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1901-08-14

Senate.

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

QUESTIONS

TELEPHONE: PIPER'S RIVER

Senator KEATING

- I beg to ask the Postmaster-General the following questions, which he was not in a position to answer on Friday.

The reasons for the recent discontinuance of the Launceston to Pipers River telephone service.

When such service is likely to be restored.

Postmaster-General

Senator DRAKE

- The answers are as follow : -

The reasons for the discontinuance of the Launceston to Piper's River telephone service were the insufficiency of the business, the gross earnings having amounted to only £6 for the year 1900, and the fact that in order to maintain the service an expenditure of £80 was required for repairs to the line.

The service will be restored when there is a probability of a remunerative business, or when those interested are prepared to guarantee an adequate revenue.

EXCISE ON BEER BILL

Bill received from House of Representatives, and (on motion by Senator O'Connor) read a first time.

PRIVATE BUSINESS

Resolved (on motion by Senator Lt.-Col.

Neild) -

That unless otherwise ordered private orders of the day take precedence of private notices of motion on alternate Fridays.

CUSTOMS BILL

Second Reading

<page>3671</page>

Vice-President of the Executive Council

Senator O'CONNOR

- I move -

That the Bill be now read a second time. I think that every honorable senator, no matter what are his views as to the principle on which customs duties should be levied, is of opinion that it is of the utmost importance to the Commonwealth that all reasonable means should be taken for the securing of the due collection of the revenue, and for protecting the honest trader, in his dealings with the Customs-house, against the persons who - although there are not many of them - in all the States continually endeavour to gain advantage over their honest fellow traders by frauds through the Customs-house. This is a measure which, I think it will be admitted, does nothing more than carry out in a legitimate way the principles of the Acts in force in the different States. I would ask the special consideration of the Senate to the necessity for passing it into law at the earliest possible date. It is one of those machinery measures which are absolutely essential to the carrying on of the business of the Commonwealth, and its need is very special, because until it becomes law it will be impossible for the Government to introduce the Tariff, which the whole of Australia is so anxiously waiting for. The Government are fully alive to the necessity of placing the Tariff before the country at the earliest possible date, and so soon as this Bill, the Excise Bill, and probably the Distillation Bill, become law steps will be taken for bringing the Tariff under the consideration of Parliament. No doubt some clauses of this Bill may produce debate. The great bulk of them ought to produce no debate, because they are simply repetitions in different form of enactments which are in force in the different States, and which have been in force in the United Kingdom for a great many years. But some of the clauses may lead to some debate, and as there must be a measure of this kind, as it is one which I think the Senate will agree to on its general principles, I would suggest that wherever possible the discussion of particular clauses should be reserved for committee. We all recognise that we must, as far as possible, discuss these measures in a businesslike way in committee, and spend no more time than is

absolutely necessary for seeing that legislation leaves this Chamber in proper form. This Bill is in substance the same as the Acts which are in force in all the States, and is really founded on the legislation of the United Kingdom as consolidated in the Customs Act of 1876. Those who have had anything to do with customs legislation or with the working of the Custom-house, are aware that it is necessary in all customs laws to give very stringent powers to the officers of customs, and to deal with customs offences in an exceptional way. It is necessary to deal with the legal procedure regarding Customs in an exceptional way, and this necessity has been recognised in all the different systems of Customs derived from the United Kingdom. In the Bill the provisions of all these different measures are carried out in the manner I have indicated ; but as to the form of the measure, it will be recognised that there has been a very desirable departure from the stereotyped form of ordinary Acts of Parliament. The most devoted personal labour of -my colleague, the Minister for Trade and Customs, has been given to this measure, and throughout every line of it we can recognise the hand of one who is, perhaps, the leading parliamentary draftsman of Australia. As a piece of draftsmanship, the Bill is a model of conciseness and clearness, and, although we cannot identify all the particular sections of other Acts as they appear, the Bill, although it is terse, embodies in substance the legislation in existence in the States Customs Acts, and in the Customs Act of the United Kingdom. In order to make the explanation of the Bill clearer as I go on, I would like to call attention to some of the methods which the Minister for Trade and Customs has used in order to very much shorten the ordinary phraseology of Acts of Parliament. For instance, it will be noticed that at the end of some of the clauses - take, for instance, clause 19 - -there is a laconic statement, " Penalty, £20." Those words are by clause 5 stated to mean that that is the maximum penalty for the commission of an offence against the provisions of the Bill.

Senator Pulsford

- The honorable senator will notice that the words are also governed by clause 229, which says the minimum shall be one-twentieth.

<page>3672</page>

Senator O'CONNOR

- I am referring simply to the penalty provisions in a general way. A minimum penalty is also referred to in a later clause, and I am now only giving an illustration of the concise way in which the Bill is drafted. There is not only an advantage in the way of conciseness, but persons .who read the measure are enabled to see, without any circumlocution or the reading of unnecessary words, that if any of the provisions are disregarded, a penalty of £20 attaches to such disregard. It is desirable that the Bill on the face of it should be in such a form that not only persons skilled in reading Acts of Parliament may be able to understand it, but that the thousands of persons engaged in mercantile business, who will have to work under the Act, may be able to understand what their rights and liabilities are, and what are the rights of the Customs authorities. If there ever was a measure that "he who runs may read," it is the Bill I am now introducing to the Senate. There are other examples, which I need not refer to now, of the terse way in which the Bill is drawn ; honorable senators will see that for themselves as we go along. It is not my intention to go through the clauses in any detail, but it is necessary to explain, in a general way, what the system of the Bill is. In the first place, the object is to insure the collection of all duties that are to -be levied through the Customs. To carry out that object it is necessary that the Custom-house authorities should have control of all goods which come into the ports of Australia, and have control in such a way that they' may be always able to satisfy themselves as to whether there are dutiable goods on board a ship, and to insure that these goods, when they have once been landed, are not put into consumption or removed unless on payment of duty, or on the giving of some security for that payment. In the first place, it is provided that ships which bring goods to Australia shall be allowed to land those goods only at certain proclaimed ports, because it is necessary that officers of Customs should be on hand whenever a ship is ready to unload. In those proclaimed Customs ports, there should be certain places where ships may be brought to and boarded before they actually come to discharge cargo, and that is- provided for by power being given to proclaim those places; and it is also necessary that certain wharfs and landing places should be proclaimed : if the goods are put ashore and stored, that they should be stored in warehouses under the control of the Customs authorities ; and that if they are taken away, either by water or by land, they should be transferred in vehicles, boats, or lighters over which the Customs have control. The Bill makes provision for effecting all these objects by proclaiming landing places and giving powers to officers

to insist on goods being landed at those places, by licensing warehouses of different kinds, and also licensing vehicles and vessels in which goods may be transferred or transhipped. In addition to the special power fixing places at which goods are to be landed, there is power to proclaim the days and hours of work, so that goods may be landed only at certain times, in order that Customs officers may always be on hand to see that the revenue is not defrauded. These being the preparatory provisions, very large powers are next given to the Customs officers to enable them to see what goods are on board a ship, and to have complete control of all dealings with imported goods. The officers have full powers of sealing up goods if they think that course ought to be taken. They can search the ship and examine packages and goods in every possible way, in order to see that the provisions of the Bill are properly carried out. In addition, they rely on the report of the master of the ship himself, on whom they are entitled to call to produce documents showing the dealings of the owner with the goods the subject of examination. As honorable senators are no doubt aware, the method by which an owner of goods deals with them in the Custom-house is by a system of entries. Goods may be entered for home consumption, or warehousing, or for export and transshipment, and care is taken throughout the Bill in a variety of ways to insure that a full check exists on all the dealings of the owner with his goods. I have spoken of licensed warehouses ; and I need not speak of the importance of these in dealing with goods in bond. Goods placed in those warehouses may not be required to go at once into home consumption, but may be kept there for a variety of purposes ; and while they are under the control of the Customs they cannot be allowed to be taken out without payment of duty, unless under certain exceptional circumstances. I would like to call attention to clause 74, which deals with warehousing.' This clause provides for different classes of warehouses, amongst those being general warehouses, for warehousing goods generally ; private warehouses, to be used only for warehousing goods the property of the licensee; machinery warehouses, for warehousing machinery and similar heavy or bulky goods ; and manufacturing warehouses, for warehousing goods- for use in such warehouse in any manufactory, trade, or process, and for carrying on in such warehouse any manufacture, trade, or process which the Minister may by Gazette notice declare that it is desirable to encourage.

There is a provision of that sort in the Victorian Act, and, I believe; also in some of the Acts of the other States. It is a great advantage when the operations of manufacturing are not hampered or embarrassed. It is desirable that a manufacturer should be able in certain cases to place his imported raw material in bond, and, instead of paying the duty when it goes in, pay it after the product has been manufactured, when, on consideration of all the circumstances, the duty is as prescribed by regulation, the prescription of duty being provided for under section 84. When the goods are manufactured, each class of manufacture will be dealt with, not in regard to individual cases, but on general rules and regulations, which will lay down the duty which is to be charged on the imported portion of the manufactured goods. These regulations will be laid before Parliament in the ordinary way, so that there will be afforded an opportunity for criticism on the amount of duty fixed in regard to any class of manufactured goods. There are a number of regulations regarding warehouses, and insurances for the prevention of fraud, which are common to all these Customs Acts, and which I need not deal with now. There is a series of clauses dealing with the export of goods. I do not think we need trouble much about that matter at present, but it is necessary in any Bill of this kind to provide precautions for the export of goods in case there should be at any time duties of export levied. In addition to that, in order to insure that proper control of goods which is necessary to prevent smuggling, it is essential that there should be arrangements for the overhauling of ships, certificates of clearance, and so on. The only articles prohibited from export will be found mentioned in clause 107, which puts it within the power of the Government to proclaim that "arms, explosives, and military and naval stores " shall not be exported. Of course that is a power which is dormant until it is brought into force by proclamation. It may at some time be necessary to issue a proclamation, and in that case these particular goods will be prohibited from exportation. Now I come to a matter which may give rise to some discussion, and I think it is due to the Senate that there should be some detailed explanation from me in regard to it. I refer to the question of ships' stores, which is involved in clauses 122 to 124. The term " ships' stores," as honorable senators are no doubt aware, has a technical meaning in dealing with Customs. I find in a good authority on this question - a book used extensively by the Customs authorities in Great Britain, and which is prepared by the solicitor for Customs there - that it is laid down that -

The word "stores" is a term which has a technical meaning in Customs phraseology. It relates to vessels- going on or coming from a foreign voyage, and. means articles of food or consumption on board such vessels.

I mention that because I have seen statements which would indicate that this term "ships' stores" would, embrace a large variety of goods in the way of ships' chandlery and the equipment of a ship. I do not think that any Customs authority would for a moment dream of classifying such goods as- "ships' stores," which is a technical phrase in the United Kingdom, and in those colonies or States which conduct their Customs business in accordance with the practice of the United Kingdom. That meaning is, goods and provisions- for consumption.

Senator Sir Frederick Sargood

- The Bill says, " and for the service of the ship."

Senator O'CONNOR

- That does not contradict what I have been saying or detract from the value of it.

Senator Pulsford

- It is the incidence of the Tariff that limits the meaning of the word " stores."

Senator O'CONNOR

- I am saying that the term " ships' stores " has acquired a technical meaning, and that when it is used in this clause it is to be taken to have that meaning. The rule which has been followed in these States in regard to ships' stores has been this. In the first place in all the States coasting vessels have had to pay duty on all the stores and provisions they consumed just as though they were in harbor during the whole course of their voyage. It has also been the rule that in Inter-State trade - or intercolonial trade as it was then- ships' stores have been allowed duty free, for the reason that each State was a foreign State to the others, and therefore treated a voyage as though it were a voyage of a foreign ship going abroad. So that before federation all the coasters paid duty on all goods which were consumed by them during the course of their voyage, however lengthy it might be, and all intercolonial ships were free of duty in regard to the consumption of goods between one port and another. But a difference has been made by the advent of federation,- inasmuch as the whole of Australia has become one Customs area. Therefore these lines of demarcation between the different States as regards Customs systems having disappeared, it seems reasonable that the difference between the coaster and. the Inter-State trader is no longer founded upon any substantial ground. Consequently it would appear that the Inter-State vessel trading from one State to another, or taking a round of the States, should be treated upon the same footing as the coaster. That is to say, we should either give the ' coaster free stores or charge both the coaster and Inter-State trader. It appears to the Government that that position is obvious. But when we come to deal with a foreign ship, or a British ship from abroad, which carries on coasting trade - that is to say,- proceeds from one port to another throughout Australia - we are in this position. If we treat the trader that comes from Great Britain or from a foreign port as a foreign ship, and put him on a different footing to the Inter-State trader, we place our Inter-State trader in a very unfair position. We give a foreign ship, or a British ship that comes from abroad to the same ports as our Inter-State traders go to, an unfair advantage. When it is remembered that a large number of foreign shipping companies already have the advantage of large subsidies, which enable them to run their business very much more cheaply than Australian shipping businesses can be conducted, that still further emphasizes the unfairness of putting those vessels which come from Great Britain or from foreign countries in a more advantageous position with regard to competition than our own Inter-State traders. There are only two ways of dealing with the question. Either we must charge these foreign ships which trade around our coasts duty upon their stores in the same way as we charge Inter-State vessels and coasters, or we must let them all go free. If we let them all go free it means that the Customs department will lose something like £60,000 a year in duty.

