Paragraph(ff) says that persons under contract or agreement to perform manual labour within the Commonwealth are prohibited immigrants. But there are exceptions, namely, workmen of special skill, or persons serving as part of the crew of a vessel engaged in the coastal trade if the rates of wages paid to them are not lower than the rates ruling in the Commonwealth. Clause 10, as it stood in the first instance, would make null and void any contract for manual labour within the Commonwealth, and, therefore, would void contracts for skilled labour or for labour employed on vessels trading within the Commonwealth. The Attorney-General, by his amendment, while securing the nullification of such contracts as would make the workmen prohibited immigrants under paragraph (ff) of clause 4, keeps intact the classes of contracts coming under the two exceptions named in the paragraph.

Mr Watson

- Would not that be so anyhow ?

Mr ISAACS

- No ; because without the amendment clause 10a would nullify all contracts, and we do not desire to do that.

Progress reported.

CUSTOMS BILL

Royal assent reported.

EXCISE BILL

Bill returned from the Senate with amendments.

EXCISE ON BEER BILL

In Committee(consideration of Senate's amendments) :

Clause 3 (Application of Act).

Motion proposed -

That the committee agree to the amendment of the Senate omitting all the words after "Parliament."

Minister for Trade and Customs

Mr KINGSTON

- I do not think it is necessary to object to the striking out of the words which declare that the Act shall operate to the exclusion, after the imposition of the excise on beer, of all State Acts relating to the excise on beer. This follows by virtue of the provisions of the Constitution.

Amendment agreed to.

Clause 5 (Definitions).

Motion proposed -

That the committee agree to the amendment of the Senate, inserting the words " or of nine gallons " before the word " or," in the paragraph, defining " keg."

Mr KINGSTON

- I understand that there is a keg known as a firkin, which contains nine gallons, and which has been omitted from the list of vessels specified as; kegs.

Amendment agreed to. Clause 7 (Act relates to Customs). Motion proposed - That the committee agree to the amendment of the Senate, omitting the words, " This Act is an Act relating to the Customs within the meaning of the Customs," and inserting in lieu thereof the words- "Parts II., VIII., IX., X., XI., XII., XIII., and XIV. of the Excise."

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Mr KINGSTON

- The effect of this alteration is that, instead of relying on the incorporation of this Bill with the Customs Act, we provide for incorporation with the various parts of the Excise Acts, which deal generally with the matters that are intended to be dealt with.

Amendment agreed to. Motion proposed. That the committee agree to the amendment of the Senate inserting the following new clause : - 27a. A brewer may, under permit in writing from the collector, and subject to the prescribed conditions -

Transfer beer in vessels from one brewery to another, both breweries being occupied and carried on by him ;

Transfer beer in vessels or bottles from his brewery to a delivery store used by him in connexion with his brewery, and approved by the collector ; and duty shall be paid on the beer so transferred before it is removed from the brewery or delivery store to which it was transferred, and no transfer of beer under this section shall be deemed a removal, and every delivery store shall be deemed part of the brewery in connexion with which it is used. No brewer shall have more than one delivery store in connexion with any brewery.

Mr KINGSTON

- his is a provision which enables a brewer to have a delivery store to which he can remove his beer without payment of duty. The privilege will be subject to permission, and the store has to be approved. The power is one which depends upon the discretion of the collector, and one which should not be very liberally exercised, but I am prepared to allow the clause to go.

Clause agreed to. Clause 46 (Access to brewery and books). Motion proposed -

That the committee agree to the amendment of the Senate, omitting the words "and the making of the beer."

Mr KINGSTON

- I do not propose to agree with this amendment, which has reference to limiting the authority of officers in connexion with the making of beer. We discussed and settled the proper form of this clause when it was before the committee on the previous occasion. I am informed by the officers of the department that practical experience has shown that, in order to detect the evasion of duty, it is necessary that they shall be able to view the process of manufacture. If officers had not possessed this power in a recent case, the department would have been defrauded. The Comptroller of Customs tells me that it is a very common provision, the absence of which would do harm. To quote from the minute with which he has favoured me, he says -

I strongly object to amendment in section 46. Practical experience has shown that in order to detect evasion of duty the officer should be able to view every and the entire process of manufacture. There has never been any objection to such inspection in the State of Victoria, where a large number of breweries are in operation. Once permit a place where officers cannot penetrate, and room will be created for fraud. The right of access might be given to senior officers only if so desired, but is necessary. No other objections. I have no other objections to offer to the clause.

Amendment disagreed with. Reported that the committee had agreed to the whole of the amendments of the Senate except that in clause 46. Motion (by Mr. Kingston) agreed to -

That Sir William McMillan, Mr. Deakin, and the mover be appointed a committee to prepare reasons for

disagreement with the amendment of the Senate in clause 46.

The committee presented a report containing the following reason : -

Because the provision proposed to be struck out is necessary for the protection of the revenue.

Report adopted.

DISTILLATION BILL

In Committee(consideration of Senate's amendments) :

Clause 4 (Act to apply).

Motion proposed -

That the committee agree to the amendment of the Senate omitting all the words after the word "

Parliament."

Mr ISAACS

- This certainly looks a very innocent amendment, but it raises a very important constitutional question. We purport to do here what we have done more directly in other Bills, namely, to repeal or declare by express words the nullification or exclusion of State legislation. The question arose in relation to the Canadian Parliament, and it is worth the while of the Government to consider the matter in connexion with any future legislation. In the case of the Attorney-General of Ontario, against the Attorney-General of the Dominion, which is reported in the 1896 Appeal Cases, page 348, the Privy Council very distinctly laid down, so recently as 1895, that; -

Dominion enactments, when competent, over ride, but cannot directly repeal provincial legislation.

Whether they have in a particular instance effected virtual repeal by repugnancy, is a question for adjudication by the tribunals, and cannot be determined by either the Dominion or provincial Legislature. It may be the Senate has struck out the remaining words of the clause in recognition of that principle. In view of that position we should be very careful to see that the substantive provisions of our laws actually do override - if we intend them to override - State legislation. It will not be sufficient to rely upon a clause which says that the Federal Legislature purports to repeal an Act of the State Legislature. Although this is a small matter - and I have no doubt that the main provisions of the Bill carry out all what the Minister desires - still a day or two ago we had an express provision in one Bill purporting to repeal State Acts.

Mr Kingston

- To which Bill is the honorable and learned member referring ?

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Mr ISAACS

- To the Immigration Restriction Bill. There are three States in which the Immigration Acts purport to be repealed. I think that the provisions of the Bill itself will effectually do all that we require, and that the repeal of these State Acts is therefore comparatively immaterial. But it is a matter which ought to be carefully looked at in order that we may see that the actual substantive provisions of the enactments proposed, attain the aim which is looked for, because there is a possibility of the matter being challenged, and of a decision being given similar to that which was given in Canada.

Mr KINGSTON

- I recognise that this is a matter of very considerable importance. I confess that my first inclination was to provide for a direct repeal. But afterwards we came to the conclusion that the modified form would be better. I think we should do the best thing of all if we accept the position which is here laid down, and rely on the strength of the provisions in the Acts themselves to do what is necessary. The Customs Act stands in a different category to all other Acts on account of the express provision for cesser in the event of certain things occurring under the Constitution.

Mr GLYNN

- If a change of policy took place on the question of immigration, I think the point would arise as to whether the old State Acts are revived.

Mr Isaacs

- No.

Mr GLYNN

- It is just as much open to doubt as is the other point. If they still remain as something to fall back upon in the event of federal legislation being imperfect, they must be capable of being revived. If we change our policy in relation to immigration, the mere repeal of our legislation would be useless, because the State

Acts would all be revived.

Amendment agreed to.

Clause 57 (Strength of spirits for fortifying)

Motion proposed -

That the committee agree to the amendment of the Senate, inserting after the word "proof," the words - "in the case of wine spirit and of at least 60 degrees above proof in the case of any other spirit."

Mr KINGSTON

- There has been a happy compromise here on the subjects upon which we previously differed. In the Bill, as it left this chamber, this clause provided that no spirits should be used for fortifying wine unless they were approved by the officer, and were of a strength of at least 30 degrees above proof. The Senate has now provided that no wine spirit shall be used for fortifying wine of a less strength than 30 degrees over-proof, whilst in the case of any other spirit the strength shall be 60 degrees over-proof. I think that the proposal is fair enough.

Amendment agreed to.

Clause 58 (Maximum strength of wine).

Motion proposed -

That the committee agree to the amendment of the Senate, inserting after the word " spirit" the words "of a strength of at least 30 degrees above-proof."

Mr KINGSTON

- I move-

That the following words be added to the amendment: - "Or of any other spirit of a strength of less than 60 degrees above-proof. "

Sir Malcolm McEacharn

- The right honorable and learned gentleman will not be in order if he attempts that.

Mr Isaacs

- That is not consequential upon any amendment of the Senate.

Mr KINGSTON

- In clause 57 it is provided that the spirit used for fortifying wine shall be 30 degrees over proof, and that any other spirit must be 60 degrees above proof.

Mr Isaacs

- No.

Mr KINGSTON

- We have agreed to that in clause 57.

Sir Malcolm McEacharn

- Then it was without knowing it.

Mr KINGSTON

- I think it is a fair enough provision. What we have reckoned on is that wine spirit can be used at a less strength than another spirit, and we have, therefore, provided that, as regards wine spirit, 30 degrees over proof shall suffice, but that, in regard to other spirit, 60 degrees is necessary before it can be passed. That having been provided in this clause, it seems a fair and proper thing to provide in the following clause that the same test shall apply.

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Mr Isaacs

- I venture to suggest that this amendment is altogether out of order. The Minister is now endeavouring, I think very unfairly, to reverse the vote that we gave some time ago. Clause 57 provides that, unless otherwise prescribed, no spirit shall be used for fortifying wine - that is any wine - unless it is approved by the officer and is of a strength of at least 30 degrees over proof. An amendment has been inserted by the Senate, drawing a distinction between wine spirit and other spirit ; but when we come to clause 58, we are not talking about -wine in general, but Australian wine, and the committee have determined - and the provision was afterwards sent on to the Senate* by this House - that no Australian wine shall be fortified under this Bill so as to contain more than 35 per cent, of approved spirit, nor shall be fortified with any other spirit than pure wine spirit.

Mr Poynton

- That was done on the representation that this was the law on the continent and in other places.