Senator Sir Josiah SYMON

- Does the honorable and learned gentleman think that the Government can enforce these charges on foreign-owned or foreign-registered ships 1

<page>3674</page>

Senator O'CONNOR

- There is not the least doubt of it. Being face to face with that position, the Government had to consider where they ought to drop this amount of £60,000 of revenue - considering the necessity there is of

having, for the requirements of the Commonwealth and of the States themselves, every farthing of revenue we can reasonably get through, the Customs - in order to avoid doing what undoubtedly is an unusual thing, namely, charging foreign ships that come here and which ply from port to port along our coasts. It must be admitted that in Great Britain, and hitherto in Australia, ships coming from foreign ports and from England and trading around our coasts have been allowed their stores duty free. But we say that the new conditions have brought about the necessity of looking at this matter from an entirely new point of view, and we think that the right way of dealing with the question is to charge every ship for the stores she consumes while in Australian waters, whether she is a coaster or an Inter-State ship, or a foreign vessel trading around Australia. We think it is right to place them all on exactly the same footing. It has been asked by Senator Sir. Josiah Symon, "What power has the Government to force these foreign-owned ships to pay duty on their stores"? In the first place, it will be admitted that the Commonwealth Government has the same power of examining and sealing up goods, and distinguishing what goods are to be used and what are not to be used in a port, in regard to a foreign ship, as in regard to one of our own ships. That power is constantly exercised. The mode of doing business in regard to foreign ships at present is that when a foreign ship comes, say, to Perth, she either has her stores on board or gets them from a bonded store in Perth itself. If she comes into port with what is called surplus stores - more stores than are necessary for the consumption of the passengers and crew while she is in port - a Customs-house officer goes through the stores and seals up all except such as may be necessary for her use while in port. Therefore, that power of sealing up and dealing with goods is exercised now for the purpose of insuring that a ship uses free of duty no more goods than are necessary for the consumption of the passengers and crew while she is in that port. There is another way of doing it, and that is that sometimes these ships' stores are got, say, in Perth, out of bonded stores there, and so much as may be necessary for use in port are granted free to the vessel out of the bonded stores. That usage I think conclusively shows, and makes it abundantly evident, that the Government have no power to control the use of stores or to impose duties upon these foreign-going ships just as we have that power in regard to our own coasters. It is said, however, that there may be a difficulty when the vessel gets on the high seas. There is no difficulty whatever, for the reason that a Customhouse officer is entitled under this Bill to place his seal upon the ship's stores, and he may, if he thinks fit, put his seal upon the whole of them; and there is a provision in the Bill that if any ship arrives in port with a seal broken her captain commits an offence against the customs law. There is the further provision that any person breaking a seal is to be liable to a certain punishment. Of course, if a seal be broken by a captain five or six miles from the shore there may be a technical difficulty in dealing with that offence. But when we provide that if a ship whose stores have been sealed up in Perth comes into Adelaide with her seals broken it is an offence against the customs laws of Australia for which the captain is liable, it will be to his advantage to see that the seals are not broken. Or in the alternative there are ways by which guarantees may be taken and securities given, without the ceremony of sealing up of stores, which will insure the same purpose. Whether we do it by means of the power of sealing up and inspecting which, the Custom-house officers have and ought to exercise, or by securities, there are ample means by which the Commonwealth of Australia can insure that for all goods consumed by ships as ships' stores, whether in port or between port and port along the Australian coast, the duties shall be paid.

Senator Lt Col Neild

- Does not the honorable and learned senator see that the same argument would hold good in respect to stores consumed on the voyage between one port in the British dominions and another from England, say, to Gibraltar, where the authority is the same?

<page>3675</page>

Senator O'CONNOR

- Undoubtedly it would hold good if there was any necessity to carry it out. If we come down to the first principles of law on the matter, if a ship brings goods into a port, whether they are ships' stores, goods for import, or goods to be carried on, those goods, all the time they are in port, are under the control of the Customs officers. It is that power of control which enables the Commonwealth to deal with these goods in the way proposed, and which would enable the Customhouse officials of the United Kingdom, if they thought fit for any reason, to deal with goods in precisely the same way. There is no doubt about the legal basis of it, and the practicability of it, and if it has not been done before it is because the occasion has not

arisen. Now the occasion has arisen under these new circumstances in which we must either lose £60,000 a year at least in revenue or carry out this provision, which, as I say, really does not involve any hardship upon any person concerned, and which, if we do not carry it out in regard to foreign ships, will put our own traders and coasters in a very disadvantageous position.

Senator Sir Josiah Symon

- There is no doubt that if we impose it on British-owned ships we should impose it on foreign-going ships. The question is whether we can by penalties prevent them opening up and using their own stores on the high seas'?

Senator O'CONNOR

- There is no doubt, as the honorable and learned senator says, that it must apply to .foreign-going ships all round. I see no reason why it should not apply equally in the case of British ships and foreign-owned ships, because if the foreign-owned ship has the power to disregard the seal of the Customs authorities the British ship has precisely the same power.

Senator Sir Josiah Symon

- No.

<page>3676</page>

Senator O'CONNOR

- There is no question about that. As to whether the laws of the Commonwealth apply to these particular goods, we do not rely in this matter upon section 5 of the Constitution at all. It does not apply to ships' stores, and it . is only by virtue of the power of control over these goods that we claim this right. I have thought it necessary to refer to this matter, though it is to some extent one of detail, because it is of some importance, and is a departure from the old and existing rules in the different States, It is a departure justified by the condition of things, and is the only course which it appeal's to the Government that they can possibly take in dealing with the question which has arisen for solution. There are other provisions in the Bill giving the power to prevent smuggling, and for the protection of officers, and those subjects are dealt with upon the lines on which they are usually dealt with in such an enactment. There is only one matter connected with them to which I think it necessary to call the attention of the Senate, and that is referred to in clauses 217 and 218. It will be noticed that the preceding clauses are clauses dealing with proceedings against officers. Clause 213 provides for a month's notice of action to be given before any action is brought against an officer. Clause 216 provides for the usual six months' limitation in bringing an action. If an action is not brought within six months, the right of action goes. Exactly on the same lines are clauses 217 and 218, which are as follow: -

No proceeding whether against an officer or otherwise for anything done for the protection of the revenue in relation to any Tariff or Tariff alteration proposed in Parliament shall, except as mentioned in the next section, be commenced before the close of the session in which such Tariff or Tariff alteration is proposed;

The High Court of Australia or the Supreme Court of any State on the application of any person who desires to commence any proceeding mentioned in the last section against an officer may require the officer to give security to the satisfaction of the court to abide the result of the proceeding, and in default of the giving of such security may sanction the immediate commencement of the proceeding.

The result of the two sections taken together is this : Under ordinary circumstances if anything is done by an officer or otherwise for the protection of the revenue in the collection of a proposed Tariff of a proposed alteration of a Tariff, no action can be brought against an officer until after the expiration of the session in which the proposed Tariff or proposed alteration of the Tariff is submitted ; but any person who is injured may, if he thinks fit, go to the High Court or to the Supreme Court of the State, and demand that security be given by the officer for the carrying out of the order of the court, whatever it may be, and if security is not given he may proceed at once with his action. The reason for the insertion of such a clause will, I think, be evident. As honorable senators are aware it is the well-known constitutional usage with which we. are familiar in all the States, and which has been the practice in the Parliament of Great Britain for a very long period that, when customs duties are imposed by resolution in the House of Commons or in any of the State Assemblies, from the moment of announcing the resolution imposing those duties, and before the Bill is even introduced, the duties are collected. It is then the usual practice in the Act, which is subsequently passed on the resolution, to ratify the collection of the duties which have been collected,

and to indemnify the officers for everything done under the resolution. That is the universal method of legislation in all the States and in Great Britain, and it has behind it a constitutional necessity, because if that is not done we must either carry a Tariff Bill through both Houses of Parliament at once without discussion and make it law, or we would have to allow the ordinary delay to take place in the discussion of the measure by both Houses. If that delay took place it is quite obvious that the object sought in imposing the duties would be defeated, because there would be such anticipation of them as would deprive us of revenue, and upset the course of trade in a hundred different ways, It is therefore an absolute necessity, if we are to get any practicable benefit from a Tariff, that the duties must be collected immediately they are announced, and the collection must be legalized afterwards. It is anticipated that there may be a necessity to carry out such a procedure in regard to a Federal Tariff. I am not here to-day to make any statement as to what the Government intend to do - that will be stated in due time - but I am giving a reason now for this general power, which will apply not only to the Tariff to be introduced this session but to Tariffs or Tariff amendments which may be introduced at any time. The legal position is this, and honorable senators learned in the law will bear me out that, although what I have said is the constitutional usage, it does not alter legal rights in any way whatever, and if in the interval between the introduction of the resolution imposing duties and the passing of the ratifying Act, some one takes a case into court - and questions the validity of the collection upon the resolution, there is no doubt that a court of justice could only have one answer to it, and that would be to say that the collection was not justified by the law, and the only course the court could take would be to give the redress to which the suitor was entitled.

Senator Sir Frederick Sargood

- That has been done.

<page>3677</page>

Senator O'CONNOR

- I dare say where the legal right has been claimed it has been done, but the honorable senator is aware that while that is so, the constitutional practice has also been recognised, particularly in one case which occurred in New South Wales where an appeal was made to the discretion of the court. In that case the court was placed in such a position that it might exercise a discretion to grant relief or not, and the court said if it had been applied to on the naked legal grounds, it could only have given one answer, but inasmuch as it was asked to exercise a power which it had the discretion to refuse, if it thought fit - as this well-known constitutional usage was for the protection of the revenue, and the only way in which the revenue could be protected under the circumstances - it would not exercise the power in favour of any person who claimed injury from the application of that constitutional usage. The question does not always arise in that form. It might arise in the form in which a person complains against a higher duty being collected from him than he is entitled to pay under existing law, or that duty has been collected from him in regard to an article which is free according to the existing law, and if such a question was brought before a court, only one answer could be given to it. It is to prevent persons taking advantage of that condition of things that provision is made here for the protection of an officer, as described in these two clauses. The result will be that when the Bill is passed it will provide for legalizing all that has been done and indemnifying the officer, and if the Bill is not passed no harm will be done by the delay, because an action can still be brought, and the person who makes the claim that he has been illegal! v treated will succeed. It will be seen that these provisions arise out of the necessity of the circumstances, and give only a reasonable protection to. officers,' a reasonable protection in the collection of revenue, and at the same time do no substantial injustice to any one. Under these circumstances, the Government thought that the way in which this question is dealt with was the only practicable and reasonable way in which it could be treated, and so that provision is embodied in the Bill. There was another proposal, which I need not deal with now. The whole question is involved in a great deal of difficulty, and this appeared to the Government to be the best way out of it. Of course, in the inception of our legislation, we shall find ourselves frequently confronted with great difficulties. We have to get over them, as the British people have always got over such difficulties in the exercise of the right of self-government - in a reasonable, common-sense way, and that is a ground on which we appeal to- the Senate for. the sanction of this method of overcoming what I think will be admitted is a difficulty which had to be-faced. I do not think there are any other parts of the Bill which I need refer to in detail. It will be found that it contains a number

of provisions, dealing with the punishment of offences and the trial of Customs offences, and that the rule has been followed which- has always been followed in. similar legislation - that is, to put a Customs offence in a somewhat different position from any other offence under the criminal law or quasi-criminal law. Under the criminal law, or the quasi-criminal law, or under other circumstances, a man who charges another with an offence subject to a penalty has to prove that he is guilty, but under these laws the mere fact of the event having happened as charged by the Customs officials is- taken to be proof, and the onus of disproving that is put upon the other party.

Senator Major Gould

- What precedent is there for that in the customs law of England 1

Senator O'CONNOR

- There are any number of precedents.

Senator Major Gould

- Can the honorable member cite one precedent?

Senator O'CONNOR

- In regard to the customs law it has been found to be necessary by scores of years of usage ; it has been sanctioned by the practice of the United Kingdom and by every State, and I think the honorable senator will find that, speaking generally, there is nothing here which is not to be found in all those systems of legislation which deal with Customs and the prevention of fraud at the Customs. In committee I shall be able to deal with these matters more in detail ; I only mention them now because it is necessary to state the general principle which is applicable to all such matters. Honorable senators, therefore, need not be surprised if they find that Customs offences are dealt with, in regard to their procedure, in a somewhat different way from other offences against the law. I hope that the Senate will find no difficulty in passing the second reading of the measure, and that in going through its clauses it will be found that, whilst every provision is made to protect the revenue, there is nothing of which the honest trader need be afraid. Its main object is to collect revenue, but it is also an object to protect the honest trader - that is, the man who conscientiously pays his duties - in competition with the dishonest person who seeks to gain an advantage by carrying on systems of fraud through, the Customs. It has been, found necessary, in' order to meet these various devices; to follow them by many different provisions. It will be found that the provisions here are no more stringent than the provisions in similar measures, but at the same time they, are clear, and as stringent as is necessary

<page>3678</page>

Senator Sir JOSIAH SYMON

- I do not intend to occupy the attention of the Senate for more than a few minutes at this stage. Usually on the motion for second reading the principle of. the Bill is discussed and dealt with. The. principle of this Bill, if I may use the expression, is substantially detail. A Bill of. this nature is an essential preliminary to the introduction of the Commonwealth Tariff, which every one in the Senate is anxious should be introduced as early as possible. The commercial and mercantile community are longing for the Tariff, because; although I do not suppose that anybody exactly hungers and thirsts for- taxation, the effect of the proposed Tariff arrangements,, and of any delay in bringing them, into operation, is to disarrange trade, and in many respects to paralyze commercial business. I do not think any of us will entertain any doubt that, owing to the natural uncertainty which exists in consequence of the projected Tariff,, and no doubt the necessary delay to some extent in its introduction, a great deal of inconvenience is being, occasioned. Every one* I am sure,- will rejoice in having, that inconvenience lessened as much as possible by every step being taken to remove all impediments in the way of the early introduction of the Tariff. And that probably is doubly so in the circumstances in which the Commonwealth is placed, because we are not only on the threshold of introducing a Tariff establishing customs duties for the entire Commonwealth, but dependent on the imposition of that Tariff is the advent of what all Australians look forward to as one of the most precious results of federation - Inter-State free-trade. Quite irrespective of the view we. may each entertain as to whether the duties shall be high or low, moderate or heavy, as to whether the Tariff- shall be free-trade or protective, there is no doubt that we all want InterState free-trade for the good of Australia at the earliest possible moment. Therefore; it seems to me doubly important that we should hasten every preliminary step we can in order to secure the first introduction of the Tariff and get that settled ; and. if we can get, as I hope we shall have, contemporaneously with the introduction of

the Tariff, Inter-State free-trade, then I think the people of the Commonwealth will not only have reason to be, but will actually be satisfied. 'It is a realization, which, of course, free-traders have particularly longed for, and they regard Inter-State free-trade as the realization of a considerable part of the aim which they have had in view during the struggles for many years back. Under these circumstances, in order as quickly as possible to clear the way for the introduction of the Tariff, I shall content myself with reserving my comments on individual clauses and some of the important questions to which attention has been directed until we get into committee. I hope we shall be able to get into committee at a very early stage to deal with the various matters - there are not a great many of them - which will require elucidation, which probably may necessitate amendment, and, on which at any rate there is great room for debate. Some of the provisions lastly referred to by Senator O'Connor certainly come to us with an air of very great severity. They come to us also, one or two of them, with an air of novelty. We look for severity more Or less in every Bill of this description, because rightly perhaps every Customs Bill proceeds more or less on the assumption that every man and woman will endeavour if he or she can, I shall not say to cheat, but to evade the Customs, and a measure which rests on an -assumption of that kind is one in which we may look for very drastic provisions, with a view to preventing that particular ambition which is supposed to be associated with the imposition of severe taxation. Of course, too, the nearer - and I hope we shall bear this in mind when we come to discuss the details of the Tariff - we are brought to a free-trade Tariff, by so much at least do we lessen this tendency to depravity on the part of those who may be interested in the importation of goods.

Senator Drake

- Even that is doubtful.

Senator Sir JOSIAH SYMON

- It lessens the number of articles on which they may bring to bear that particular ambition; it narrows the scope. When we come to consider clause 245 we should pause before we give effect to a provision which is certainly un-English, and for which, so far as I am aware, there is no precedent.

Senator Glassey

- This is an age when precedents are made, and this is a Parliament to make precedents.

Senator Sir JOSIAH SYMON

- When my honorable friend considers for a moment what it is, I am disposed to think he will hesitate before he joins in introducing such a precedent. The provision I allude to is that which makes an accused person not only competent, but compellable to give evidence - liable to be called at the instance of the prosecution, and, what seems to be still more drastic, and still more opposed to our notions of the humane administration of British law, if called by the prosecution, liable to cross-examination as an adverse witness. That certainly is a very serious innovation.

Senator Playford

- It is limited to certain cases.

Senator Sir JOSIAH SYMON

- It is undoubtedly limited. The only exceptions are two, namely, an indictable offence, and an offence directly punishable by imprisonment. Nobody can have any possible objection to the practice, common under Acts of this description, of throwing on an accused in certain cases the onus of proving his own innocence. But I do object, even in the case of a fine, to compelling a man to go into a box and subjecting him to cross-examination at the instance of the prosecution, thus, it may be, compelling him to incriminate himself.

Senator Playford

- If he is a criminal why should he not?

<page>3679</page>

Senator Sir JOSIAH SYMON

- It is assuming that the man is a criminal. The provision compels a man, contrary to every known, principle of British law, to go into the box, on the assumption that he is guilty, and incriminate himself. We are not subjecting him to an ordinary examination in trying to ascertain the facts of the case, but we put him into the hands of counsel for the prosecution and subject him to cross-examination. If it is proposed to do a. tiling of this kind, it is a great innovation. One of the best reforms we have had in English criminal law during recent years has been that for enabling an accused person to give evidence on his own behalf

- that is, making him competent to give evidence. I do not think it has ever been suggested that a man, under the circumstances, should be compelled to subject himself to cross-examination at the instance of the prosecuting counsel, and be examined as an adverse and hostile witness.

Senator Ewing. - That law is hedged round with the protection that no comment shall be made on the fact, if an accused person does not give evidence.

Senator Sir JOSIAH SYMON. - That is so in South Australia, and, if my memory serves me aright, it was Senator Sir John Downer who introduced that measure in South Australia.

Senator Sir John Downer

- I am afraid I am responsible for that.

Senator Sir JOSIAH SYMON

- The South Australian Act gives an additional safeguard to the person who is accused, by providing that if he is not called to give evidence, no comment shall be made on that fact, so that the mind of the jury may not be prejudiced. I invite the attention of the Senate to this clause as well as to the subsequent clause 246, to which Senator O'Connor himself alluded. The latter clause provides that in every prosecution the averment of the prosecutor or the plaintiff contained in the information shall, with certain qualifications, be deemed to be proved in the absence of proof to the contrary. That is not a universal law. I ask Senator Playford and others to consider what they propose to do if they feel inclined to support clause 245. When we reach that clause in committee I shall submit an amendment which will abate the excessive rigour and injustice, if I may so express myself, of the provision. Clauses 122, 123, and 124, which deal with the questions of stores, are undoubtedly open to the clear criticism which was offered on them by Senator O'Connor. There is no doubt that it looks like an anomaly, when we have provisions of this kind applying to coastal vessels which go from port to port, and are probably Australian registered, while British ships from over sea, which touch first at Fremantle, and then go from port to port, practically doing intercolonial and coasting work to a greater or less extent, would appear to be exempt. Senator O'Connor laid stress on the fact that this seemed to be giving an unjust preference to oversea ships from other countries. This is a mere question of submitting the stores to customs duties, and it is obvious that if these duties are imposed, the oversea shipping companies will probably raise their tariff so that it will not be really the ship-owner who will pay, but the people who travel by the ships. In endeavouring to adjust the respective interests of vessels which are purely coastal and vessels which come from over sea and apparently do coastal business, it may be that the compensation, which on the one hand comes out of the pockets of those who travel and trade by means of the latter vessels, may equalize the apparent burden which rests on the coasting steamers in this regard. But I do not dwell on that, because it is a matter we can deal with when the clauses come on for consideration in committee. I do not feel quite satisfied, however, that we shall be able to bring this provision into operation in regard to foreign-owned and foreign-registered ships, as undoubtedly we ought to do, if we make the provision applicable to British-owned ships. I quite agree with Senator O'Connor that in the port of Fremantle we can seal up stores, because there we are within our territorial jurisdiction. I gather from Senator O'Connor that when foreign-owned ships are outside the three-mile limit, and, therefore, on the high seas, we have no jurisdiction by any maritime laws we may pass to deal with them.

Senator O'Connor

- That applies equally to British ships.

Senator Sir JOSIAH SYMON

- Probably it does, but I want to strongly differentiate between the two. I am not saying the contention is right, but it might be contended that under covering section 5 of the Constitution Act, the laws of the Commonwealth have force on board British ships whose first point of clearance and port of destination are within the Commonwealth. I do not want to say anything exhaustively on the subject at present, but it might be contended that ships touching at Fremantle, and then clearing for Adelaide, Melbourne, and Sydney, come within the operation of the laws under that covering clause, if they are British ships. We cannot, of course, pretend to settle these fine questions in this Chamber or in Parliament, but in the case of a foreign ship it seems quite clear that once it is on the high seas our shipping and customs laws cannot operate.

<page>3680</page>

Senator Playford

- The laws would touch the ship at the next port.

Senator Sir JOSIAH SYMON

- Senator Playford, with his quickness of apprehension, has anticipated what I was about to say. Senator O'Connor said, and nothing could have been put more clearly, that it was true we could not touch such ships for anything done on the high seas, but that if it arrived in port with the seal broken they would come within the law. I do not know whether or not there is any penalty for an arrival in port, say, Sydney, with the seal put on in Fremantle broken; but* I think that if an attempt of the kind were made it would give rise to very serious international complications. It would, I am afraid, have the appearance to our friends in Germany, France, and other places, who might send their vessels out here, of an attempt to evade or circumvent international law, which prohibits us from imposing penalties for anything done on the high seas - an attempt to get at them in an indirect way. At any rate, any action of the kind would look uncommonly like such an attempt. If a vessel arrived with the seal broken, the substantial offence would have been committed on the high seas.

Senator Sir Frederick Sargood

- Where it would be perfectly legal.

Senator Sir JOSIAH SYMON

- Presumably so ; but we cannot finally settle the question. France and Germany would decline to allow us to enforce our laws upon their vessels, which are just as much the soil of those countries, when the ships are on the high seas, as are British vessels the soil of Britain; and we should get into serious trouble. Senator Playford says that we can get over all this difficulty. But how ? We could prohibit the vessels entering our ports, of course; but is Senator Playford prepared to invite the Commonwealth to do that 1

Senator Playford

- In regard to those vessels who break our laws, yes.

Senator Sir JOSIAH SYMON

- Our laws t A German vessel might just as well be said to have broken our laws in Ger- many, as to have broken our laws upon the high seas.' If foreign vessels "were prohibited from entering our ports, I do not think any of us could contemplate with equanimity the position which the Minister for External Affairs would get into in his diplomatic relations with foreign countries. Senator Playford laughs to scorn such a little paltry consideration as the laws of France or Germany.

Senator Playford

- How do France and Germany serve us ?

Senator Sir JOSIAH SYMON

- That is a large question. We never ask for any service, but are content with the laws of our country. If France attempted anything of the kind in regard to British ships going to New Caledonia there would, to use a common expression, be a pretty rumpus raised in England, and very prompt interference by the British Foreign Office, in which interference we in Australia would all join, in order to put a stop to such gross and unwarrantable obstruction to British trade.

Senator Playford

- In America foreign ships are not allowed to trade between port and port.

Senator Sir JOSIAH SYMON

- I am not talking about ships trading between port and port, but about ships which come out over-sea. The other provisions to which attention is called are contained in clauses 217 and 218, called the protective clauses. These are new provisions, so far as I am aware, in any customs law, but I think they are a decided improvement. Hitherto, the constitutional usage has been acted on, I think, in some of the colonies, without any resolution at all.

Senator O'Connor

- On the mere making of the financial statement.

<page>3681</page>

Senator Sir JOSIAH SYMON

- On making the financial statement, and by an executive act. Of course, all this is open to the charge of illegality, and it is undoubtedly illegal in the strictly technical sense; but it is done for the protection of the revenue. As my honorable and learned friend has pointed out, in one instance, where a case came into

court, the Judges, exercising what was undoubtedly a wise discretion in the public interest, although perhaps bound as a matter of rigid law, declined to interfere, as, of course, the necessities of the State demanded that they should not interfere if they could possibly avoid doing so. But it is well, at the same time, and is an excellent reform, that the point should be set at rest, and that a provision of this kind should stand in a Customs Bill of this description, so as to prevent the possibility of these actions being brought at all - pending, of course, the actual enactment of the Tariff; and that if they are to be brought, they shall be brought under the conditions laid down in the Bill with regard to security being given. Therefore, this clause is not applicable only to the first Tariff of the Commonwealth, but to any Tariff. It will stand for all time. If any Tariff alterations are made, and the collection of duties is undertaken by reason of an Executive act or by resolution of Parliament this clause will apply. These are the only provisions to which I need trouble to call the attention of honorable senators. I can only say, in conclusion, that this Bill is admirably drafted. Without undue disparagement of any other Bill that has come before the Senate, I say that this is the first Bill to which that epithet can be applied. Whether we agree with some portions of the measure or not, it is certain that no one can read these clauses without plainly seeing the intention of the draftsman, and what will be the intention of the Legislature. The language used throughout the Bill is of such a character as to convey lucidly and effectively the purposes for which the clauses are designed, and the intention which the measure purposes to carry out.

Senator Sir FREDERICK SARGOOD

- This Bill being chiefly a machinery Bill, I think it will be better for the Senate to discuss it briefly at this stage, in order that we may get into committee as soon as possible. I desire to add my testimony to the admirable manner in which the Bill has been drafted. It is really a treat to read it through. The only fault I have to find is the absence of the usual marginal notes. There is not a single note from beginning to end of the Bill, and thus an extra amount of trouble has been thrown upon those honorable senators who have taken the pains to go through it carefully.

Senator O'Connor

- It was impossible to have marginal notes to this Bill. We have not copied any sections from other Acts directly. We should have had to refer to 20 sections in one clause in some cases.