Mr Isaacs

- I am now talking on the point of order. The Senate has said that there is a doubt about this being a pure wine spirit, and in order to define a pure wine spirit, and with no other object, they suggest an amendment which specifies the strength of that spirit. But that does not alter the fact that it is pure wine spirit in all cases. This House has determined and the Senate has determined on pure wine spirit; and now the Minister wants to do something that I apprehend is not within the competency of the committee, because what he proposes is no part of the amendment and not consequential on it, inasmuch as he wants to add a provision to the effect that spirit other than pure wine spirit may be used. This seems to me an endeavour - no doubt the Minister thinks rightly, though I think wrongly - to obtain a reversal of a vote which has been passed by both this House and the - Senate. The present proposal is foreign altogether to the Senate's amendment. The Senate has proposed that pure wine spirit should be of a certain strength, and it is nonsense to say that we may not only agree to that being the strength, but may add something else of a different strength. I hope the Minister will adhere to the forms of the House, and that this amendment will not be allowed.

Mr McCay

- On referring to the standing order which relates to this question, there seems to be no reasonable doubt that this amendment is outside the competency of the committee. The standing order provides - No amendment shall be proposed to an amendment of the Senate that is not strictly relevant thereto. The clause as we sent it to the - Senate provided that Australian wine should be fortified with pure wine spirit only. The Senate added a further restriction that it should be not only pure wine spirit, but only pure wine spirit which is 30 degrees above proof.

Mr Poynton

- That is not a pure wine spirit.

Mr MCCAY

- The honorable member does not seem to understand the difference between a point of order and wine spirit. The Senate altered the description of the wine spirit which is to be used - the Senate did not alter the description of the spirit, but the description of the wine spirit. An amendment is now proposed which says, not merely that wine spirit of this or that kind must be used, but that some other kind altogether may be used. When we recall the debate that took place in this House on the question, we can all see that that amendment is a change in substance. As the honorable and learned member for Indi has said, both Houses have definitely agreed that wine spirit of some kind or another shall be used in fortifying wine spirit, and that nothing but wine spirit of one kind or another shall be used. How is it relevant to the clause or the Senate's amendment to turn round and say that we shall use some other kind of spirit? In a discussion as to what is strictly relevant, we have to look at the scope and object of the clause, as we sent it up and as the Senate amended it. The whole fight was as to what kind of spirit - wine spirit or not wine spirit - Australian wine is to be fortified with, and it seems to me to be clearly irrelevant to introduce a fresh issue by proposing to change the kind of spirit. Instead of varying the character of the wine spirit, we are varying the kind of spirit altogether, and that is a new issue which is not within the competency of the committee. Apart from that, I confess to some surprise at what appears an attempt to alter a decision of the committee arrived at after a good deal of debate.

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Mr Kingston

- It has been said that the two Houses have agreed to the same thing, and that their decision cannot be altered - that there is no issue between the two Houses. Nothing of the sort. The House of Representatives agreed that pure wine spirit only should be used, and we were told, time and again, what a good thing that would be. I believe the words were taken from a certain Act which is said to have worked wonders in the interests of the reputation of Victorian wines. The words were "pure wine spirit" - not spirit of any particular strength. But the Senate would not have that provision, and wanted something else.

Mr Isaacs

- The Senate is clear that only wine spirit shall be used for fortifying Australian wine.

Mr Kingston

- But the Senate' is not clear about " pure wine spirit," and that is the whole gist of the difference. The honorable and learned member for Indi knows well that the object of the addition of the words "thirty per cent." is to cut down and destroy the meaning of the words "pure wine spirit."

Mr Glynn

- And yet it is said that we cannot qualify the Senate's amendments.

Mr Isaacs

- if we cannot agree with the amendment of the Senate' let us - disagree with it.

Mr Kingston

- If the honorable and learned member will permit me, I will put the matter in a better shape. I have a disposition to agree, but; at the same time, I humbly wish that the Senate shall also agree with us in a little matter which will make their proposal more acceptable to us. The whole thing in so many words is - what was the Senate thinking of in the preceding clause? The Senate made two varying provisions - one as regards wine spirit of 30 degrees over proof, and another as regards any . other spirit of 60 degrees over proof. The Senate said that either one or other of these spirits may be used, and it 'follows, almost as a natural corollary, that we should alter this clause. Indeed, I might almost claim this as a consequential amendment. It is said that clause 57, which has no qualification as regards any -particular wine, applies to wine generally. To say that we may use either of the spirits of different strengths - the wine of the lesser, and the other spirits of the higher strength - and that we cannot make a similar provision in the next clause, seems to me absurd. I think the Chairman will see that a distinct difference is raised. The Senate has not agreed with us, but they have substituted some other spirit to be used for the purpose of fortification, and they have abandoned our suggestion- that it shall be pure. When it is said that we cannot have it pure at 30 per cent., then at least we ought to give the alternative of something else. My proposal is a fair one, and is simply a qualification of the Senate's amendment.

The CHAIRMAN

- I do not consider that I ought to rule the proposed addition to the amendment out of order, and I must allow it to go to the committee.

Sir WILLIAM MCMILLAN

- On the main question I may say that, although I voted with the Government before, I agree with the honorable and learned member for Indi that this is trying to test again a question that we have already settled. I felt rather chagrined at the Minister allowing the recommittal of the Bill as regards this clause, when he had already obtained a victory. But when it' was recommitted there was a majority of, I think, one against the Minister's proposal, and if it had not been that the other Chamber has sanctioned that provision, I think there might have been fair justification for another recommittal; Seeing, however, that the Bill has gone to another place which has approved the action of those who voted with the majority in this committee, it is scarcely fair at this hour of the day to reopen the discussion.

Mr Isaacs

- Without the slightest warning.

Mr. KINGSTON(South Australia).- We do everything for the purpose of obliging honorable members.

Sir William McMillan

- Why 'was the Bill recommitted 1

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Mr KINGSTON

- Because of my good nature. There are various systems which have been adopted for the purpose of deciding differences ; and in one of these systems a " copper " forms the chief factor. The Government won on the first occasion, and then the honorable and. learned member for Indi objected to making it a case of " sudden death,"and urged that there must be another attempt. When we facilitated another attempt and the honorable member won he said that that was the last throw, even though the Government who first won would prefer " two out of three." There seems, however, to be something to be said in favour of a further exhibition of good nature, which is not altogether appreciated. There is not such a large attendance of members to-night as - there was on the occasion when we last debated this question. The first time the Government won by four ' votes, and the last time our adversaries - using the word in its mildest form - won by one, so that there is a balance of three in favour of the Government. Seeing that we cannot get as good a fight over the question as we had last time, owing to circumstances

over which we had no control', I shall not ask the House to take a division on the subject, and I hope honorable members will remember this fact to the good record of the Government at some future time. Amendment of the amendment, by leave, withdrawn.

Mr POYNTON

- Do I understand that the Government have accepted the amendment of the Senate as it now stands? Does the Minister agree that the strength shall be 30 per cent, overproof?

Mr Kingston

- I have not said that just yet.

Mr POYNTON

- The amendment of the Senate is quite different from the provision as it left this Chamber. The proposal, as it was carried here, was "pure wine spirit," and that is a different thing to "pure wine spirit" of 30 degrees overproof. No honorable member will contend that 30 degrees over proof is pure wine spirit, and to a very great extent the amendment was agreed on in the Senate on a misrepresentation. Honorable members were told that on the continent, and in various other places, all spirit, except the spirit of the grape, was prohibited for this purpose. But in certain places where wine is produced, spirit distilled from other material is used. Even under the Act passed this year by the Parliament of the United States, spirits made from potatoes, grain, molasses, rye, and roots are allowed, though it is insisted that the spirits shall be pure. Will honorable members contend that a provision that the spirit must be 30 degrees over-proof is any guarantee that, even if the spirit is the produce of the grape, it will be pure? Do not honorable members know that the Senate inserted this amendment because they found that pure wine meant 45 degrees overproof? At the very least I ask the Minister to reject that portion of the amendment at any rate. I am not particular whether or not we have a contest on the other part of the amendment, but I am as particular as any other honorable member about having pure wine. We insist on 60 degrees overproof in the spirits used for fortifying imported wines, which are drunk by our people without any question being raised as to their deleterious qualities. People are allowed to drink imported wine, fortified with any other spirit than the spirit of the grape; but in regard to Australian wines we insist that they must be fortified with pure wine spirit of 30 degrees over proof. The whole crux of the thing is that this is a huge monopoly, for the benefit of a few distillers, and all the talk we have heard about the small vine-grower goes for nothing.

Mr SALMON

- We cannot but admire the tenacity of the honorable member for South Australia, who has just resumed his seat; but, in stating that the amendment which was carried here was adopted under a misapprehension, the honorable member is not exactly fair to those who are opposed to him. The expression used here, "pure wine spirit," is susceptible of two interpretations, and I invite the honorable member to say which interpretation was intended to be placed upon it by the committee. There is such a thing as wine spirit which may be pure, and pure spirit which may be made from wine. Pure wine spirit means a spirit which is not mixed with any spirit obtained from other materials than wine - that is pure wine spirit. I cannot say what was in the minds of the committee when they passed this clause previously, but there is a great difference between pure spirit as a spirit and pure wine spirit. Distillation makes a spirit pure, but all the distillation in the world will not make a pure wine spirit out of potatoes. The Senate were anxious that pure wine spirit should be placed on exactly the same level as the spirits which are referred to in clause 57, and they wished the same strength to be allowed. I was one of those who opposed a reduction of strength.

Sir William McMillan

- Surely there is a test for spirit made from grapes, in the same way as for spirits made from anything else?

Mr SALMON

- Yes, there is a test of course; but the idea in the minds of the committee was that nothing but wine-spirit should be used for fortifying purposes.

Sir William McMillan

- But the spirit must be pure.

Mr SALMON

- It must be pure in the sense that it is not adulterated.

Sir William McMiLLAN

--That was the basis of the idea, but we must go further and see that the spirit is pure, that is, of a certain quality.

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Mr SALMON

- The spirit to be pure, in the sense in which the honorable member is speaking, would require to be between 60 and 65 degrees over proof.

Mr Kingston

- The honorable and learned member says in effect that the word "pure " ought to be "purely."

Mr SALMON

- Undoubtedly, that is my idea of what was the desire of the committee on a former occasion.

Sir Malcolm McEacharn

- Does not the honorable and learned member think that a strength of 30 degrees over proof is too low ?

Mr SALMON

- Yes, I do.

Sir Malcolm McEacharn

- Then clause 57 will cover what the honorable and learned member wants.

Mr SALMON

- No; so far as wine spirit is concerned, if we fix too high a strength, it will be necessary for most of the wine spirit stills now in use to be altered so that they may distil absolutely pure alcohol. I do not think we can do better than allow the clause to stand as we originally passed it.