Senator Sir FREDERICK SARGOOD

- It has been the practice in regard to other Bills introduced to have marginal notes, and it would certainly have saved me a great amount of trouble if that had been done in reference to this Bill. There is no doubt that this is a drastic Bill, but I agree with the leader of the Senate that it is absolutely necessary in connexion with Customs-house legislation that very large powers should be given, both to the Minister and the collector of Customs. [But those powers should also be accompanied by facilities for appeal. There are sure to be honest differences of opinion as to whether certain goods come under one rate of duty or another, or whether they are dutiable at all or free. I have known most ludicrous examples of such differences of opinion - ludicrous to those who knew the trade and the class of goods concerned. The Minister of Customs was perfectly honest in the decision he came to, though that decision afterwards had to be altered. This Bill does not go quite far enough in giving some fairly easy mode of appeal. I am aware that it states that in the event of there being a difference of opinion on a certain point, the Minister is . to decide, and then the duty has to be paid under protest. But what is the next course ? An action may be brought against the Government. It very often happens that the amount in dispute is so comparatively small, as compared with the trouble, delay, and expense in connexion with an action, that people would rather pay, although knowing that payment was absolutely contrary to the Act and to common sense. If there was a reasonable means of appeal - say to the Minister, so that he might have an opportunity of reconsidering his decision, it would be a great improvement on the Bill as it stands. I throw out that suggestion to the leader of the Senate, in order that he may see whether he cannot meet the wishes of a large majority of the mercantile community, at any rate so far as "Victoria is concerned. Other honorable senators will, no doubt, be able to speak for the other States.

Senator O'Connor

- How could the decision of the Minister be overruled by any other authority than the court ?

Senator Sir FREDERICK SARGOOD

- I think that, the Minister having decided, there should be an opportunity of appealing to him - even from Caesar to Caesar.

Senator Sir John Downer

- The honorable senator wants an appeal from the collector to the Minister.

<page>3682</page>

Senator Sir FREDERICK SARGOOD

- It has to be borne in mind that in the past every State has been self-contained, and the collector's decision . has been the decision of the Minister. But in future the Minister must necessarily delegate to the collectors very much of his powers or there will be a dead-lock. The collector will give a decision, acting, to use a common phrase, as an attorney for the Minister, and we want an appeal to the Minister himself from the collector.

Senator O'Connor

- -There is an appeal given by consent.

Senator Sir FREDERICK SARGOOD

- That is a different case altogether - where a charge is brought against an importer and he submits himself. That is similar to a provision in the Post-office Bill. But there needs to be a comparatively easy way of getting the decision of the collector revised by the Minister. I have known many cases where a decision given in Victoria has been so revised, and rightly so. I have also to call attention to the fact that the charges on the present bonds have been considerably altered since the Bill was introduced in another place. After consulting with those who are intimately connected with this matter, I have submitted some slight amendments which I think will meet the case, and will practically bring the charges for these warehouses almost into line with the present practice. The matter will be dealt with in committee ; I merely mention it because the subject is creating a great deal of attention. There is a large amount of capital invested in these general warehouses - something like £300,000 in Victoria alone. Another clause in the Bill - a very small one - deals with blank invoices. I have read it carefully, and my opinion is that it is not by any means stringent enough. I allude to clause 153. In order to meet similar cases in Victoria an Act was passed, and in the amendments I have prepared I have copied sections 10, 11, 12, and 13 of that Act, which is No. 1471. The amendments go a great deal further than this . Bill, and will, I think, give far greater protection to the Custom-house, which is the 'first thing we have to see to, whilst they will also give greater protection to the honest trader. Those are the two points 'we have to keep in 'mind in dealing with this Bill. I venture to ask the leader of the Senate to look at ray amendments. With regard to the special stores - a matter which has been fully dealt with - I recognise the fairness of the proposition of the Government that those who bring goods into the Commonwealth, and seek to consume them in the Commonwealth, should be - placed on the same footing as our own people who own vessels for coasting purposes. I recognise the equity of the proposal of the Bill. The only difficulty is whether it is practicable to carry it out. That is a point which will have to be thrashed out in committee. If it can be done I not only see no reason why it should not become law, but every reason why it should. With regard to clauses 217 and 218, which have been very fully dealt with by the leader of the Senate, there is one point he did not answer, and which appears to me to be important. The clauses deal with the collection of duties after a resolution has been passed by one House. That has been the practice in all the States in the past.

Senator Playford

- No resolution ; only the laying of the Tariff on the table.

Senator Sir FREDERICK SARGOOD

- There used to be a distinct resolution passed, but that has been done away with. What effect will that have upon existing duties in the different States? So soon as fresh duties are collected by the laying of the Tariff on the table of the House of Representatives, will the State duties cease, or will the duties be uniform throughout the States ? If not we shall have the Customs department practically collecting both duties.

Senator Sir JOHN DOWNER

- No; only the highest duty.

<page>3683</page>

Senator Sir FREDERICK SARGOOD

- I think that in many cases it will be found that both duties will be able to be collected, because until the Federal Bill becomes an Act it certainly cannot override the State Acts. Therefore, my fear is that a very large amount of capital will for months be locked up through importers having had to pay duties under both

the Commonwealth Tariff and the various States' Tariffs. I must confess I am at a loss to suggest any other plan than that proposed by the Bill. These clauses certainly remove one difficulty, and that is that an importer can bring an action for duties said to be illegally collected. That was done on one occasion in Victoria many years ago, when the court decided that the duties had been 'collected illegally, and the importer received his money back. The Vice-President of the Executive Council did not allude to clauses 264 and 265. They are on the same lines as the question asked by Senator Sir Josiah Symon with regard to the power to collect duties on ships' stores. The clauses enable an officer of the Customs to board and search a foreign man-of-war. I may be wrong, but I am under the impression that foreign men-of-war are privileged against being boarded and searched.

Senator O'Connor

- That power is given under the British Customs Act.

Senator Sir FREDERICK SARGOOD

- I would ask the honorable and learned gentleman to look carefully into the matter. The only other provision to which I wish to allude is clause 245, which compels an importer who has been trying to evade the payment of duty to give evidence and submit to cross-examination. I have no objection to that provision. I believe unhesitatingly that if the importer be an honest man he will not have the slightest difficulty in quickly proving his innocence. If he be dishonest and has been trying to evade payment of customs duties, I cannot conceive why he should not be examined. Although this is a change in our procedure, I see no objection to placing the importer in the box and asking him questions. It is a protection to the revenue and also to the honest trader ; and, although these clauses are certainly stringent, I unhesitatingly affirm that no honest importer need fear questioning. The more questions are put to him the easier it will be for him to clear himself from the charge. With these few remarks I have great pleasure in supporting the Bill, and shall assist in getting it passed through committee.

Senator Sir JOHN DOWNER

- I just want to say a word or two about a subject which has been a good deal talked about, not in this Chamber- - - because the debate here has been very moderate - but outside, as to what is to be done in the interim between the time the Tariff is brought down and the time it is made law.

Senator Dobson

- That does not arise under this Bill.

Senator Sir JOHN DOWNER

- It does arise under this Bill because it is specially provided for in clause 217. I only wanted to -say that, so far as my opinion is concerned, there is no need for the Bill to provide for it at all. What does any ordinary Treasurer in any of the States or in Great Britain do ? He brings down his Tariff and he imposes the duties.

The PRESIDENT

- Does the honorable and learned senator think that arises under this Bill ?

Senator Sir JOHN DOWNER

- I think so because we have a provision in the Bill, clause 217, which says -
No proceeding, whether against an officer or otherwise, for anything done for the protection of the revenue in relation to any Tariff or Tariff alteration proposed in Parliament shall except as mentioned in the next section, be commenced before the close of the session in which such Tariff or Tariff alteration is proposed.

The Minister in introducing the Bill stated that the object of that was to give protection between the time the Tariff was introduced, and the time when it was carried into law. It is apropos of that, and absolutely relevant, that I want to say just this : In my opinion there is no necessity for any law upon the subject. The custom of Great Britain and of every one of the States has been that the -Treasurer has brought down his Tariff and imposed the duties. It has been an act of high-handed authority, but it has become a species of convention of the Constitution for the prevention of fraud, and has become as much understood law, almost as if it were included in an Act of Parliament.

Senator PLAYFORD

- The prevention of loss of revenue, not of fraud.

Senator Sir JOHN DOWNER

- I call it fraud, because defrauding the revenue is as much fraud as defrauding an individual ; although as

one honorable senator has said, there are some curious conventions of conscience on that subject. I prefer to call it fraud, but I will not quibble about terms, and I shall say that that principle and rule is simply to prevent loss of revenue, and it has been added to the Constitution to such an extent that Judges have adjourned cases in view of the matter being before the Legislature.

Senator Ewing

- Some have not.

Senator Sir JOHNDOWNER. It is becoming a part, may I. put it in that way, more and more of one of the institutions of the Constitution without which the Constitution cannot be carried out. The rule that will apply to Great Britain and to any of the States will apply equally to the Commonwealth. In any case it is an act of authority, illegal, if honorable senators please, but having a sort of blessed legality which is sanctified by the necessity. What different position are we in to that of the States 1

Senator Clemons

- The Tariff cannot be uniform, because there will be the existing Tariffs in the States to consider.

<page>3684</page>

Senator Sir JOHN DOWNER

- Senator Sir Frederick Sargood has told us that the Tariff will not be uniform. Of course it cannot; but we can do exactly what the

Chancellor of the Exchequer in Great Britain does.

Senator Clemons

- He never was in this position.

Senator Sir JOHN DOWNER

- And what we do in all our States. When we impose fresh duties we also collect the higher duties of the existing Tariff, so that the revenue shall not stand to lose. I want to know what difference it will make because we happen not only to have a Commonwealth, but to have separate States as well? I may be told that we cannot prevent the States collecting their duties. It is the simplest thing in the world. The officers of the States have become officers of the Commonwealth, and there is no State collection of duty because the Commonwealth takes control of all Customs. The moment it imposes duties, the Commonwealth takes control of all Customs officers.

Senator Clemons

- There is no question about the man who collects, it is about the amount to be collected.

Senator Sir JOHN DOWNER

- I say unhesitatingly, according to all analogy of the past I ever heard of, that the amount to be collected would be the new Tariff which the Commonwealth Treasurer brings down, plus any extra amount which the local Tariffs happen to impose.

The PRESIDENT

- Does the honorable and learned senator think that this machinery Bill raises this question?

Senator Sir JOHN DOWNER

- I think so undoubtedly under this 217th clause.

The PRESIDENT

- Clause 217 deals with the time for commencing action. Has that anything to do with Inter-State freetrade? That is what I want to ask the honorable and learned senator.

Senator Sir JOHN DOWNER

- I think I have stated the object of the clause, and the Minister, in explaining the Bill, told us what the object of it was. That is the subject to which I am addressing myself, but if you, sir, rule me out of order, I shall bow to your decision as I always do.

The PRESIDENT

- I am not ruling the honorable and learned senator out of order, only I would deprecate the discussion of the question of Inter-State freetrade on a machinery Bill such as this. The honorable and learned senator will see that the whole of these clauses are machinery clauses, and have no reference whatever to Inter-State free-trade or to the different State Tariffs. They are simply to provide for the protection of officers of the Government in doing what is an illegal act.

Senator Pulsford

- On the point of order might I say that this subject is one which I think nearly every member of the

Senate-

The PRESIDENT

- There is no point of order. I have simply asked Senator Sir John Downer to confine himself to the Bill. I have asked him whether he thinks the question of Inter-State free-trade is introduced by the Bill ?

Senator Sir JOHN DOWNER

- I agree that the question of Inter-State free-trade is not introduced by this Bill, and it was not to that question I was addressing myself. I was talking about a clause in this Bill, which is introduced for the purpose of protecting officers of Customs collecting duties not legally collectable.

Senator Clemons

- Duties imposed by whom - by the Executive of the Commonwealth or already imposed by the various States'?

Senator Sir JOHN DOWNER

- That is not what the clause says. I am merely saying that the clause raises the subject matter on which I am addressing the Senate. I am dealing with the subject arising out of that, and I say first of all that in my opinion we could have done without the clause at all, because I think the usage of the Constitution would allow all that is required to be done. In the next place I am, perhaps gratuitously, expressing my opinion that whatever the Government of Great Britain could have done in Great Britain, or whatever the colony of Victoria could have done in the colony of Victoria, the Commonwealth can do throughout the whole of Australia.

Senator Dobson

- What ! with seven Tariffs?

<page>3685</page>

Senator Charleston

- Providing the Tariff is uniform.

Senator Sir JOHN DOWNER.- No; there is just the fallacy I want to clear up. When the Treasurer of one of the colonies brought down a Tariff, or when the Chancellor of the Exchequer brought down a Tariff, he did not only collect the duties imposed under the Tariff, but the highest duties in force, including the duties imposed by that Tariff. Still he does not collect two Tariffs. He collects the duties imposed by his own. Tariff, plus the difference in amount between his Tariff and the existing Tariff, where the duties under the existing Tariff are higher than those which he proposes. I know if I were Treasurer I should not hesitate to do that.

Senator O'Connor

-Does not the honorable and learned senator think that is going a good deal beyond what is meant here, and is raising a very debatable question 1

Senator Sir JOHN DOWNER

- I only wanted to state my point, and honorable senators by interjection have made me speak longer than I would otherwise have spoken.

Senator Ewing

- This clause 217 does not give any special powers in that direction at all.

The PRESIDENT

- I have pointed out that this clause is only a machinery clause.

Senator Sir JOHN DOWNER

- I have abandoned that matter, and I wish only to say a word on the subject of the powers the Customs authorities have conferred upon them to throw upon a defendant the onus of explaining his position. I think I introduced the first Bill that ever was introduced in any British dominion which enabled a criminal to give evidence at all in his own behalf, and I had a bitter fight about that. But when I brought in the Bill I wanted to make him compellable as well as competent, because I thought the old Star Chamber days, when a question was put by means of the rack, had long gone by, and that in an open above-board proceeding, where the public eye is on every movement, there is no necessity in the world why a man should not be examined as to his misdeeds. An insolvent has to be examined as a condition of his discharge, and he can criminate himself out of his own mouth, and constantly does, and I did not conceive, and I do not conceive now, any reason why other persons who are guilty of criminal offences should be placed in a position to say, "I decline to criminate myself." I say to a man, " Exculpate yourself,

sir, if you can ; criminate yourself if you must." But these Customs offences are offences of a peculiar character, relating to a matter in which there has been a very lax -morality on the part of the general public.

Senator Clemons

- If you assume a man to be innocent you make him competent to give evidence ; if you assume him to be guilty you compel him.

Senator Sir JOHN DOWNER

- I make no assumption. I take more the views of some other countries as to the better means of arriving at the truth. But be that as it may in the case of Customs offences where the morality is of the laxest character, it is highly expedient that we should give the Customs authorities the fullest power of investigation, and throw on the person accused the fullest opportunity of proving his innocence.

Senator Major GOULD

- It does strike one as entirely novel at this time to hear an honorable senator attempt to go back on the principles of English jurisprudence laid down in dealing with crime, to say we should put a criminal in the witness-box in order that we may extract from him evidence of his guilt ; in order that we may, if we see fit, drive him into such a position, that although he may not be guilty, he may appear so. I am very glad to know that the humane principle of the law as laid down for many years has put that sort of thing on one side, and I hope it has been put on one side for ever. I defy Senator O'Connor to point out to me a provision in any British law similar to those two clauses, under which, in the first place, no matter what the charge may be, so long as it is not punishable by indictment or direct imprisonment, a defendant is compellable to go into the witness-box and is liable to cross-examination as a hostile witness. We might say that he shall be entitled to give evidence, and once he put himself in the witness-box, he would of course come under cross-examination if it became necessary. But to say that he is to be compelled to go into the witness box, and to be subject to cross-examination as a hostile witness is a totally different thing. Suppose there is no evidence in the knowledge of the Customhouse officer against a person for an alleged infringement of the law, that man is to be placed in the position of being charged with the commission of a semi-criminal offence, and being compelled to go into the witness box in order not only to be examined in regard to the question, but to be cross-examined as a witness adverse to the prosecution and to be cross-examined on matters which are not even pertinent to the issue.

Senator Dobson

- Ought not a man to be cross-examined on his own statement whereby he got the goods passed 1
<page>3686</page>

Senator Major GOULD

- We have no business to put a man in this position, that the Government can cross-examine him, and cross-examine him in any way they see fit. If he chooses to go into the witness box, then they can ; but they have no right to say to a man - " You shall go into the witness-box whether you like it or not, and you shall be compellable to be examined in the same way as a witness who is adverse to the prosecution would be." Under this provision they can go into outside matters to show he is not a credible witness. They can ask him about other matters in order to show, if he swears that he did not commit the offence charged that he is a man not worthy to be believed. Take clause 246 -

In every Customs prosecution the averment of the prosecutor or plaintiff contained in the information, declaration, or claim shall be deemed to be proved in the absence of proof to the contrary.

Is that a fair thing to enact? Is it fair to allow a statement to be made and on that to assume guilt if no further evidence is given? These provisions appear altogether repugnant to the principles which have been inculcated in the people during the last century as to the way in which the criminal law is to be administered. If you defend the provision here, where it is only a matter of a money penalty, why not extend the provision to a case where a man is charged with an offence directly punishable by imprisonment. If it is good in one case it is surely good in another. If it is desirable to convict a man of a minor offence, is it not desirable to convict a man of a major offence, one punishable by imprisonment?

Do we want even in a Customs Bill to depart from the well-settled principles of law ? I am sure no one would advocate that if a man were put on his trial for murder, he should be placed in the witness-box and compelled to give evidence to prove that he was guilty and to lose his life. We are surely not going back on the main principles which have been laid down in our law for a century past, and revert to that period

of dark days and wretched history when, unfortunately, men were held and sent to -gaol and to their death for trumpery offences which to-day would be punished by a few weeks' or months' imprisonment. These two provisions appear to me far more extreme than the provisions in even a Customs Bill ought to be, where we admit the punishment ought to be more severe than it is in an ordinary case. But I think there is a fair distance to go. I do not think we ought to go further than what is fair and just as between the people in the country. There are a few other matters which can be dealt with in committee, but which at the same time call for some remark. Clauses 217 and 218 are, no doubt, intended to enable the Government to collect the State duty if it is higher than the proposed federal duty. And of course while that is done there will be no uniformity. I recognise the difficulty in which the Government were placed, but whether it is necessary to adopt the principle embodied in these provisions or not is another question. Senator Downer considers it unnecessary, but different decisions have been given by the courts. Perhaps, if it is desirable that the Government should have this power, it is well to put the clause in the Bill. I intended to discuss the question of ships' stores ; but as it has been dealt with by Senator Symon, I do not propose to traverse the ground which he did, but the clauses struck my mind in the same way as they struck his. The clause dealing with the notice of action to be given might be somewhat amended. While it is desirable, if a man wants to take proceedings against an officer, that notice of action should be given within a limited time ; still I think there ought to be a power of amendment given to a man who, through some ignorance or sufficient cause, omits to give his notice, or omits to clearly state in his notice the cause and nature of the suit he intends to institute. In the Employers' Liability Act there is a provision that, where notice of action is required, it is still in the power of a Judge to allow an extension of the time for the giving of that notice if he is satisfied that there is a bona fide cause of action. I submit that under a clause of this character there should be an opportunity given to the plaintiff who may have misstated the cause of action to have his statement amended, provided that it does not put the defendant in any unfair or unjust position, and of course, if it should do that, there should be ample time given in order that the defendant should have an opportunity of meeting the cause of action in its amended form. A matter of this kind should be absolutely in the discretion of the Judge. He would decide on the merits of the case whether this latitude should be given or not. When it is borne in mind that he has only a limited period of six months, and that a Customs officer, if he wishes to bring an action, has a period of five years, and is not bound to give any notice of action - when we consider the different way in which the two classes are treated, it will surely be a fair thing for the Government to consider the propriety of allowing an amendment to be introduced. Then, with regard to regulations, Senator O'Connor says the Bill is founded on the Acts which are in force in Great Britain or other English-speaking communities, and that we shall find in it nothing which is very new or novel. I recognise from this that the provisions dealing with regulations ' in their original form were not in accordance with the ordinary practice and procedure in any British community. Under the original clauses, the Minister had power to make his regulations, which would have the same force as if they were embodied in the Act itself, but they could not be interfered with except by Act of Parliament. However, the clauses have come to us in an entirely different form, and we find that, if either House of the Parliament disapproves of a regulation at any time within fifteen sitting days after it has been laid on the table, it shall thereupon cease to have effect. That seems to be a very fair provision, if the House is sitting at the time the regulations are passed. But if honorable senators go through the Bill, they will see that regulations can be made of an important and drastic character that may not be contemplated at the present time.- If these regulations are passed during recess, they become law until Parliament meets. If Parliament disallows the regulations, it will show that the Government have been carrying on a system of Executive legislation for a period of three or six months, which was not in accord with the will of the Parliament of the country. Regulations which do more than lay down a course of procedure ,or provide for forms, should not become law until Parliament has had an opportunity of seeing them, but should be laid on the table of Parliament for a certain limited period, to become law if Parliament takes no exception. There would then be some security and safety for the community generally.

Senator Sir Frederick Sargood

- What is to be done in the meantime t

Senator Major GOULD

- If we pass the Customs Bill and the Tariff Bill, the regulations ought to be prepared before the recess

and submitted to Parliament. We ought not to wait until Parliament rises, and then put before the country regulations which will have the force of law for months, and which may be absolutely in opposition to the wishes and opinions of Parliament.

Senator Sir Frederick Sargood

- Supposing something important has been overlooked?

Senator Major GOULD

- It would be better to take the chance of something important being overlooked than to place such strong power in the hands of any Government, who, in consequence of pressure of work or intentionally, might decide not to bother with regulations during the session, but to wait until other business had been disposed of. As to anything being overlooked, it would be just as reasonable to give the Government power to amend the law during recess, if the provisions were found to be faulty. Important leakages might be found to exist under this Bill, but we would have to wait until Parliament met before amendments could be made. Legislation by an Executive is one of the most dangerous classes of legislation.

Senator O'Connor

- There are scores of statutes which give" the power to make regulations without any power on the part of Parliament to disallow.

Senator Major GOULD

- And great dissatisfaction has been expressed in consequence.

Senator O'Connor

- I do not think so.

<page>3688</page>

Senator Major GOULD

- I am voicing the opinion of a large section of the people of the Commonwealth when I say they disagree with a provision such as this. They want the regulations put before Parliament so that they may be dealt with forthwith, and so that there may be no legislation enacted by the Government without the authorization of Parliament. Under the Bill we find that many things may be prescribed by the Minister by means of regulations. Under clause 49, the importation of certain goods may be prohibited by proclamation, but I contend that no proclamation of this character should be permitted without the authority of Parliament. This clause is a regular drag-net, and enables the Minister to prohibit anything whatever ; and from beginning to end the Bill bristles with opportunities for the Minister to surprise not only the country, but Parliament, in matters he may provide for by regulation or proclamation. It is not right or proper to place such a wide power in the hands of the Minister, and it would be wise if Parliament laid down in all Bills the principle that regulations', other than those dealing with- procedure or forms, should have no effect until they have been before Parliament for approval for a period of fifteen or thirty days. Under clause 49, the Minister is given power to prohibit "all goods " by proclamation. That is really placing in the hand of the Minister, at the time when Parliament is not sitting, and the people of the Commonwealth are powerless, the right to prohibit the importation of articles which Parliament might never have considered it necessary to prohibit. Amongst the prohibited imports I find " oleomargarine, butterine, or any similar substitute for butter "; but while there is this prohibition these very articles are manufactured in, I understand, some of the States, and no attempt is made to provide against the latter. These matters should really be dealt with in a Public Health Bill or an Adulteration of Foods Bill. There ought to be laws to prevent a man selling goods deleterious to public health or selling butterine and calling it butter ; but, so far as I am aware, oleomargarine and butterine are perfectly healthy substances. There is no question that false money, blasphemous, or indecent works, or articles, and any works which infringe copyright should be prohibited. Exhausted tea and spurious tea leaf could very well be dealt with under an Adulteration of Foods Bill; but we recognise these are things which are spoken of as unfit for human use or unwholesome, and it might fairly be argued that they should be prohibited in a Bill of this character. We all recognise that it is very desirable to pass this Bill and also the Excise Bill and Distillation Bill as early as possible. At the same time that is no reason why these Bills should not be fully discussed in this Chamber. The Customs Bill was a very long time before the other Chamber, night after night being occupied in dealing with it. Whether the Bill was there pushed on with very great activity or not, the duty of the Senate is to deal with the measure fully, and not hurry over the consideration of the clauses simply because the Government or honorable senators want to deal with the Tariff Bill. There are

very important provisions in the measure, and I dare say we shall find important provisions in the other measures which have been referred to, and I therefore hope the Senate will take the fullest opportunity for considering and dealing with the clauses. I admit that when a Bill has been carefully considered by the other Chamber in the way this has been, many of the objectionable features which did exist are either removed or modified, and that, therefore, this Chamber may have no need to go into the provisions so fully as it would if the measure were before them in its original form.

Senator PULSFORD

- This Bill is one of very great importance. At the same time it is one which ought to be dealt with in committee rather than in long second-reading speeches.; and I propose to make only a few cursory remarks. I cannot help observing that, during his introductory speech, the Vice-President of the Executive Council was silent on the matter which formed the greatest of all the topics of discussion in the other Chamber, namely, how or by what means the uniform Tariff was to be brought in, coincidentally or not coincidentally with the introduction of InterState free-trade.

Senator O'Connor

- That is a subject entirely foreign to this Bill.

Senator PULSFORD

- It was not foreign to the Bill in the other Chamber.

Senator O'Connor

- Because there was then in the Bill a clause which has since been expunged.