Mr. ISAACS(Indi). - I feel that the Minister has been very gracious to-day, and I think he has taken the right course in yielding upon this matter. With regard to the merits of the case, we are right in accepting this amendment, in the first place because it will make the clause accord to some extent with the previous one. In the next place we have definitely decided that only wine spirit shall be used for the fortification of wine. It was with the view to preventing ambiguity with regard to the word "pure" that the Senate inserted the amendment. I understand that the idea of putting in the words providing that the spirit should be at least 30 degrees above proof was to prevent misconception as to what was meant by pure spirit, as some people might take that as indicating spirit of 70 degrees over proof.

Mr Kingston

- Spirit of 30 degrees over proof is not pure wine spirit - it is a contradiction in terms.

Mr ISAACS

- That is a question to which the Minister may address himself ; but I do not see how he can alter this amendment, with regard to the 30 degrees over proof, if he is content to leave clause 57 as it stands.

Mr Glynn

- Clause 57 applies to other wine than Australian wine.

Mr ISAACS

- It includes Australian wine. We do not remove Australian wine from the operation of clause 57, but we prevent the use of any but pure wine spirit for the fortification of Australian wine, and the two clauses will read quite harmoniously if we leave the amendment in the clause now under discussion.

Mr KINGSTON

- I was arguing that because we had one provision in clause 57, we ought to have a similar provision in clause 58, and taking up the very position the honorable and learned member for Indi had assumed. I shall stick to the Bill, and: resist the amendment.

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Mr FOWLER

- There seems to be a good deal of misapprehension as to what constitutes purity of wine or any other spirit. As I understand it, given a sound wine, and putting it through the process of distillation, a sound wine spirit can be produced. Such spirit may not be chemically pure, but with each increase of the proof strength, the spirit is taken further and further away from the characteristics of wine, so that if you have absolutely pure spirit from a chemical point of view, you naturally have something which has no connexion whatever with the material from which it is produced. It is contended that when wine-spirit is used for fortification purposes it should possess some of the essential characteristics of the wine. Now, so

far as the distillation of whisky is concerned, it is one of the greatest anxieties of the distiller not to put the spirit through at too high a degree of proof strength, but to derive from the process of distillation certain of the characteristics of malt, and exactly the same end is held in view in connexion with wine-spirit distillation. To argue that chemically pure alcohol is what is wanted is equivalent to arguing that you can go to the chemist and receive from him the equivalent in chemicals of the component parts of an apple, and thus secure a good substitute for the actual fruit. Noone, however, will contend that the combination of chemicals supplied by the chemist would be at all palatable or as wholesome as the original fruit. I take it, therefore, that the intention of this clause as it stands, is to give a good sound wine, fortified with a spirit which may not be chemically pure, but which will contain the essential, and, as far as blending is concerned, the necessary qualities of the wine.

Mr.. POYNTON(South Australia).The honorable member for Perth seems to assume that good wine is used for the distillation of wine spirit, hut, according to the advocates of the use of wine spirit, it is had wine that is principally used for the production of wine spirit.

Sir Malcolm McEacharn

- Not bad wine, but inferior wine.

Mr POYNTON

- The advocates of wine spirit have used, as one of the arguments why the distillation of spirits from grapes should be encouraged, the fact that it will prevent a large quantity of rubbishy wine from being placed on the market and entering into consumption.

Mr Isaacs

- The fortification of wines will be prevented altogether if the spirit has to be distilled to such a degree that it will be too expensive to use.

Mr POYNTON

- But bad wine has to go through more distillation than good wine in order to make good spirit. With regard to the statement of the honorable and learned member for Laanecoorie, I repeat that this clause was passed by the committee on the former occasion under a misapprehension, the impression being that a provision similar to that in the clause was generally enforced in the wine growing countries of Europe. I challenge the honorable and learned member to name any place on the continent, or elsewhere, where they have insisted upon the use of pure grape spirit only for the fortification of wine.

Mr Isaacs

- I have a provision very like it here, and I will read it to the honorable member presently.

Mr POYNTON

- The honorable and learned member referred to the United States as one place in which they had a law preventing the use of spirits other than that distilled from grapes for the fortification of wine, but the latest Act of the United States does not restrict wine-growers to the use of any one class of spirit for the fortification of wine.

Sir Malcolm McEacharn

- They have very poor wine in the United States.

Mr POYNTON

- In France and Germany and Italy they recognise only one thing, and that is purity and strength, irrespective of the material from which the spirit is produced. In every instance it has to be pure.

Mr Salmon

- Does the honorable member mean to say that it has to be absolute alcohol ?

Mr POYNTON

- It has to be pure wine spirit. This amendment has been moved, not so much in the interests of the quality of the wine as in the interests of certain distillers, and the wine-makers will discover this fact later on when the distillers have secured a monopoly.

Mr Isaacs

- I have just received a letter from the Wine-Growers' Association of New South Wales approving of what we are doing.

Mr. SALMON(Laanecoorie). - If it pleases the honorable member for South Australia to assume that this amendment was carried previously as the result of misrepresentation, I am not going to say any more in regard to it. I regret that he is under any such misapprehension. The whole question was decided upon its

merits. The honorable member for Perth put the matter as well as it could be put. I feel that he thoroughly realizes what is the true position. What we desire is that wine spirit only shall be used for the purposes of fortification. The honorable member for South Australia, Mr. Poynton, said that we wish this provision inserted in order that inferior wines may be used. Nothing of the sort. Of this we may be sure, that the process of distillation will remove dangerous impurities. I admit that 30 degrees over proof will not completely clear the spirit of impurities, but the impurities which are left will not be deleterious. If the vignerons use potato spirit of an inferior character for the purpose of fortifying their wines, they run a very great risk indeed of poisoning them. I feel that the Senate has been anxious that there shall be no misapprehension regarding the interpretation of the words "pure wine spirit." I would point out that in clause 58 it was not desired that there should be a pure spirit so much as that the spirit should be made purely from wine. Had it been otherwise, the ordinary expression would have been used, "pure spirits of wine." What merchant would ask for pure wine spirit to be sent to him if he wanted pure spirits of wine ? The amendment of the Senate provides a necessary safeguard, and its adoption will place the desire of this committee beyond all doubt.

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Mr KINGSTON

- When we were discussing this matter some time ago, it was repeatedly put that we were proceeding on the lines of Victorian legislation. There is no doubt whatever that, whilst we were able to discount some of the force which it was attempted to attach to the argument by pointing to the age of the Victorian Act, yet a deal of weight was carried by this sort of reasoning. The honorable and learned member for Indi claimed great credit in connexion with that wonderful Act. Why is he now attempting to depart from it ? The measure provides not only that vignerons shall not fortify except with pure wine spirit, but that the spirit must be of a certain age, and that anybody who is in possession of wine fortified with any other than this pure wine spirit will incur all sorts of penalties. I am sure that the life of any vigneron who was detected in violating the Act would scarcely be worth living. Why not do the same thing here? I was seeking for information when I asked the honorable and learned member for Laanecoorie what the rectified distillate would be, and he told me that it would be pure alcohol. We merely propose to provide for pure wine spirit, and if there is any difference as to what we mean, the Victorian Act, of which we have heard so much, certainly leaves no room for doubt upon the question. It tells us what the rectified distillate is. In the very forefront of that Act is a definition of pure wine spirit. It says -

Pure wine spirit means the rectified distillate resulting solely from the distillation of wine.

In other words it is absolute alcohol. Under the circumstances I ask the committee to allow the Bill to stand. I think that the measure in its original form, which provided that the strength of the spirit to be used should be 50 degrees over proof, was preferable. I am sorry that I gave way and allowed the strength of the spirit to be reduced to 30 degrees, but I do not propose to give way any more in this respect.

Mr Salmon

- How does the Minister interpret the expression " pure wine spirit " ?

Mr KINGSTON

- Ask the authors of it.

Mr Salmon

- Is not the Minister the author of it?

Mr KINGSTON

- Indeed I am not. The honorable and learned member for Indi moved the insertion of these wretched words, and found a most powerful supporter in the honorable member for Laanecoorie, who now tells the committee that he did not know what they meant?

Mr Salmon

- I did not say that.

Mr KINGSTON

- To suggest that the Government are responsible for these words is absolutely ridiculous.

Mr. ISAACS(Indi). - There is one spirit that will never abate, and that is the spirit of the Minister. There is no doubt about its purity and its strength. At the same time, I wish to point out that the Senate appears to have met this matter in a practical, business-like fashion, and it has really carried out the intention of this Chamber. That intention was to declare that no spirit should be used for fortifying wine which was not

produced from wine. Vignerons were not allowed to use any admixture of other substances whether they ranged from potato spirit to vitriol. The Senate, however, fairly saw that in the heat of our struggle we did not fully express our intention, and accordingly that Chamber has made an amendment, which not only does not alter our intention, but effectuates it. The observations of the Minister, if carried out, would go far to nullify the provision under which wine can be fortified at all. In the Victorian Act, the words "pure wine spirit" are defined for the purpose of that Act. There are certain limitations which I am not scientifically capable of explaining, but in one of the sections I observe that the strength of the spirit is prescribed to some extent. I do not care, however, what that Act provides in regard to this particular matter. I say that we shall be carrying out our intention by assenting to this amendment, which I think the committee ought to adopt, because it will protect the public against the adulteration of wine, and enable vignerons to carry on their businesses in a proper fashion.

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Mr KINGSTON

- I merely desire to point out that this amendment, instead of safeguarding the purity of our wines, does nothing of the sort, but it cuts down the strength of the spirit which was previously provided, and which is to be found within the four corners of the Victorian Act.

Question - That the amendment of the Senate be agreed to - put. The committee divided -

Ayes 15

Noes 20

Majority 5

Question so resolved in the negative.

Amendment disagreed with.

Third Schedule-

Every case must have branded or painted thereon the name of the distiller, or the name of the distillery, and the place where the spirits were distilled, and any number or letter which the collector shall direct ; and, if so prescribed, the materials of which the spirits have been made.

No label shall be affixed by a distiller to any bottles containing spirits, unless the collector has given his permission in writing to the affixing of such labels ; and, if so prescribed, each label shall state the materials of which the contents are made.

Motion proposed -

That the committee agree to the amendment of the Senate omitting from regulation 59 the words "and if so prescribed, the materials of which the spirits have been made."