<page>3689</page>

Senator PULSFORD

- If there was a clause of that kind in the Bill, as originally introduced, it would be competent for this Chamber to introduce a clause to effect the same object. The other Chamber failed in that object, but they and we are all agreed that it is very desirable to bring about the uniform Tariff and Inter-State free-trade at as early a date as possible. Senator O'Connor says that before the Tariff Bill is introduced a Beer Excise Bill and a Distillation Bill will have to be passed. I take that for granted ; but I would like to draw attention to the fact that these two Bills do not exhaust the matters that have to be dealt with. For instance, there is tobacco, and there may be other articles, while the Government have intimated that they propose to introduce an excise on sugar. Another machinery Bill will be required to deal with that and other matters of excise, and I would be glad if the Minister, in his reply, would tell us whether, in addition to the two machinery Bills he has mentioned, we shall have one or two other Bills which seem necessary to complete the machinery relating to customs and excise. The question of ships' stores is undoubtedly one of very great interest. If the Bill passes as it now stands in regard to these clauses, it may result in the whole measure being reserved for His Majesty's pleasure and the introduction of the Tariff being thereby delayed for an indefinite period. It is for the Senate, I think, to take this point into consideration, and do what seems best to avoid a result so deplorable. I have thought a good deal about this subject, as no doubt has every other member of the Chamber. It is a subject involved in a good deal of difficulty. I am a free-trader, and being a free-trader I am adverse to injustice being done in any direction. I do not think we could willingly consent to any arrangement by which the ships on our coasts were subject to any disability. That I would object to ; but I see what international law requires of us in regard to vessels coming from Europe and other parts of the world. I judge that we have no right to interfere with those vessels in the prosecution of voyages, and the completion of engagements into which they have entered with their passengers.

Senator McGregor

- Not even if they brought small-pox?

<page>3690</page>

Senator PULSFORD

- Senator McGregor has the habit of introducing matters which are quite extraneous and do not enlighten us, but may serve to throw a speaker off the track. What I wish to suggest to honorable senators is that there is a way out of the difficulty by the adoption of which we may avoid any constitutional difficulty, and may avoid doing anything that may call for criticism from foreign powers ; and which will at the same time be just and fair to the vessels engaged in the Inter-State trade. . I shall inquire when we get into committee whether we cannot introduce a clause which will allow oversea steamers taking passengers,

say, from Fremantle or Sydney, or any intermediate port, to be charged by regulation - which may be so much per head - a sum calculated to cover the amount which, on the average, passengers would contribute to the revenue by the consumption of dutiable goods. By a simple clause or regulation like that equal justice might be done all round, and the whole of this great and portentous difficulty overcome. The Bill is really a terrible one in the matter of penalties and punishments. A man may be heavily punished because he may have made in an entry some error which is considered, to be misleading. There is a clause in the Bill which very carefully states that nobody shall be allowed to get off with a nominal fine. Many of the clauses end with penalties of £20, £50, or £100, and another clause informs us that this means "not exceeding" such and such an amount. _ There is a clause towards the end of the Bill which says that in no case shall any fine be reduced to a minimum of less than one-twentieth. So that if a clause imposes a penalty of £100, and if in the opinion of the court the offence is of a purely nominal character, and would be fairly punished by a fine of a shilling, the court would only be allowed to fine the offender £5, and- nothing less. Senator Gould referred to the clause relating to the prohibition of the importation of oleomargarine. That is a remarkable provision, which lands us in a peculiar position. Oleomargarine is forbidden to be imported, and by another clause a ship bringing a few pounds weight of that commodity may be absolutely forfeited. Such a ship might be sold, and might be bought by somebody who might put a full cargo of oleomargarine on ° board and send her away to any port in the world. To a result such as that does this Bill, as it stands, bring us ! Then I observe that with a view of giving Customs officers all possible power, and to make everything as drastic as possible, the term " officer" is defined in the interpretation clause to mean- -

All persons employed in the service of the Customs.

Therefore, it follows that any employes, however menial or however ordinary may be their occupations, are able to arrest a ship, or arrest a person, or do many other serious things. Now, persons employed in the service of the Customs include females. This clause therefore actually gives power to a female searcher to arrest a ship, or an individual, and to do various other things. There are other clauses in the Bill which enable any person to be called upon to assist any officer, and powers of the most rash and extraordinary character are given in various directions. If we had any feeling at all for the lights that should exist in a democratic community, we should not hesitate to reduce those powers very considerably. It must not be forgotten that to a very considerable extent the clauses of the Bill have been in use hitherto in the State Acts, but let us not forget at the same time that there is a very wide difference between one State and the whole Commonwealth. A regulation which might be permissible in one State, might become very improper when sought to be brought into play over the whole Commonwealth ; and for very obvious reasons. At the present time there is some sort of control at the head quarters of a Custom-house in a State, over the most remote officers. But when the Commonwealth arrangements are complete and we have a uniform Tariff, the whole of the Custom-house officers throughout Australia must be managed by the Comptroller-General of Customs. It will not be very easy for him in all cases to do justice. It will not be very easy for him to go on the track of officers who may wilfully do things which are wrong. As to regulations, a regulation under the interpretation clause carries the same effect as anything in the Bill itself. I venture to say that the evil of legislation by regulations has increased, is increasing, and ought to be diminished. That is a general statement which we all might recognise. In regard to these regulations under the Customs Bill it will be incumbent upon us all to remember that after the measure is passed it will be competent for the Government to agree to regulations of a very drastic and serious character, and that there is very little power in any court to undo anything that may be done under the guise of regulations. Then, I would ask the Vice-President of the Executive Council a question in regard to these regulations. The new Tariff will take a long while to debate and to get into order. I would therefore suggest to the honorable and learned gentleman that he should give an undertaking that the regulations which are to be provided by the Customs department shall be laid before Parliament coincident with the introduction of the Tariff, or if not coincident, then almost immediately afterwards, so that the regulations and the Tariff may be discussed at the same time.

Senator O'Connor

- I am not going to give any undertaking of any kind whatever.

Senator PULSFORD

- I am as much indebted to the honorable and learned gentleman for that reply as if he had said he would

grant my request. His reply is an instruction to the Senate as to the position it should assume with regard to this Bill, and is some enlightenment to the Senate in regard to its duty as to the very drastic powers which the Government ask Parliament to bestow upon them. I do not desire to debate the general subject any further. As I have said, it is mainly a matter for committee. Therefore I reserve any further criticisms I may have to offer for that subsequent stage.

Senator MACFARLANE(Tasmania).I had several memoranda with regard to clauses to which I wished to allude, but many of the points have already been referred to. I would, however, direct attention to clause 112, under which the exporter is required to give security for the landing of goods at a foreign port, when those goods will actually be out of his control. I suggest that that provision might be omitted or amended in some way, because the same matter is covered by clause 121, where the exporter is called upon to give a landing certificate when the goods arrive at the port of destination. That is quite sufficient security for the Government. As long as they are satisfied that the goods are exported, they do not require security from the exporter that the goods are going to be landed at a foreign port.

Senator O'Connor

- This provision is to insure against the goods being brought back. Otherwise they might be taken out to sea and brought back again. We want to make some one responsible.

Senator MACFARLANE

- Clause 121 provides against that.

Senator O'Connor

- That would not be sufficient. Both powers are wanted.

Senator MACFARLANE

- It looks like an anomaly on the face of it. Clause 221 deals with passengers' baggage. If a passenger has any dutiable articles which he has not declared, the whole of his packages may be confiscated. That is quite a novel procedure I think. I suggest that the forfeiture of the whole of the packages is an extremely drastic measure to take.

Senator O'Connor

- That is a very common practice. It is the customs laws of the United Kingdom.

<page>3691</page>

Senator MACFARLANE

- It is quite possible that a passenger may have offended innocently. Then I would direct attention to clause 248, under which the court is debarred from mitigating any penalty. This is . an extreme provision. The clause says that -

No minimum penalty imposed by this Act shall be liable to reduction under any power of mitigation, which would, but for this section, be possessed by the court.

Senator Drake

- The minimum is fixed at one-twentieth.

Senator MACFARLANE

- There are one or two other amendments which I will suggest in committee, but I will not take up time in talking about them now.

Senator CLEMONS

- It is quite evident that we are all deliberately trying to shorten the discussion, on the second reading of this Bill. With that object, I am inclined personally to fall in. At the same time, I should like chiefly because of remarks which have fallen from the Vice-President of the Executive Council - to say a few words with regard to the more important matters dealt with in the Bill. First' of all, with regard to the question of ships' stores. We have been told by the Vice-President, in a very airy sort of way, if he will permit me to say so without offence, that there will be no difficulty in enforcing the provisions of this Bill in regard to' ships' stores. If I remember- rightly, the honorable and learned senator said there would be no trouble in the application of the clauses of this Bill to foreign ships, because we could proceed against the captain of a foreign ship, where he had broken seal. The honorable and learned senator induced us to believe that the ships' stores will be sealed up on arriving at one port of the Commonwealth to go to the next, and where on arrival at the next port it is found that the seal has been broken, proceedings can be taken under this Bill, and the penalty inflicted. The honorable and learned senator may be able to find a provision in this Bill for imposing such a penalty, but I have been unable, since he spoke, to find it. I should like, before I

go further, if it can be done, to have the provision indicated to me.

Senator O'Connor

- It is there - clause 184.

Senator CLEMONS

- If the provision is there, I am glad to find it is so. But, in any case, I am sure that the Vice-President of the Executive Council is too well versed in law not to know the difficulty there is in dealing with these foreign ships, and that it is a difficulty that cannot be got over in this Bill. Another difficulty has occurred to me which the Vice-President of the Executive Council may be able to see his way out of, and that is the difficulty of dealing with British ships. Section 5 of the Constitution, as the honorable and learned senator knows, says that the laws of the Commonwealth shall be in force on all British ships - the Queen's ships of war excepted - whose first port of clearance, and whose port of destination are in the Commonwealth. I am unable to see how it can be contended that the first port of clearance of a P. and O. or Orient boat is any port in the Commonwealth.

Senator O'Connor

- I said expressly that we did not rely in any way whatever upon that section in the Constitution. It has no application whatever to the question of ships' stores.

Senator CLEMONS

- I am glad to hear that it is not relied upon, but there is still the difficulty pointed out by Senator Pulsford. And I do not know upon what power the honorable and learned senator does rely for the proposed interference with British ships. This is not the first time or the only method in which this question has cropped up, and I have felt, since Senator Pulsford spoke, that what he said on the subject is deserving of considerable weight, and that this sort of interference may result in the Royal assent to this Bill being reserved.

Senator O'Connor

- Impossible.

Senator CLEMONS

- I think it is quite possible that such an interference as is proposed, as in the case of a ship registered in Great Britain and whose first port of clearance is in Great Britain, may be found to seriously imperil the assent to the Bill. I know that reliance was placed upon the powers given under the Constitution, and an endeavour was made to twist the words "first port of clearance," so as to cover the operation of the clauses of this Bill. That attempt, I see, is abandoned, and there is now no reliance upon the Constitution for enforcing the provisions of the Bill against British ships.

Senator O'Connor

- It never has been relied on, here or elsewhere.

<page>3692</page>

Senator CLEMONS

- I think an attempt was made to rely upon it, but I will pass that. I confess I wished to speak upon another subject, the discussion of which you, sir, have indicated should not be proceeded with in the consideration of this Bill.

However, it is within the knowledge of every honorable senator here that the present clauses from 213 to 218 have been inserted in this Bill as a substitution for what was originally known to every one as "clause 257," and an attempt was made in the Bill as originally introduced to impose a Commonwealth Tariff simultaneously in all the States.

The PRESIDENT

- The honorable and learned senator must see that according to the standing orders he ought not to refer to debates in another place.

Senator CLEMONS

- I submit of course to your ruling, sir, in regard to that, but I point out that clauses 217 and 218 while extremely necessary, and in my opinion desirable and praiseworthy, leave it open to honorable senators to consider the possibility of extending them further. I might fairly point out, without I think being ruled out of order, that this Senate would have welcomed any attempt to bring about the imposition of uniform duties so as to secure Inter-State free-trade.

The PRESIDENT

- I think any such measure would not be in order as an amendment. The honorable senator will allow me to point out that this Bill does not attempt to do anything whatever with respect to the imposition of customs duties. It deals only with the method of their collection.

Senator CLEMONS

- I quite recognise that this clause does not deal with the imposition of duties, but it would have been extremely desirable if an attempt had been made to settle the questions to which I have referred, and I think that if such an attempt had been made in this Bill it might have succeeded. Surely I shall be in order in pointing out how this Bill might be amended in a direction which would be of more importance to the Commonwealth than probably any other matter which we could consider at present. By providing for the imposition of uniform duties so as to secure Inter-State free-trade at once. You, sir, will not rule me out of order if I suggest that such a thing might have been done in the Bill, and I shall be allowed to point out that in my opinion it is a blemish on this Bill that such a provision was not made in it. The Vice-President of the Executive Council knows my opinions on the subject of free-trade and protection, and yet as a whole-hearted free-trader I tell him that I should have welcomed in this Bill -

If the honorable and learned senator is going to shut my mouth--

Senator O'Connor

- I am going to take a point of order. I ask whether the honorable and learned senator is in order in discussing a question as to whether certain provisions might have been made, and ought to have been made, in this Bill for the imposition of uniform duties.

The PRESIDENT

- I do not think the honorable and learned senator's remarks are relevant to the subject matter of the Bill. If they were, any subject matter might be debated concerning any Bill : because a senator might get up and say - " I think this amendment ought to have been inserted in the Bill," and then go on to argue as to whether these clauses were proper clauses or not. So that we might have the whole question of free-trade and protection discussed under this Bill; we might have the question of Inter-State free-trade discussed under it ; and we might have 50 other questions discussed under it with which the subject-matter of this Bill has nothing at all to do. I point out to honorable senators generally that this is a machinery Bill. So far as I can understand, no questions of policy are embodied in the Bill, and we ought not on every possible occasion to discuss and re-discuss matters which have already been disposed of or will come on for discussion by-and-by.

Senator CLEMONS

- I respectfully submit that any suggestions I may make with regard to amendments coming within the scope of this Bill are in order, and if I suggest, as I am endeavouring to do, that this Bill might have been, within its scope', amended so as to provide for the imposition of uniform duties--

The PRESIDENT

- I do not think this Bill could have been amended to provide for Inter-State free-trade.

Senator CLEMONS

- I submit that clause 217, whatever else it may do, recognises the collection of duty, and as this collection of duties provided for under clause 217 is a collection that, in the opinion of many of us, is doubtful in its operation, I believe that I shall be in order in discussing that.

The PRESIDENT

- Certainly.

<page>3693</page>

Senator CLEMONS

- If you, sir, give me that latitude, surely I may point out that we should know whether the duty to be collected under the clause is the duty to be imposed by the Commonwealth Tariff, or the duty upon particular articles now collected under the existing State Tariffs. Clause 217 provides for the method of collecting duties, and surely I shall be in -order in asking what duties are to be collected.

The PRESIDENT

- Certainly. I understood the honorable and learned senator raised another question altogether, as to whether this Bill ought to provide for the time at which Inter-State free-trade should come into existence. I think the Bill ought not to provide for that, and could not be amended to provide for it.

Senator Sir Josiah Symon

- May I point out on the point of order that there is an amendment I shall endeavour to suggest when clauses 217 and 218 come on for consideration in committee. These clauses are intended to provide for immunity from legal proceedings in respect to the collection of duties to be provided for, and I shall propose an amendment to secure constitutionally the remission of duties, so as to provide for Inter-State free-trade.

The PRESIDENT

- As to the object of the honorable and learned senator, I cannot say anything

Senator CLEMONS

- I am glad that you, sir, have ruled that in clause 217, as referring to the collection of duties, I am not out of order, because I think an amendment may be made to it which will be of very great importance to the whole of the Commonwealth. If this clause is made to apply to the collection of uniform duties, Inter - State free - trade must necessarily, under the Constitution, immediately begin. We cannot consider clause 217 in any other way than by anticipating what its operation will be, and what class of duties will be collected under it ; and it is a fair question to ask the Vice-President of the Executive Council what duties are to be collected under it. Surely that arises out of the discussion of the clause?

The PRESIDENT

- Does not the honorable and learned senator see that this is a machinery Bill, which will apply to the collection of any duties imposed during, it may be, the next 100 years, by the Commonwealth?

Senator CLEMONS

- Undoubtedly I recognise that it applies to the collection of duties which we may now impose, and for all time until it is repealed ; but the fact remains that it will operate immediately the Tariff is laid upon the table in another place, and surely it is a fair thing to discuss' the mode of its operation and the manner of its incidence. The Vice-President of the Executive Council knows that there is no question which so largely affects the whole Commonwealth at the present time, and I say that I should have preferred, if it were possible, to see in this Bill some provision by which the Tariff would have been imposed, and would operate for a definite time, say for this session. If I am in order in discussing that, I tell the Vice-President of the Executive Council that, free-trader as I am, I should have welcomed such a provision in this Bill.

The PRESIDENT

- I do not like to stop the honorable and learned senator, or to stop any honorable senator, from discussing any matter, but really I think honorable senators should help the Chair in confining the discussion to the Bill itself.

<page>3694</page>

Senator CLEMONS

- I hope with all respect that I am not trespassing further than I ought. I am sure you will recognise that this clause 217 is a clause inserted in this Bill to deal with the collection of duties under the Tariff. Surely under those circumstances it is competent for me to suggest some other method by which the Tariff might be collected. And surely it is competent for me to suggest that all this bother might have been got rid of if there had been in the Bill some provision for collecting one Tariff only - a Tariff imposed specifically at a certain time, and to begin at a certain time. If there had been some provision of that sort my contention is that these clauses would have been unnecessary. My contention further is that such a provision would be most desirable, It would secure many objects which, in deference to you, sir, I shall refrain from mentioning, I feel you have given me an indulgence which you have doubts about my deserving, and therefore I refrain from going into any details. I have succeeded in my attempt to indicate to the Government that, in my opinion, clauses 213 to 218 are not satisfactory, might very considerably have been improved, and, if they, had been improved upon in the direction I have indicated, would have been productive of more good than we can do by any measure until the Tariff is finally imposed.

Senator O'CONNOR(New South Wales - Vice-President of the Executive Council). - I do not intend to make any answer to the observations which have been made by different senators, not out of any disrespect to them, but because I wish to reserve what I have to say until later on in committee.

Question resolved in the affirmative.

Bill read a second time.

CHAIRMAN OF COMMITTEES

Resolved (on motion by Senator O'Connor) -

That Senator Dobson do take the Chair of Committees of the whole Senate for this day, and until the expiration of the leave of absence granted to Senator Best, Chairman of Committees.

CUSTOMS BILL

In Committee:

Clause 4 postponed.

Clause 5 (Indication of penalties).

Senator Sir FREDERICK SARGOOD

- I do not rise to propose an amendment, but to call attention to the fact that this clause requires that penalties shall be incurred on conviction. Under clause 229 in some of these cases it might be a penalty of only 10s. or £1. Surely it is not intended in every case to drag an importer before even a police court over some trivial error or oversight. That certainly has not been the practice in Victoria all these years. It is bad enough to have the discredit of being fined for the commission of an error, but it is really too bad to have the disgrace of being brought before a police court, and convicted of an offence against the Customs Act, when the conviction is not needed to protect the revenue.

Vice-President of the Executive Council

Senator O'CONNOR

. - If my honorable friend will refer to clause 256 he will see that it provides for the settlement of a dispute between an officer and any person by the Minister, whom it empowers to impose any penalty or forfeiture which he shall determine shall have been incurred. My honorable friend no doubt prefers the practice with which he is well acquainted in regard to minor infringements of the Customs Act. If the Minister deals with the dispute, then, under clause 256, he imposes a fine ; but if the party does not consent to the intervention of the Minister, surely there is no hardship in the matter being brought before the court in the ordinary way. We cannot . constitute the Minister a court, and he cannot decide in the absence of consent. I think my honorable friend, will see. . that clause 256 really gives all the power which is necessary to deal with small matters. In fact, it is the kind of clause under which the practice he referred to is carried out. I suppose that in the vast majority of cases the Minister does deal with small matters.

Senator Sir Frederick Sargood

- Suppose that the offence was committed in Perth and that the Minister is in Sydney ?

Senator O'CONNOR

- Either it can be referred to the Minister by a document in some way or he can delegate any of his powers.

Clause agreed to.

Clause 15 (Appointment of boarding stations, & amp;c).

Senator PULSFORD

- This is an important clause which gives the Governor-General power to establish ports and fix their limits, and to appoint wharfs within ports and to fix their limits. I would ask Senator O'Connor to allow the clause to be postponed.

Senator O'Connor

- On what ground ?

Senator PULSFORD

- Questions as between a State and the Commonwealth might arise under the clause, and perhaps it would lead to a saving of time to allow it to be postponed.

Senator O'Connor

- I do not see what question could arise.

Senator PULSFORD

- A State might desire to have a port established.

Senator O'Connor

- How could a State have a port established? How could a State have any control ?

Senator PULSFORD

- A State could not have any control, but it ought to have some sort of say. I did not expect advantage would be taken of our willingness to meet the Minister in the matter of expediting the passage of the Bill.

<page>3695</page>

Senator O'CONNOR

- I have no desire to be unreasonable, but at the same time I think the honorable senator is asking too much when he suggests the postponement of a clause like this, which is obviously necessary and usual, and against the retention of which he cannot give a single reason. If the honorable senator does find any serious reason why the clause should not be passed, he might raise the point on recommittal.

Senator PULSFORD(New South Wales). - There is a wide difference between drawing a Customs Bill for all Australia, and drawing a Bill for one State. Questions now arise which have never arisen before, and we would do well to go slowly on certain points such as are presented in this clause. I again ask that the clause be held over for at least a day.

Senator Sir JOSIAH SYMON

- The request for a postponement made by Senator Pulsford is in the nature of a personal appeal, and is not pressed with any view of causing delay. I understand that Senator Pulsford did not expect that we should get into committee with such happy expedition, and he has not fully considered the clause, though unless it is thought desirable to limit the Governor-General's power, I can see no appropriate amendment likely to be framed.

Senator O'CONNOR

- To save any further time I will undertake to recommit the Bill if Senator Pulsford discovers there is anything in it he wishes to have reconsidered.

Senator PULSFORD(New South Wales). - It will be apparent to the committee that the power to establish ports and fix their limits is a great power which may at some time or other, and in some way or other, conflict with the interests of the States. There is considerable public interest attaching to this matter, and I ask the representative of the Government to allow the clause to be postponed.

Clause agreed to.

Clause 17 (Appointment of sufferance wharfs,&c).

Senator Walker

- What is the meaning of " sufferance wharfs "?

Senator O'CONNOR

- It is a well-known expression in the New South Wales and other Customs Acts, and means a private wharf at which goods may be allowed to be landed.

Clause agreed to.

Clause 19 -

Every wharf-owner shall provide to the satisfaction of the collector suitable office accommodation on his wharf for the exclusive use of the officer employed at the wharf. Penalty : £20.

Senator Sir FREDERICK SARGOOD

- By clause 15 the Governor-General is given the power of proclaiming wharfs, and clause 19 says that the wharf owner shall provide suitable office accommodation. That is all right, but there is no provision made for the due custody of the goods, and on the suggestion of parties interested, I move - That after the word "wharf" the following words be inserted : - "Also such shed accommodation for the protection of goods as the Minister may, in writing, declare to be requisite."

Senator O'CONNOR

- I do not think the amendment is necessary. It may be left to the Minister not to authorize the use of wharfs unless there is this accommodation. It is not likely that the Minister will give a licence to land goods at a particular wharf unless there are proper sheds.

Senator Sir Frederick Sargood

- It is just because that has been done that this amendment is necessary.

<page>3696</page>

Senator O'CONNOR

- That may have been a fault in administration. It seems rather hard to not only require shed accommodation, but to attach a penalty of £20 for not providing it. The amendment might impose a very heavy burden on wharf-owners, because it would leave it open to the Customs authorities to insist on shed accommodation being placed on every wharf. It ought to be left to the Minister to grant a licence, which would not be granted unless he was satisfied there was proper accommodation.

Senator Sir FREDERICKSARGOOD (Victoria). - I am afraid that Senator O'Connor does not understand

the difficulties in regard to the landing of goods. I refer more particularly to Melbourne, because I believe that in Sydney in the future, the wharfs will all belong to the Government. As a matter of fact, very heavy pillages have occurred on the wharfs in Melbourne, simply because there is no shed accommodation. The Chamber of Commerce has time and again approached the Government to have this state of affairs altered, and it is in consequence of the experience of the last 25 years that the amendment is submitted. The amendment seems to be so reasonable that I am astonished at the Minister opposing it.

Senator MACFARLANE(Tasmania).The amendment moved by Senator Sir Frederick Sargood can do no harm. In fact, I think it is required.

Question - That the words proposed to be inserted be so inserted - put.

Ayes 12

Noes 9

Majority 3

Question so resolved in the affirmative.

Amendment agreed to.

Senator PULSFORD

- This is the first clause imposing a penalty. While the penalty in this case is not one of the highest, it will be distinctly considerable for the offence in question, if it can be deemed an offence. I move -

That the word " twenty " be omitted, with a view to the substitution of "ten."

Senator O'CONNOR

- I hope the committee will not assent to this amendment. It is recognised that the observance of these provisions should be enforced by some kind of penalty which people will feel when it is imposed. The officer employed on the wharf is the person who has to control and inspect everything that goes on in regard to customs matters. Surely there should be a serious penalty imposed where proper accommodation is not provided. The minimum penalty for any offence is to be one-twentieth of the penalty mentioned in the clause. The minimum in this case will be £1 . Surely it may be left to the Minister to discriminate as to what fine is merited by the offence. The case may be merely one of omission, where a small fine will be sufficient, but it may be a serious offence where a man is setting the authorities at defiance and preventing the Act being carried into operation.

Senator PULSFORD(New South Wales). - The Vice-President of the Executive Council admits that the offence may be a very small one, and yet for such an offence nothing less than the minimum fine of 20s. could be imposed.

Senator O'Connor

- A wharf -owner ought to be able to pay 20s.

Senator PULSFORD

- It is not a question of being able to pay, but of whether a fine ought to be imposed.

Postmaster-General

Senator DRAKE

. - This clause has already been amended to provide that a wharf -owner is to provide, not only accommodation for the officer, but shed accommodation for the goods if the Minister so directs. The amendment already carried may necessitate the wharf-owner in some cases going to the expense of thousands of pounds. If £20 was a sufficient penalty before the carrying of the amendment it ought now to be £40 at least.

Amendment negatived.

Clause, as amended, agreed to.

Clause 20 -

Carriages and lighters may be licensed for the carriage of goods subject to the control of the Customs upon payment of such fees, and subject to such conditions as may be prescribed.

Senator Sir FREDERICK SARGOOD

- An amendment is required in this clause. The word " boats " ought to be inserted after the word " carriages." The word "boats" is in all the sections of the Victorian Act, and has always been there. I move -

-

That after the word "carriages" (line 1) the word " boats" be inserted.

Senator Sir WILLIAM ZEAL

- If Senator Sir Frederick Sargood looks at the interpretation clause he will see that the word " carriage " includes " vehicles and conveyances of all kinds." Surely that is wide enough.