Mr WATSON

- I suggest to the Minister the propriety of disagreeing with the Senate's amendment. The reason actuating the Senate in omitting the last portion of the regulation seems to be that, in as much as we have not power to prescribe that labels stating the materials from which imported spirits are made shall be affixed to the bottles in which those spirits are imported, we should not require the local product to be labelled. But it seems to me a good principle that each person shall be required to keep clean the pavement in front of his own door, and it rests with each community to insure, as far as possible, that its people shall know what they are consuming. Most of . us, I suppose, hope that gradually the local article will successfully compete with, and eventually supplant, the imported article ; and, if that happens, it will be more than ever necessary to have this provision. A firm that has made somewhat of an outcry in regard to it is that of Joshua Bros. They point out that they are selling a spirit which is as near brandy as anything else on the market, although only a portion of it is brandy. But the excuse that other people sell materials under a wrong name is not, I think, sufficient justification for allowing local manufacturers to do so. I trust that the committee will insist that where spirits are sold to the public, they shall be sold under their real name, and not as something which they are not.

Mr KINGSTON

- If I recollect rightly, the Government originally opposed the insertion of words providing for the specification of materials which Regulations 59 and 60 requires, but amendments were carried against them. It was seen, however, that it would be unfair to require certain things to be done by our own distillers which foreign distillers, whose goods come into competition with theirs, are not required to do, and it was therefore determined that the better thing would be to call these provisions into existence only

where they could be fairly applied, without hampering or doing injustice to the local distiller. For that reason, the words "if so prescribed " were inserted, and I think that the regulations as they left this Chamber were fair and practicable. Considering the unanimity of the committee on the question before, I think we should disagree with the amendment.

Mr MAUGER

- I agree with the honorable member for Bland, that it would be better to stand by the regulations, and, if necessary, require by another Act that the ingredients of both imported and Australian made articles, shall be made known in the way provided for.

Sir MALCOLM McEACHARN

- I think that the committee would do wrong in disagreeing with the amendment. It is unfair that local manufactures should be placed on a different footing from foreign manufacturers who send their goods here.

Mr Kingston

- The regulation takes effect only " if so prescribed."

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Sir MALCOLM McEACHARN

- Until we have some general law which will place imported spirits upon the same footing as locally manufactured spirits, I think we should allow things to stand as they are.

Amendment disagreed with.

Motion proposed -

That the committee agree with the Senate's amendment omitting the words - "And if so prescribed each label shall state the materials of which the contents are made."

Amendment disagreed with.

Remaining amendments agreed to.

Reported that the committee had agreed to some, and disagreed with other, of the Senate's amendments.

Report adopted.

Motion (by Mr. Kingston) agreed to -

That the Hon. the Attorney-General, the honorable member for Maranoa, and the Right Hon. the Minister of Trade and Customs, be a committee to prepare and bring in reasons for disagreeing with the Senate's amendments.

The committee presented a report containing the following reasons : -

As to amendment No. 8 - Because the amendment is unnecessary. As to amendments No. 19 and 20 - because the information will be useful to the public, and no regulation need be made until foreign spirits have been fortified in the same manner.

Report adopted.

EXCISE BILL

In Committee(consideration of Senate's amendments) :

Clause 15 (Time for compliance with this Act).

Motion proposed -

That the committee agree to the amendment of the Senate adding to the clause the following words:- "But during such period every unlicensed person who manufactures excisable goods shall comply with this Act as if licensed and the premises on which he manufactures excisable goods shall be deemed a factory."

Mr KINGSTON

- This amendment simply provides that during the interval given to persons to comply with the necessary requirements as to licences, they shall be bound by the obligations imposed by the Act as if they were licensed.

Amendment agreed to.

Motion proposed -

That the committee agree to the amendment of the Senate inserting the following new clause : - 23a. Excisable goods and goods liable to duties of Customs may in prescribed cases and subject to the prescribed conditions be delivered free of duty or subject to such duty as may be prescribed for use in the manufacture of excisable goods.

Mr GLYNN

- Will the Minister kindly explain this new clause, which seems to be rather puzzling ? Is the effect that the Executive will have power to increase a duty ?

Mr Kingston

- No.

Mr GLYNN

- Excisable goods are goods on which Parliament has imposed a duty of excise. This new clause says, "subject to such duty as may be prescribed for use in the manufacture of excisable goods." That means, I take it, that goods subject to impost may be delivered for manufacture, subject to such duty as the Executive may prescribe.

Mr KINGSTON

- This is a provision usually found in Acts relating to excise on tobacco. Various minor articles enter into the manufacture of tobacco, and while the manufacturer is charged on the full weight, it would not be proper to charge him twice, that is both on the minor articles as delivered, and on the full weight of the manufactured tobacco. This is only carrying out a similar provision in the Customs Bill.

Sir William McMillan

- This is not creating any new duty 1

Mr Kingston

- No.

Amendment (by Mr. Glynn) agreed to -

That the amendment be amended by inserting the word "lower" between the words "such" and "duty."

Mr CROUCH

- To me the amendment appears a most sweeping one, which would allow a free-trade Ministry to prescribe such regulations as would abolish the whole of the duties. Does the Minister not think there is great danger in the clause t

Mr KINGSTON

- This is merely an extension of the provision in the Customs Act, and it is a concession to be carefully exercised in regard to the utilization in manufactures of goods which would be dutiable.

Mr. HIGGINS(Northern Melbourne).Does the clause mean that, if excisable or dutiable goods are used in the manufacture of other articles, the Executive may impose no duty, or less duty, on the articles so used?

Mr Kingston

- That is so.

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Mr HIGGINS

- Sugar, for instance, is used for making beer, and I would like to know whether the Minister, in the regulations, has taken any precaution to prevent sugar, given to brewers for the purpose of brewing, being handed out to grocers to sell in the ordinary way ? I have reason to believe that a considerable amount of duty is lost by devices of that sort, brewers obtaining sugar for the purpose of making beer, and then entering into arrangements with people who sell sugar as sugar.

Mr KINGSTON

- I should be delighted to have full particulars of those cases, in order that a salutary example may be made.

Mr Higgins

- Has any precaution been taken ?

Mr KINGSTON

- There will be precaution taken, but we have not yet framed our regulations under the Beer Bill, because the measure is not ready. I do not think, however, there is the slightest chance of anything of the sort described by the honorable and learned member being done. In the manufacture of tobacco, I believe a variety of materials are used, amongst other things liquorice, in order to give sweetness. I have heard that the manufactured article described as 109 lbs. of tobacco would, without these ingredients, be only 100 lbs.,

And if these minor articles were not allowed for, the manufacturer would not only pay on the full weight of

tobacco, but, in addition, on the minor articles.

Mr Crouch

- Under this clause could not a Ministry sweep away the whole of the duties ?

Mr KINGSTON

- I do not think so. I know what would happen if a Ministry tried to do that - the Ministry would be swept away.

Mr PIESSE

- The words " and goods liable to duties of customs " occur in the clause, and seeing that the Bill is a Bill relating to excise, I question whether these words are in order. Section 55 of the Constitution declares that laws imposing duties of customs shall deal with duties of customs only, and there is a similar provision in regard to excise duties, and I am of opinion that the words I have quoted are, at any rate, out of order in regard to the title of the Bill. I should like to move that these words be omitted.

The CHAIRMAN

- The honorable member cannot submit that amendment now, an amendment having been made at a later period of the clause.

Mr. GLYNN(South Australia).- The word "lower" should be inserted before " duty," otherwise goods liable to duties of customs, but on which no duty of customs has been imposed, might be made the subject of duties under this amendment. If we insert the word " lower " there is an implication that we cannot impose any duty, but only reduce duties already imposed.

Amendment agreed to.

Amendment, as amended, agreed to.

Clause 43 -

No manufacturer shall manufacture excisable goods at any place other than the factory specified in his licence, or shall manufacture in his factory excisable goods to a greater quantity than allowed by his licence. Penalty : £100.

Motion proposed -

That the committee agree to the amendment of the Senate, inserting after the word "licence" the words " or except by permission sell by retail any excisable goods in his factory, or at any place within 50 yards thereof."

Mr CROUCH

- For years in Victoria there have been issued licences to small tobacco manufacturers, who have had retail shops in connexion with their factories. Sometimes these men have been able, by means of their shop-earnings, to keep a business together until they have got a footing in the trade, and I should like to know whether this provision will have any prejudicial effect on those small manufacturers.

Mr KINGSTON

- This is not an absolute prohibition, because permission to sell by retail may be obtained. I do not think that the retailing of excisable goods should be allowed without permission.

Amendment agreed to.

Motion proposed -

That the committee agree to the amendment of the Senate inserting the following new clause : - "50a. Every manufacturer is responsible for the safe custody of all material and excisable goods in his factory and for the observance of this Act within his factory."

Mr GLYNN

- Supposing goods are lost, will the manufacturer be liable to a penalty or have to pay the value of the goods lost ; or is this simply . intended to be a sort of barren thunderbolt to be hurled at his head 1

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Mr KINGSTON

- Someone must be responsible for the goods in the factory, and as the manufacturer has control of them, he should not be able to escape from his responsibility regarding them by coming to us with a cock and bull story that they have been lost.

Mr Glynn

- What becomes of the goods?

Mr KINGSTON

- The manufacturer ought to know.

Amendment agreed to.

Clause 65 -

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

Motion proposed -

That the committee agree to the amendment of the Senate omitting the words "cigars, cigarettes."

Mr KINGSTON

- I think we undoubtedly ought to have the power to prescribe the weights and sizes of the packages in which cigars and cigarettes are put up in the factory, and as the provision seems to be a very useful one, I shall ask the committee to reject the amendment proposed by the Senate.

Amendment disagreed with.

Clause 66 -

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. Penalty : £20.

Motion proposed -

That the committee agree to the amendment of the Senate omitting the words " cigars, cigarettes."

Mr KINGSTON

- It is proposed to leave out these words, because it is represented that it will be inconvenient if cigar and cigarette manufacturers have to mark upon every package the name of the manufacturer and the other particulars required. So long as the authorities are furnished with sufficient information with regard to the manufacture of these goods, I do not think we need bind the manufacturers to publish all the particulars that are specified.

Mr WATSON

- This provision brings up the whole question of labels again, and the point is whether the public are to be misled by false labels.

Mr Kingston

- This is not intended to permit that.

Mr WATSON

- Very many goods of local manufacture are put up with false labels giving the name of some English firm, and this abuse has reached such a stage in New South Wales and perhaps Victoria that the wholesale merchants will not take anything from the local manufacturers if they bear their own labels. People are gradually being educated up to the idea that nothing is good unless it has an English or foreign label upon it, and it seems to me that Australian productions will have no chance of making a name for themselves unless we insist that they shall bear the name of the maker, and that he shall get the credit that is due to him. I do not sympathize with the idea of striking out these words, but think that what applies to other classes of manufactures should also apply to cigarettes and cigars. The sooner our people find out that the greater number of the cigars they smoke are of Australian manufacture, the better it will be for the manufacturers and for the public generally. It is only the first plunge that our manufacturers have to fear, and I think that the Bill as originally drafted should be adhered to. The provision in this clause seems to require that the particulars specified shall be placed on the larger parcels of goods and not be attached to each individual article, but I should not object to a proposal that there should be a label affixed to every cigar. There is not the slightest objection to the retailer knowing what he is buying. The wholesale men know very well where the goods come from, and that they are not of foreign make, and that knowledge should be generally extended, so as to reduce the fraud upon the public as much as possible.

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Mr MAUGER

- A number of small manufacturers of cigars have represented to me that they would suffer very considerably owing to the practice that the honorable member for Bland has referred to, but at the same time I would urge that they would profit in the long run if their articles merited approval. This fraud of foisting upon the public locally-made goods under foreign labels has been very largely practised in Victoria, and goods made in Collingwood are very frequently sold under the pretence that they were

manufactured in England. People have been led to believe that they have been getting first-class Continental goods, whereas they have been buying the products of their own local labour - equally of first-class quality. I believe it would be to the interests of the men themselves if the truth were told about their productions. A number of small cigar-makers, who sell to the large hotels, urge that if the purchasers of their cigars were made aware that they were manufactured locally, the hotel-keepers would at once discontinue their orders, as they would not be able to sell the local article. That might be the case at first, but the position would soon improve if the article were such as to merit public patronage. I should like to see a general Trade Marks Act which would compel every one to mark his goods accurately, stating where they were made and the conditions under which they were manufactured.

Mr KINGSTON

- I am a little surprised at the reason which is given for the amendment. I understood that it was simply an innocent proposal that the name of the local manufacturer should not be required to be blazoned abroad on the package containing the cigars or cigarettes manufactured, because there was a prejudice against the local manufacturers; but I confess that I did not know of or appreciate the suggestion which is now made that the suppression of the name of the manufacturer is intended to facilitate fraud.

Mr Mauger

- I do not think there is any doubt about it.

Mr Glynn

- The amendment proposes to do the very opposite to what we have done in other parts of the Bill.

Mr KINGSTON

- The Government are certainly not willing to lend themselves to anything in the nature of fraud, and I am a little surprised that a proposal has been made in that direction. I can hardly understand it, but I am prepared to take the authority of those who know more about these matters than I do, and under the circumstances I do not think I shall ask the House to follow the suggestion of the Senate.

Sir WILLIAM McMILLAN

- There might be something to be said in favour of omitting cigarettes from the operation of the clause. I understand that the honorable member for Bland wishes to insure that these cigarettes shall be labelled as having been made in Australia, and not represented as goods made in Europe; but why we should go further and insist upon every package of cigarettes having the name of the manufacturer upon it I do not know. We know very well that in England the wholesalers and the great manufacturers are supplied by numbers of small people, and it seems to be going rather far to say that in the matter of cigarettes, which might be made by a number of small people, the manufacturer should be compelled to put his name on the packages containing his goods. Probably the name placed upon them in the ordinary way would be that of the wholesale distributor of the goods; and I think cigarettes, at any rate, might be very well omitted.

Mr Mauger

- I do not think the remarks of the honorable member would apply to cigarettes so much as to cigars.

Sir WILLIAM McMILLAN

- Then the question is whether the Senate is not right.

Mr Page

- The question is whether the public are buying a real or a sham article.

Sir WILLIAM McMILLAN. - That is not the point. No one cares twopence about the name of the manufacturer, so long as the article has a good reputation, and our only object should be to put down frauds under which locally-made cigarettes might be palmed off as English or Egyptian.

Mr ISAACS

- It seems to me that not only for the reasons that have been advanced, but for departmental purposes, it is desirable that the goods manufactured should be properly identified.

Mr Kingston

- There is another provision which gives me the same information, but which is not so much open to the public.

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Mr ISAACS

- In this clause it is provided that the manufacturer's name and address, a consecutive number, the gross

weight of the package, and the net weight of the contents shall be marked upon every package before it is removed from the factory. Some of these provisions are absolutely necessary for the protection of the revenue. If we cut out cigars and cigarettes from this clause, we shall lose, not merely the name, but other things. If the size of the package is a reasonable one, I cannot see that any harm would result from requiring the name of the maker of the goods which it contains to be stamped on the outside. Of course we could not expect the name of the manufacturers to be put upon every cigar or cigarette.

Mr. HIGGINS(Northern Melbourne).I think that a very much larger issue has been raised by the honorable member for Bland and the honorable member for Melbourne Ports. It has reference to the marking of goods by the maker of them. Of course it is a great advantage to struggling manufacturers to get their goods sold by any means, but I should not like in an Excise Bill to force too far the view which has been taken by honorable members in regard to this matter. We' ought not to thrust it upon the manufacturers without first consulting them in some way. At the same time I think that the Government might fairly confer with those interested and see if it is not to their advantage that the name of the maker should appear upon all packages of goods. I admit that "the ordinary public as a rule do not see the brand on a package. Of course they would see the brand on a package of cigarettes, but they would not see it on a bale of wool. For the sake of the permanent advantage to the local manufacturers, I think it is worth considering whether we should not insist upon the name of the manufacturer appearing on the face of his goods, and also upon imported goods bearing the imprint of the fact that they have been manufactured abroad.

Mr TUDOR

- I trust that the committee will agree to the Senate's amendment. I do not desire that the colonial product shall be placed at a disadvantage as compared with the imported article. I am quite satisfied that the warehouseman would not take the manufactured article from the manufacturer if he found that the manufacturer had his name upon it, because in that case the retailer would go direct to the manufacturer and obtain it. I am quite in favour of having a stamp placed upon the goods to intimate to all who are interested that they have been made in the States. I may mention that I have been waited upon by a number of employees who desire that the name of the State in which any particular goods are manufactured shall be branded upon them. Dr. Wollaston is, I believe, agreeable to that proposal. In the United States it is provided that the number of the factory and of the district in which goods are made shall be stamped upon them. I think that is all that is necessary. Our workers would be placed at a disadvantage if we compelled manufacturers to stamp their names and addresses upon every package of goods which they turn out. I trust that the amendment will be agreed to.

Mr. WATSON(Bland).- The wholesale mien in Melbourne must be a much simpler class than they appear if they do not know absolutely where the goods come from. In most cases in New South Wales even the retailers know that they are using colonial goods.

Mr Tudor

- But they do not know who the manufacturer is.

Mr WATSON

- In most cases they gradually get to know. To my own knowledge there was a case in Sydney where a firm had for years been putting up a large quantity of goods with foreign labels. Legislation was foreshadowed in the State Parliament compelling manufacturers of that class of goods to brand their goods with their name and address, with the result that this particular firm anticipated legislation by putting their own name on the goods. As a consequence, that firm are to-day doing a bigger business than they ever did before. People are using their pickles, jams, and preserves in preference to the imported articles. There is nothing whatever to fear, therefore, from a provision of this sort.

Mr CROUCH

- I support the remarks of the honorable member for Yarra. As that honorable member points out, the retailers will, in the event of such a provision as this being adopted, go past the wholesale distributor to the manufacturer. That will be all the better for the big men and all the worse for the small men who depend on the wholesale men to take the distribution out of their hands. This provision will operate very adversely in the case of the small men. I would point out that it is only colonial goods which are supposed to be branded with the name of the State and the manufacturer's number. There is no doubt that goods numbered in the manner proposed get the reputation enjoyed by the worst manufacturer. If the purchaser

gets a bad article he cannot trace it to the man who made it, but he simply resolves never to purchase the same class of goods again, and will avoid numbered goods in future.

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Mr KINGSTON

- I cannot support the amendment. There seems to be a good deal to be said on both sides of this question. The first remarks made in connexion with it, induced the conclusion that the amendment proposed is right. The matter was mentioned to me before the Bill left this House, and action was taken in the Senate, which resulted in the amendment before us. I ask leave to postpone the consideration of amendments 8 and 9 till the remaining amendments have been dealt with.

Amendments postponed.

Motion proposed -

That the committee agree to the amendment of the Senate inserting the following new clause : - 128a. In any excise prosecution where the penalty exceeds one hundred pounds, and the excess is not abandoned, the defendant within seven days after service of process shall have the right in manner prescribed to elect to have the case tried in the option of the prosecutor either in the High Court of Australia or in the Supreme Court of the State in which such prosecution has been instituted, and thereupon the proceedings shall stand removed accordingly, and may be continued as if originally instituted in the court to which they are so removed.

Mr GLYNN

- I scarcely think this is correctly worded. It says that the defendant shall have the right to elect, and "thereupon" the proceedings can be shifted. I think the wording ought to be "on such election," because there is no period or moment of time fixed by the clause as it at present stands.

Mr KINGSTON

- I think the clause is right enough. It is almost a precise copy of the clause which was thrashed out by the honorable and learned member for South Australia, Mr. V. L. Solomon, and myself, when the Customs Bill was before us. I do not think it is worth making any alteration, because it says that the claimant shall have the right to elect, and that the proceedings shall be shifted "thereupon," that is on that election. Mr. ISAACS(Indi).- I do not read the word "thereupon" as relating to the election. The defendant is to elect for one court or the other, and thereupon the prosecution is to declare the option. It is only when the option is declared that the proceedings are to be removed. When the defendant elects, no one knows to which court the proceedings are going.

Amendment agreed to.

Motion proposed -

That the committee agree to the amendment of the Senate inserting the following new clause : - 154a. If any rebate is allowed in respect of any excise duty, the allowance shall be made and duty paid as prescribed.

Mr. ISAACS(Indi).- Will the Minister kindly explain this clause?

Mr KINGSTON

- If a rebate is provided for by regulation, we may prescribe the mode. It is a mere matter of machinery.

Mr Isaacs

- Does it mean that the mode of payment is to be prescribed, or the amount?

Mr KINGSTON

- Only the mode.

Amendment agreed to.

Progress reported.

SERVICE AND EXECUTION OF PROCESS BILL

In Committee(consideration of Senate's amendments) :

Clause 18 -

Any person in whose favour a judgment is given or made, whether before or after the commencement of this Act, in a suit by any Court of Record of any State or part of the Commonwealth, may obtain from the prothonotary or registrar or other proper officer of such court a certificate of such judgment.

Motion proposed -

That the committee do not insist on the amendment omitting " whether before or."

Mr PIESSE

- This amendment gives a new power of recovery, which was not in existence at the time the action was decided. It is all very well for us to say that all judgments may have the benefit of this Bill, but whether it should extend to judgments already on the record is a question which the committee ought to consider before we agree to reinsert the words. .

General

Mr DEAKIN

. - I think that, after all, this amendment is not worth insisting on. If the honorable member refers to clauses 22 and 23 he will see that the court has power to deal with any of the cases if a re-hearing is required. The time within which this can be done has been reduced from two years to one year.

Amendment not insisted on.

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.

Motion proposed -

That the committee do not insist on the amendment omitting paragraph (b).

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Mr DEAKIN

- The jurisdiction to be included is that of courts corresponding to the Vice-Admiralty Courts of New South Wales and Victoria, that is the Supreme Courts of the other States which have Vice Admiralty jurisdiction.

Mr Higgins

- Is there no Vice Admiralty Court in South Australia?

Mr DEAKIN

- No ; there the Supreme Court has Vice- Admiralty jurisdiction.

Amendment not insisted on. Reported that the committee do not insist on the amendments disagreed to by the Senate. Report adopted.

PROPERTY ACQUISITION BILL

In Committee(consideration resumed from 2nd October, vide page 5492) :

Clause 44 (Mode of payment to State) -

Minister for Home Affairs

Sir WILLIAM LYNE

. - As clauses 44 and 45 have somewhat the same object to be achieved by different modes, a promise has been made that they shall be considered later on ; and I propose that the clause be postponed.

Clause postponed.

Clause 46 -

Where any land of a State has, either before or after the commencement of this Act, become vested in the Commonwealth or been acquired by the Commonwealth under section 85 of the Constitution, such land shall for all purposes whatever be deemed to be vested in the Commonwealth in the same way and to the same extent as if it had been acquired under this Act, and the provisions of this Act. so far as they are applicable, and subject to the Constitution, shall apply to such land.

Mr GLYNN

- This clause seems to put in a general form what is put in a particular form in clause 46. It appears that this Bill is to apply generally to property which has been acquired under section 85 of the Constitution. To some extent I think that is invalid. Under sub-section (2), of section 85, the mode of valuation prescribed is the mode of valuation under the law of the State in force at the time of the establishment of the Commonwealth. This clause, so far as it concerns property not exclusively used in connexion with any department taken over, is ultra vires, because it fixes the mode of valuation prescribed in the Bill as the mode applicable to properties taken over, but not exclusively used, although the Constitution fixes the mode as the law of the State.

Sir William Lyne

- The words here are " so far as they are applicable."

Mr PIESSE

- What is the intention of the Bill as to property acquired under section 51, sub-section 31? This is a general sub-section, empowering the Commonwealth to acquire property for any purpose in respect of which this Parliament has power to make laws, and I do not see that such property is included under this or succeeding clauses. It may be that it is intentional, but I do not see any provision to deal with the acquisition of land under section 51, sub-section (32), of the Constitution, and I would like some explanation from the Minister.

Sir WILLIAM LYNE

- If I understand the honorable and learned member, he refers to article 31 of section 51 of the Constitution Act, which provides for the acquisition of property on just terms from any State or person for any purpose in respect of which the Parliament has power to make laws. The object of this clause is to put together the two methods of acquiring land, and this is simply a consolidation provision.

Mr Piesse

- That is to say that this Bill is not intended to deal with land that would be acquired under article 31 ?

Mr Deakin

- Yes; this clause will put all classes of land acquired in the same position, so that there shall not be two or more sets of titles.

Mr Piesse

- I am afraid that the words of the clause do not carry out that intention.

Sir WILLIAM LYNE

- The draftsman assures me that the words do deal with the land contemplated by the very article that the honorable member has referred to.

Mr. PIESSE(Tasmania). - The point is this - we have here the word "vested" to signify one method by which the Commonwealth may acquire land, whilst the term used in article 31 of section 51 of the Constitution Act is " acquired." Section 85 of the Constitution Act only deals with the property of the transferred departments.

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Mr DEAKIN

- What this clause does is to put all these properties in the same position as if they were acquired under this Bill. It really does not make any change.

Mr. HIGGINS(Northern Melbourne).I hope the reference to the last difficulty will not obscure the reference made by the honorable and learned member for South Australia, Mr. Glynn, to another point. Clause 47 distinguishes between lands vested in the Commonwealth under subsection 1 of section 85 of the Constitution, and land acquired under sub-section (2) of the same section. It provides that where land vests in the Commonwealth under the 1st sub-section the Commonwealth is to determine the amount of compensation in a certain way, and where land is acquired under the 2nd sub-section the compensation is to be estimated in another way. I think, however, that it is clause 46 that will create most confusion, because if it means anything it provides that whenever land is either vested in or acquired by the Commonwealth under either of the sub-sections of section 85 of the Constitution it is to be deemed to be vested in the same way as if acquired under this Bill. I suppose the intention is to apply the provisions for compensation which are prescribed in this Bill to all lands whether vested under sub-section 1 or acquired under sub-section 2 of section 85 of the Constitution. I am afraid, however, that that will not work out very smoothly, but will lead to a good deal of litigation. I should like the Minister to consider whether anything is to be gained by retaining section 46. All they want is provided for in clause 47, and even as regards that clause, I think that if we were to follow the wording of the Constitution more closely, it would answer the purpose better suggest that clause 46 should be postponed.

Clause postponed.

Clauses 47 and 48 postponed.

Clause 50 (Incorporation of the Commonwealth).

Mr. HIGGINS(Northern Melbourne).This clause provides that the Commonwealth shall be a corporation sole, I presume, for the purposes of suing and being sued, and I do not see the object of providing that all legal proceedings by or against the Commonwealth may be instituted by or against the Attorney-General.

I think that the Commonwealth should sue and be sued in its own name, as in the United States.

Mr DEAKIN

- It is so long since I saw this Bill - when it was sent to another place - that I was under the impression that legal proceedings were to be taken by or against the Commonwealth in its own name. I cannot see at present that there is anything to be gained by naming the Attorney-General instead of the Commonwealth, and I will look into the matter.

Clause agreed to.

Clause 51 -

In case any land purchased or taken under this Act is not required for the public purpose for which it was purchased or taken, the

Commonwealth may sell, lease, or dispose of such land.

A receipt under the hand of the Attorney-General shall be a sufficient discharge to the purchaser or lessee of such land for the purchase money or rent in such receipt expressed to be received.

Any land sold leased or disposed of under this section may be conveyed or leased in the name of the Commonwealth and executed by the Attorney-General.

Mr WATSON

- In this clause the Government propose to take the power to sell, lease, or dispose of any land that may be acquired, and which may not be wanted for the purposes for which it was originally secured ; but it seems to me that it is not necessary to give the Government power to sell. I do not wish to go into the whole argument in favour of the nationalization of land ; but when the Commonwealth by any process becomes possessed of land, we should not dispose of it again except under lease.

Mr Piesse

- The only land sold would be in very small pieces.

Mr WATSON

- The whole trouble in regard to small pieces of land would be that they would probably be in cities or towns, and the Government would not want to be bothered with them ; but as a matter of fact the greatest amount of increment that is likely to accrue to land in the course of years would attach to city and town lands and not to lands situated in the country. In connexion with town lands, speaking generally, there is a constant increase in value owing to the growing pressure of population, and I think the Government might very well be content with the power to dispose of land by lease. The Government have committed themselves to that general policy in respect to the capital site, and I think it will be in consonance with that policy to omit the provision for power of sale from this clause.

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Sir WILLIAM LYNE

- I am quite at one with the honorable member in his desire that we should not sell large areas of land, but this power of sale is intended to meet a different class of cases altogether. It is not likely that the Commonwealth will take up large areas of land, but we shall probably buy an acre or two acres in various places, and may not require the whole area. It would be scarcely worth our while to hold the balance, and allow it to remain practically useless, and if the land is not required there can be no harm in disposing of it by sale. When the draftsman showed me the Bill I at once raised the question as to the desirability of giving power of sale ; but after discussion I came to the conclusion that there was no harm in putting in this provision, because it is not only really necessary but entirely free from any risk of abuse. I think under the circumstances it would be wise to give the Government the power of sale, because if their hands are tied they will perhaps be required to hold a lot of land that is not really needed by them.

Mr. WATSON(Bland).- I would point out that in towns of any considerable size the greater part of the areas held for business purposes are occupied under ground leases, and it would be just as easy for the Commonwealth to dispose of their spare land under similar leases as to sell it.

Mr A McLEAN

- Would not that involve the Commonwealth in building operations 1

Mr WATSON

- I do not think it would ; but I am not sure that I would not be prepared to advocate that the Commonwealth should, if necessary, erect buildings so that they might derive some return from their property. I feel that there may be a danger of a greater area of land than is absolutely necessary being

resumed and sold again, and the safer plan, and one that will conduce to caution on the part of those responsible for the administration of affairs will be to provide that land shall not be sold after having been resumed for the purposes of the Commonwealth. I move -

That the word "sell," line 4, be omitted.

Sir WILLIAM LYNE

- I hope the honorable member will not press this amendment, because without the power of sale the hands of the Government would be tied very tightly, and the Commonwealth might be placed at a great disadvantage in consequence. I would ask the honorable member to remember what has been done in the State of New South Wales. The Government there have had the power of sale; but in consequence of the general feeling that the Government land should not be sold, the Ministry have deferred to the wishes of the people, and have refrained from disposing of their property. The Parliament can always exercise control over the Ministry, and if there should be a very valuable piece of land that could be leased, the Parliament could practically direct the Ministry what they are to do with it. We are not exactly in the same position as a State, and we are not likely to resume land, except for the most important and necessary purposes. If the power of sale is taken away from the Government, it may be necessary for the Commonwealth to enter into building speculations, which it would be better for us to have nothing to do with. We do not want to traffic in land. I think that the Commonwealth will be very careful indeed not to traffic in any way in land. This provision is merely inserted in case it may be required. Under these circumstances, I hope that the honorable member for Bland will not press his amendment.

Sir WILLIAM MCMILLAN

-It seems to me, that in connexion with this clause, the amendment of the honorable member for Bland ought not to be insisted upon. This provision simply applies to land which has been resumed. We arbitrarily take away a freehold from the individual, and surely if we find that we do not require it, it is only reasonable to allow its former owner an opportunity of re-purchasing it. Under such circumstances, it will be very unwise to tie the hands of the Executive. We cannot possibly foresee all the contingencies that may arise. If we lay down the principle that land acquired by the Commonwealth and kept for Commonwealth purposes, shall be leased only--

Mr Watson

- If it is kept for Commonwealth purposes it cannot be sold ; that is certain.

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Sir WILLIAM MCMILLAN

- That is a very fair principle. But by adopting the amendment proposed, we should very often paralyze the operations of the Commonwealth Government. The Government might purchase land and afterwards secure other land which was more suitable, but under this amendment the very land, which, if they had the power to sell, could have been got rid of at once thus, relieving the public Treasury, might remain on their hands for years. We must all recognise that the principle underlying the disposition of our people is to have a freehold. In regard to land which we do not intend to retain for Commonwealth purposes, it would be absolute folly to carry out the principle which we are trying only as an experiment for ourselves.

Mr CROUCH

- I ask the honorable member for Bland not to press his amendment. I have had a slight experience of selling to the Victorian Railway department, and of purchasing from that department. As a matter of fact, they have found it cheaper in many instances to purchase a whole block rather than pay for its severance. I do not suppose that the Commonwealth is going in for bartering in land, and to tie their hands in the way proposed would mean adding largely to the cost of any land which we may desire to possess, and which we would have to retain for ever.

Mr. HIGGINS(Northern Melbourne).I would point out that it is not proposed that the Commonwealth shall become a trader in land. The amendment simply means that if an odd corner has been acquired, it ought to be allowed to get rid of it in the way which happens to be current at the time. There is no power for the Commonwealth to acquire land, unless the acquisition is reasonably incidental to the purposes of the Commonwealth. For instance, it might acquire a piece of land for a post-office, and it might subsequently transpire that the population of the town in which the building was to be erected has moved half-a-mile further, so that instead of the post-office being at one end of the town, it ought to be at the other.

Sir William McMillan

- It is not a good thing for the Commonwealth to be carrying unnecessary property in its own hands.

Mr HIGGINS

- I want to take an intermediate view. The Ministry have laid down a very important principle with reference to the Federal Capital. They say it is not well in the interests of the community that land should be sold, but that the community should have the advantage of the land, and it should never be alienated. That is a principle to which I am very glad the Ministry have given their adhesion. It shows how, in spite of the arguments of certain economists, people are coming to a state of sanity in regard to these matters. Concerning this particular proposal I would suggest that it is not expedient, in a Bill which deals only with the acquisition of property, for the Commonwealth to meddle with this large question, which may give rise to a great deal of discussion. I suggest that we might insert a provision that superfluous land should be disposed of in a manner to be directed by a resolution of both Houses.

Sir William McMillan

- How on earth could Parliament go into a question of that kind ? How could they deal with- a particular piece of land ?

Mr HIGGINS

- I merely wish Parliament to have a voice in the matter before there is any actual sale of lands. Ministers have a good deal of reason behind them when they do not desire these big questions to be settled or discussed at this stage. If we are going to apply the principle of the non-alienation of Commonwealth lands to the federal capital I do not see why that principle is not good enough to be applied elsewhere.

Mr WILKS

- I wish to point out that land will only be acquired by the Commonwealth for post and telegraph offices and Custom-houses. This is a very simple provision. There may be an odd piece of land which no one would lease, and which it would not pay the Commonwealth to collect rent from. No Ministry would abuse the principle of sale, because they would be under the control of Parliament. The Commonwealth Government are limited in their operations, and the necessity for holding land is also limited. This is a wise provision, and I heartily support it.

Sir WILLIAMMCMILLAN (Wentworth). - I contend that it is absolutely wrong for the Commonwealth to hold lands of this kind. The Commonwealth holds land in the different " States simply for its own public purposes, and the moment it finds that it does not require any of it for public purposes that land ought to be sold. We want to strictly confine the Commonwealth to the holding of land for its own purposes, and not allow it to speculate in land. I do not believe in the principle that all land should be leased. I think that some should be held in fee simple and some should be leased. It would be absolutely dangerous to say that all land acquired under any possible circumstances, but not occupied for federal purposes, should be kept under lease, thus increasing the assets of the Commonwealth, the machinery of government, and the general expenditure, against all the rules of common sense.

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Mr A McLEAN

- I think that the principle of leasing hardly arises upon this question. It is not intended that the Commonwealth shall acquire any lands which they do not believe they need for public purposes. I think it would be unwise to tie the hands of the Government, and compel them to accumulate little remnants of land which they cannot use. I agree that the experiment of leasing lands in . perpetuity should be tried in connexion with the federal capital, but that is a different matter altogether. I am glad to think that there is every prospect of that experiment proving successful. The unearned increment in that case should be very large, and it is only right that the Commonwealth should reap the full benefit of it. But to apply the same principle to little remnants of land in outlying places would be a mistake. I think there is more danger of the Government erring in the other direction than there is of it selling land with undue haste.

Mr FISHER

- It is undesirable that the Government should be asked to part with any land which they have acquired for public purposes. I disagree with the honorable member for Wentworth when he says that the Commonwealth have no powers to hold land which they do not require. They have power to deal with every kind of property which comes into their possession. The chief argument urged against the amendment of the honorable member for Bland is, that the Government might become possessed of certain land, and might not require the whole of it for the particular purpose for which they acquired it. I

am somewhat surprised to hear honorable members who say that they favour the application of the principle of the non-alienation of Commonwealth lands to the federal capital opposing this amendment. If the Federal Government is a good thing, will not the value of land which is acquired by them be enhanced in every case? If not, we must admit that, generally speaking, the Federal Government is a bad thing for Australia. I understand, however, that the Minister has some suggestion- to make.

Sir WILLIAM LYNE

- Before I make a suggestion, I should like to give as an illustration a case which came before me today or yesterday. A building was purchased from a Melbourne suburban council some time ago for a post-office, and has been found to be absolutely useless for the purpose, and it would cost more money than the object is worth to erect a suitable building on the site. The suburban council occupies premises in the same block, and a recommendation has been made to me to ask the council to buy this building back in order that a more suitable piece of land for the purposes of a post-office may be got elsewhere.

Mr Watson

- The suburban council will only take the building as a gift.

Sir William Lyne

- The money paid for the building was £2,000, and under the amendment we should be saddled with these premises at one end of the block, the other end of which is occupied by the local corporation. The building can be utilized by the municipal council, but it is no good to us as a post-office, the site of which in any case must be removed. The amendment would load the Government with properties which the Government do not wish to keep. The suggestion I have to make is that the words " sell, lease, or " be omitted, and at the end of the sub-clause the words " in such manner as the Governor-General in Council may think fit " be added. That will throw the responsibility on the Governor-General in Council.

Mr GLYNN

- I am thoroughly in sympathy with the honorable member for Bland in regard to leasing. I have had that policy on the brain since 1854, and perhaps have had as much to do with its advocacy as any honorable member in the House of Representatives. We have the system of perpetual leasing in South Australia, and, while I am in sympathy with the honorable member, I would not like to be forced to a division on the amendment, because I might be misunderstood. I look on the Commonwealth as not a land-holder by profession, except in relation to federal territory.

Mr Deakin

- Or in relation to other territory the Commonwealth may acquire.

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Mr GLYNN

- But the Commonwealth is not a dealer in land, except for the purposes of the federal territory ; and inconvenience would arise out of our forcing the Commonwealth to hold general lands in any part of the Commonwealth outside of the territory required for the immediate purposes of the Constitution. These outside lands would not be subject to State taxation, so that the Commonwealth might own lands in the States, and would not have to pay a single penny of municipal rates or direct taxation to the States ; and that is not advisable. I therefore ask the honorable member for Bland not to move generally that there shall be no land sold, because that would be implying that one of the functions of the Commonwealth is to hold land. We could, if we wish, add a proviso that land becoming vested in the Commonwealth under or for the purposes of section 125 of the Constitution, shall not be sold. That would be a complete declaration of the principle, and would show that we are against parting with any land which becomes the property of the Commonwealth. I prefer that the whole question of leasing should be deferred until we deal with the federal territory in regard to which the Commonwealth will be the landlord.

Mr PIESSE

- I am very much in sympathy with what has been advanced by the honorable member for Bland, but I am afraid that the land acquired under the Bill cannot be leased in the way he desires. There is a peculiarity in the title under which the Government is to hold land. It has apparently to hold the land on a title somewhat inferior to that on which the States at present hold land. The Commonwealth is to have the fee simple, and its method of parting with the land is by conveyance, as is the case with all subjects of the Crown, including corporations. But a State may grant land in the name of the King to the Commonwealth, and apparently the Commonwealth will not hold land in the same way as the States do.

Mr A McLEAN

- Is that in pursuance of the Constitution ?

Mr PIESSE

- No \ it is the terms in which this Bill is drawn, and it would be of some interest if the Attorney-General gave us reasons for this course. Clause 4 deals with land purchased from private individuals, and provides that they may " sell or convey the same to the Commonwealth for the purposes of this Act." By clause 7, under which land is taken by notification in the Gazette, the land is vested in the Commonwealth " for the purposes of this Act for an estate in fee simple." The purposes are the purposes in reference to which this Parliament has power to make laws, and I do not know that the Parliament has power in regard to any dealings in land.

Mr Higgins

- The incidental powers in sub-section (39) of section 51 of the Constitution will cover that.

Mr PIESSE

- That may be so, but it might be held that the land was vested for 16 p a particular purpose, and that the Commonwealth was only entitled to hold the land for that purpose. If the powers referred to by the honorable and learned member do not cover the power to lease the land, I am afraid that land cannot be properly dealt with, if acquired, under this Bill.

Mr TUDOR

- I think the amendment of the honorable member for Bland will have an opposite effect to what most honorable members think. The Minister has told us of a case in which there is a piece of land practically useless to the department, but we have not been told whether that land was acquired recently. The honorable member for Wentworth suggested that the Commonwealth might acquire a piece of land, and then find it possible to get another piece which would answer the purpose better. If the amendment were carried the Government would exercise the greatest care before they purchased any land, knowing, as they would, that they would not be able to dispose of it. The honorable member for Gippsland told us that it might be possible for the Commonwealth Government to get an acre of land for the same money as half an acre of land, in a case where half-an-acre was enough for the purpose ; but, if that were so, the Commonwealth would have half an acre of land which had practically cost nothing. The amendment is a wise one, which we would do well to incorporate in the Bill.

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Mr E SOLOMON

- The principle of the amendment is a correct one. When once a principle is embodied in a statute, it is referred to as a precedent, and what we do now, more particularly as this is the first time we have had to deal with the sale of land, will be referred to as a guide in the carrying out of purchases on a larger scale at some future time. We should show that we do not believe in the principle that, when once land has been acquired for a specific purpose, it shall be sold or trafficked in by the Government. If the amendment were carried, no doubt the Commonwealth would think twice before they purchased land, and would come to a decisive conclusion as to what they were going to do with the land before they purchased it. It is only right that we should put on the statute book the principle that we do not believe in the Government having the power of sale.

Mr. FISHER(Wide. Bay). - I feel sure that if the question were more fully discussed, the result would be in favour of the amendment of the honorable member for Bland. We have seen the development of questions such as this, and fortunately there is always a tendency to preventing the Government selling any land. As there seems to be a general desire not to press this matter further under this Bill, I would like to ask whether the Minister will promise to insert a clause to provide for an annual return to Parliament giving details as to the prices paid for the acquisition of the land, and also the particulars as to the prices received for any land sold by the Government. If that return be promised, it may not be necessary to take this amendment to a division. I feel very strongly in this matter, and unless there is some way of getting proper information, it will be necessary to protest on every occasion.

Sir WILLIAM LYNE

- I see no objection to the suggestion of the honorable member for Wide Bay, and I shall see that an amendment is prepared, probably in this clause, providing that there shall be laid on the table of the House a return showing, not only the price of the land, but all other necessary particulars in connexion

with the transaction. If the honorable member will withdraw his amendment, I shall submit a provision to that effect.

Sir WILLIAM McMILLAN (Wentworth). - We must recollect that we, as a Federal Parliament, have to deal fairly with the States. Land acquired for public purposes may be in the direct route of a line of railway, and under the clause, as amended, we practically could not have any friendly arrangement to give that land up in fee simple to the State.

Mr Fisher

- We could lease it to them.

Sir WILLIAM McMILLAN

- A bit of railway line could not be leased to a State. I can see clearly that, both with regard to the municipalities - which are, after all, the ground-work of the constitutional system of government - and to the State, there may be many occasions on which, in a friendly way, it would be necessary perhaps to exchange land, which would practically mean selling land ; in other words, to deal with land might be just as necessary for the public interest in the particular locality as for the Commonwealth interest. The clause does not infringe on any principles honorable members may hold in regard to the general desirability of leasing public land. We ought in matters of this kind to give a. very free hand in regard to the interests concerned - not to private interests, but to the public interests arising out of municipal or State government.

Mr. WATSON(Bland).- Some private railway companies at present lease land from the State in New South Wales, and if such leasing pays private companies, surely it would be profitable to the State. But there is something in the contention put forward by the honorable and learned member for South Australia, Mr. Glynn, that the transfer of an area of land from private people to the State might mean a loss of revenue to the municipalities. Still, if I thought there was a chance of carrying my amendment that argument would not affect me. My feeling is very strong on this subject, and has been so ever since I was able to think on political affairs at all, and in New South Wales I have said a word or two on the question so far as general land administration is concerned. As there seems no chance of carrying the amendment, and the Minister has: agreed to the suggestion of the honorable member for Wide Bay as to the presentation of a return, I beg leave to withdraw my amendment.

Amendment, by leave, withdrawn.

Mr. HIGGINS(Northern Melbourne).I understand that the Minister is going to so amend the clause, as I have suggested to him, that it shall be left to the Governor-General to dispose of these lands as he thinks fit. I think the particular mode in which the Commonwealth is to hold lands is worthy of the full attention of the Ministry. I never knew of the King being his own tenant, but clause 7 practically provides that the King, in his capacity as the head of the Commonwealth, is to hold land in fee simple under the King in his capacity as head of the State. I think the committee is indebted to the honorable member for Tasmania (Mr. Piesse) for the attention which he has given to the titles in connexion with this Bill. I can foresee that the most difficult questions of title will arise unless great care is taken in regard to the expressions used in the Bill.

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Sir WILLIAM LYNE

- I move-

That the words "sell, lease or," line 4, be omitted, and that, after the word "land," line 5, the following words be inserted: - ' ' ' in such manner as the Governor-General in Council shall think fit."

Amendment agreed to.

Mr. PIESSE(Tasmania).- We find that this land is to be vested in the Commonwealth as an estate in fee simple, but that when it is to be disposed of it is not to be conveyed by the Commonwealth in the name of the Commonwealth, but that the transfer is to be executed by the Attorney-General.

Clause, as amended, agreed to.

Clause 55 (Compensation for temporary occupation).

Mr. HIGGINS(Northern Melbourne).I understand that the Attorney-General intends to insert provisions throughout this Bill that in all cases where it is provided that matters are to come before the High Court of Australia they shall, until the High Court of Australia is established, be brought before the Supreme Courts of the various States.

Mr Deakin

- Yes ; that is the intention.

Clause agreed to.

Clause 57 (Costs to be borne by Minister).

Mr. CROUCH(Corio).- It is provided in this clause that in the case of any land " purchased or taken under this Act " the Commonwealth shall bear all costs, charges, and expenses. I think it is necessary to provide that this shall apply only to cases in which land is " taken by the Commonwealth," otherwise the Commonwealth may have to bear the costs of transferring land which may be bought from it by some one else.

Mr Deakin

- I will look into that matter.

Clause agreed to.

Clause 61 (Power to set apart and dedicate land).

Mr. CROUCH(Corio).- If the Commonwealth is to be incorporated the land belonging to it should be held in the name of the Commonwealth and not in the name of any officer or person on behalf of the Commonwealth, and I suggest that the words in the clause providing for the latter alternative should be omitted.

Mr Deakin

- I will make a note of the point raised by the honorable and learned member.

Clause agreed to.

Sir WILLIAM LYNE

- I move-

That the following new clause be inserted after clause 11 : -

Where land has been acquired under this Act by notification in the Gazette, except where -

The Parliament has appropriated a sum of money out of the Consolidated

Revenue Fund, for or towards the purpose in respect of which the land was acquired ; or

The Governor-General has sanctioned the construction or carrying out of the work, or undertaking, in respect of which the land was acquired and public funds are legally available for that purpose ; or

The Minister certifies in writing, under his hand, that the estimated value of the land does not exceed £100, if either House of the Parliament within 30 days after a copy of the notification has been laid before it, passes a resolution declaring the notification to be void, the notification shall be deemed to be void and of no effect, and the land shall be deemed not to have been vested in the Commonwealth, and the owners of the land shall be entitled to compensation for any damage which they may have suffered by reason of the notification or the exercise of the powers of the Minister consequent thereupon.

Every person or State claiming compensation under this section shall within 120 days from the passing of such a resolution, or within such further time as a Justice of the High Court upon the application and at the cost of the claimant may either before or after the expiration of such 120 days appoint in their behalf, serve upon the Minister and upon the Attorney-General a notice in writing similar to the notice mentioned in section 12, and the like proceedings shall thereupon be taken as in the case of compensation claimed under Part 3 of this Act.

This clause is intended to meet the case which was raised last night in connexion with the provision that on a proclamation being issued the land referred to in it should at once become vested in the Commonwealth. The clause provides that land shall only be acquired under certain conditions which are fully set forth, and that the transfer to the Commonwealth shall not be absolute, except in certain cases, until after Parliament has had an opportunity of reviewing the action of the Government and ratifying the resumption or otherwise.

Clause agreed to.

Progress reported.

IMMIGRATION RESTRICTION BILL

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In Committee(consideration resumed.) :

Clause 8a -

Any person coming within the definitions of a prohibited immigrant contained in section 4 and not

naturalized within the Commonwealth, who is convicted of any crime of violence against the person, shall be liable on the expiration of any term of imprisonment or penal servitude imposed on him thereof to be deported from the Commonwealth pursuant to any order of the Minister.

Attorney-General

Mr DEAKIN

. - I move -

That all the words after the words " any person " down to and inclusive of the words " therefor to " be omitted, with a view to insert in lieu thereof the words - " who is not a British subject, either natural born or naturalized under a law of the United Kingdom or of the Commonwealth, or of a State, and who is convicted of any crime of violence against the person, shall be liable, upon the expiration of any term of imprisonment imposed on him therefor, to be required to write out at dictation and sign in the presence of an officer a passage of SO words in length in an European language, directed by the officer, and if he fails to do so shall be deemed to be a prohibited immigrant, and shall "

I have re-cast the clause of the honorable member for Coolgardie into a form in which I hope it will prove acceptable to the House.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 9 -

The master, owners, and charterers of any vessel from which any prohibited immigrant enters the Commonwealth contrary to this Act shall be jointly and severally liable to a penalty not exceeding £100 for each prohibited immigrant so entering the Commonwealth.

No penalty shall be imposed under this section on any master, owner, or charterer who proves to the satisfaction of the court that he had no knowledge of the immigrant being landed contrary to this Act, and that he took all reasonable precautions to prevent it.

Mr DEAKIN

- In order to meet the case of our relations in America who would not be included in the term " European,"

I move -

That the words " provided that in the case of an immigrant not of European race or descent " be inserted before the word " no," line 7.

Amendment agreed to. Clause, as amended, agreed to. Clause 11 (Assisting persons to contravene Act).

Amendment (by Mr. Deakin) agreed to -

That the following words be added as subclause (2) : - " Any person who makes or authorizes such contract or agreement shall be liable to the Commonwealth for any expense incurred by the Commonwealth in respect of any immigrant prohibited by reason of the contract or agreement."

Clause, as amended, agreed to. Bill reported with further amendments. Motion (by Mr. Deakin) agreed to

-

That the Bill be recommitted for the purpose of reconsidering clause 5.

In Committee(recommittal) : Amendment (by Mr. Deakin) agreed to - That the word " may "be omitted, with a view to insert in lieu thereof the word " shall." Clause, as amended, agreed to. Bill reported with a further amendment.

ADJOURNMENT

Returns re Land for Commonwealth Purposes.

Motion (by Mr. Deakin) proposed -

That the House do now adjourn.

Mr E SOLOMON

- I wish to direct the Attorney-General's attention to the fact that on August 30 certain returns were ordered by the House for the supply of particulars as to the amount of money expended in the purchase of land for the Commonwealth, and as to the estimated value of any lands which were likely to be taken over for Commonwealth purposes. Those returns have not yet been furnished.

Attorney-General

Mr DEAKIN

. - I will make inquiries regarding the matter. I noticed that there were several returns circulated in the papers to-day, but am not aware whether they included those asked for by the honorable member.

Question resolved in the affirmative.

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22:20:00

House adjourned at 10.20 p.m.