Senator Sir JOSIAH SYMON

- The clause says " carriages and lighters" may be licensed. I think Sir Frederick Sargood is right in urging that " boats " should also be licensed.

Senator Sir William Zeal

- A lighter is a boat of some kind.

Senator Sir JOSIAH SYMON

- But it is a species, whilst the word boat is generic. A boat might include a lighter, but the word lighter does not necessarily include a boat. The amendment is an improvement

<page>3697</page>

Senator O'CONNOR

- On thinking the matter over, I do not think there would be any harm in the amendment. Perhaps an improvement may be effected by means of it.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 21 (Licensed railway carriages).

Senator Sir FREDERICKSARGOOD (Victoria). - What does this clause mean? Does it mean that the Railways Commissioner will have to take out a licence for each carriage and give security? Is that the case now ? If the commissioner has to take out a licence for each carriage it will, seeing that there are thousands of carriages, be a troublesome matter.

Senator O'CONNOR

- The commissioner need not take out a licence for each carriage, but can give security for the whole.

Senator Sir FREDERICK SARGOOD

- It is not done at present.

Senator O'Connor

- It is very necessary that there should be some provision of the sort.

Clause agreed to.

Clause 23 -

The licence for any carriage or lighter may be revoked by the collector if the licensee shall be guilty of any fraud or misconduct, or shall fail to comply with this Act.

Amendment (by Senator Sir Frederick Sargood) agreed to -

That after " carriage" the word "boat" be inserted.

Senator PULSFORD

- Who is to be the judge of whether the licensee has been guilty of fraud or misconduct, so that his licence may be revoked ?

Senator O'Connor

- The comptroller.

Senator PULSFORD

- The clause does not say so. It says, " the licence may be revoked by the collector." Is the collector to be the judge?

Senator O'Connor

- Undoubtedly. How are we going to send all over Australia to find the comptroller or the Minister. The thing must be done on the spot.'

Senator PULSFORD

- It might be a matter which could be brought before the local police authorities. It seems to me rather severe to put it in the hands of the Collector of Customs, when we come to consider the broad interpretation put upon the term "collector" in the interpretation clause.

Senator KEATING

- I would ask the Minister if the revocability of the licence dealt with in this clause applies to licences granted under clause 21?

Senator O'CONNOR

- Clause 21 does not provide for the granting of a licence, but for a guarantee or security being given. No

licence at all is taken out for railway carriages. Under that clause the vehicle or carriage in which the goods are carried may be considered as a licensed vehicle for the purposes of the Act, and the honorable and learned senator will see that the provisions of clause 23 cannot apply to that case, as we could not revoke a licence under clause 21, because no licence is given under that clause. With regard to the observations of Senator Pulsford, surely the honorable senator must see that the question of whether a licence is to be revoked or not for misconduct must be dealt with at once and on the spot. Otherwise some misconduct might take place actually in the presence of an officer, and nothing could be done. If any dispute arises between the collector, or whoever may act in this respect in his behalf, the owner of the vehicle or lighter may, under clause 256, appeal to the Minister. The officers who will have to discharge these responsible duties will be men in whom we can trust, and if we take away from them the power to act upon the moment we destroy their efficiency very largely.

Senator CLEMONS

- I think that if Senator O'Connor would look at the interpretation of the word " collector " he would be disposed to agree with Senator Pulsford that it would not be desirable to include every person covered by that interpretation in the power given under this clause. I believe that the person who it was really intended should have the power is the Collector of Customs for the State. What Senator Pulsford desires would be met by the insertion, after the word "collector," of the words " of Customs for the State." I suggest that that amendment should be made in the clause.

Senator Sir Frederick Sargood

- We would have to delegate the power in the case of out ports.

Senator CLEMONS

- That may be so ; but I am certain the person intended to be referred to by the word " collector " here is the Collector of Customs for the State, and that it is not intended to have the wide meaning given to " collector " in the interpretation clause.

<page>3698</page>

Senator O'CONNOR

- Perhaps I can best answer the honorable and learned senator by an illustration. Supposing that at Cooktown a person in charge of a lighter is guilty of some flagrant misconduct obviously disentitling him to a licence; if Senator Pulsford's suggestion is adopted, we shall have to wait until the whole matter comes before the Collector of Customs at Brisbane, and in the meantime he will remain in possession as of a licensed lighter and can use it as such. It should be obvious that there must be a power given to deal with such matters on the spot. It is certain that in the bulk of cases there will be an officer holding an important position, locally at all events, on the spot, and certainly one who may be intrusted with this duty. I think it will be better to leave the clause as it stands.

Senator PULSFORD (New South Wales). - Senator O'Connor will admit that the further away from head-quarters a small port may be, the greater will be the opportunity for the action of prejudice and personal feeling, and it is desirable that in a matter like this, and where we are dealing with a huge territory, there should be some check on that sort of thing. Possibly I would be satisfied if there was some appeal to the Minister or to the collector. I admit the force of what Senator O'Connor has said about the delay at a place like Cooktown, but I think the honorable and learned senator must see the justice of the observation I make.

Senator Major GOULD

- The difficulty might be got over if we gave this power of revocation to the comptroller or collector of Customs. The comptroller would then be in a position to delegate his power to any particular officer at these various out ports. We might provide by the clause that the licence for any carriage or lighter might be revoked by the comptroller or collector of Customs if the licensee is guilty of any fraud or misconduct;

Senator O'Connor

- The misconduct might happen in the presence of an officer who had not the delegated power. The officer actually in charge should have the power.

Senator WALKER

- I suggest that it might be well to say that the power should be in the hands of the Collector of Customs, or, in his absence, the local sub-collector of Customs. There is a sub-collector in every port.

Senator Sir JOSIAH SYMON

- I understand that an amendment has been suggested by Senator Clemons to introduce after the word "collector" the words " of Customs for . the State " and Senator Gould has suggested that the words should be " comptroller or collector " with a view of getting the benefit of the power of delegation. I think that the Minister might accept that suggestion. There is no doubt that the power is absolutely essential, and it is a power that must be exercised at the moment. Unless there is this power of delegation, we might have misconduct or fraud committed by the licensee of one of these carriages, boats, or lighters, and we would not be able to deal with it at the moment.

Senator O'CONNOR

- I point out that the suggested amendment is not necessary. The word " collector " includes the comptroller and any collector of Customs for the State, and any principal officer of Customs doing duty at the time and place, and any officer doing duty in the matter in relation to which the expression is used. I take it that the collector under the clause is the person absolutely in charge at the time the fraud or misconduct takes place, and as a general rule it will be some principal officer who will be in charge. Unless this power is given for the immediate revocation of a licence, misconduct may take place on the part of a licensee at some port remote from the head office, and we ought not to run the risk of smuggling taking place, or of any of the evils against which all this machinery is directed. The Collector of Customs would see that proper officers were appointed to carry out these duties. It really comes back to this, that action cannot be taken on the spot. I do not think it would be sufficient to delegate the power to every officer, because there is a limitation in clauses 9 and 10.

Senator Major Gould

- Give him power to revoke the licence, and let him delegate that power.

Senator O'CONNOR

- That is a very roundabout way of doing it, and it would be very much better to leave it to be determined by the officer in charge of the place. I am sorry that I cannot fall in with the view of the honorable senator. Senator CLEMONS(Tasmania). - My chief objection to the use of the word " collector " is that it is defined by the interpretation clause. It includes any person doing duty in the matter in relation to which the expression is used. That is the only part which I, and, I believe, others object to.

Senator O'Connor

- -There is an amendment which I am willing to consent to.

Senator CLEMONS

- The amendment I wish to propose, unless Senator O'Connor's is better, is to use the words " comptroller or the collector of Customs of the State." I do not know whether that is his amendment.

<page>3699</page>

Senator O'CONNOR

- I am willing to consent to substitute the word "comptroller" for the word " collector," and having made that amendment I do not think it is necessary to have any other words, because the comptroller can delegate to the collector of the State. There is no doubt that in the ordinary working of the department a general delegation will be given to some principal officer in each place. During the adjournment for dinner, I found that there would be no harm in the amendment, and perhaps it may facilitate the carrying on of the department. I move -

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

Amendment agreed to.

Clause, as amended, agreed to.

Clause 24 -

No person shall use any unlicensed carriage or lighter for the conveyance of goods subject to the control of the Customs.

Penalty : £20.

Amendment (by Senator Sir Frederick Sargood) agreed to -

That the word "boat" be inserted after the word " carriage."

Senator PULSFORD

- I desire to ask Senator O'Connor whether he can justify the heavy penalty of £20 for what evidently is only a small offence at the best ?

Senator O'CONNOR

- I do not think that any one who knows anything about Customs business will say it is a small offence. The only control we have over the carriage of goods is that they are to be taken in carriages, boats, or lighters that are licensed. If a person is allowed to take away goods on the chance of having to pay a small penalty if detected, he may make it a very lucrative business. Any one who knows the working of Customs Acts will admit that it is a very serious matter, and £20 is not excessive for a maximum penalty.

Senator Major GOULD

- It is not the individual but the carriage or the lighter that is licensed. Supposing that a man's licensed vehicle gets out of order and he has to use another vehicle for the purpose of carrying goods on a special occasion, then £20 is a severe penalty to impose. If it applied to the case of an unlicensed person carrying goods it would be a different thing.

Senator O'CONNOR

- It is the carriage that is licensed, and any one can see whether it is licensed. That aids the officials in their work of seeing that the Act is carried out. If any person may use an unlicensed carriage it is obvious that we at once open the door to a great deal of illicit dealing, and unless we make the penalty a large one it may be worth a person's while to take the risk.

Senator PULSFORD(New South Wales). - On a previous clause Senator O'Connor referred to something which might happen at Cooktown. We have many far-distant out ports where the number of licensed carriages, boats, or lighters must be very limited. On the sudden arrival of a steamer it is quite possible that there may be a scarcity of such vehicles or boats.

Senator O'Connor

- A man can pay 5s., and get a licence.

Senator PULSFORD

- I think the penalty is really excessive. I should be satisfied if it were reduced to £10.

Senator O'Connor

- I cannot consent to an amendment ; £20 is the maximum, and it may be reduced to £1.

Clause, as amended, agreed to.

Clause 25 -

Declarations under this Act may be made before the Minister or any collector or any justice and also before any person authorized in that behalf by the Minister or comptroller.

Senator Sir FREDERICK SARGOOD

- For some reason or other the comptroller is left out. Surely, if the Minister can take a declaration, the comptroller may do so.

Senator Playford

- The comptroller can authorize any person to do what he cannot do himself.

Amendment (by Senator Sir Frederick Sargood) agreed to -

That the word " comptroller " be inserted after the word "Minister," line 2.

Senator Sir FREDERICKSARGOOD (Victoria). - Does the word " person " in the clause mean any person, or an officer ?

Senator O'Connor

- A person would be an officer.

Senator Sir FREDERICK SARGOOD

- The next clause refers to an officer. The Minister is not an officer, nor is a justice of the peace. It means that the Minister or a justice of the peace, or a person other than an officer, may take these declarations ; but I imagine that the comptroller would never authorize any one but an officer to do so. I move -

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

Amendment agreed to.

Clause, as amended, agreed to.

Clause 27 (State inspection laws).

<page>3700</page>

Senator Major GOULD

- I wish to know from Senator

O'Connor what will be the effect of this clause when the Tariff Bill is passed? Will not all these State Acts be repealed at the time when the Tariff Bill is passed? It seems strange to have a State Act dealing with

customs duties when it is really superseded by the federal law.

Senator O'CONNOR

- This clause refers to what are called Inspection Acts ; for instance, to a State Act dealing with the prohibition of infected cattle or infected fruit. All Inspection Acts give the power to examine goods before they are landed. It is intended that the Customs officials may aid the State in carrying out the work.

Clause agreed to.

Clause 28-

The working days and hours of the Customs shall be as prescribed, and except when working overtime is permitted by the collector, cargo shall only be received, loaded, or worked on or discharged from any ship on working days or during working hours. Penalty, £50.

Senator MACFARLANE(Tasmania).I would ask Senator O'Connor to postpone this Clause. It is a very drastic provision. It gives the collector the entire power of deciding what the working hours of a ship shall be. That power ought not to be given. Some freedom should be allowed to any one who is prepared to pay the overdue fees. It is only reasonable that there should be some freedom in the working of a ship. It should not rest entirely with the collector. The working days of a ship will not include holidays or Sundays.

Senator O'CONNOR

- I can quite understand that this provision may be taken exception to and discussed ; but why not discuss it now and come to a conclusion ? I object to postponing a clause unless some reason is shown. It is quite clear that the Bill cannot be worked unless there are certain regular hours for carrying on the landing of goods, because we must be able to insure that the Customs officer shall always be present. In whose power are we to leave the fixing of the hours ? The Customs officials know what the arrangements are for the working of the department, and if they have the . fixing of the hours, the public and the officials will have full knowledge, and everything can be worked without hitch or disagreement.If the matter be left in the hands of any one else how are the Customs officials, on a sudden, to make arrangements ?

Senator Macfarlane

- It is done now.

Senator O'CONNOR

- It may be done now, and if proper representations are made, the Bill allows the collector to permit the working of overtime. Somebody must have power to fix the hours if the parties do not agree. Are we to give the power to the ship-owner or the ship-master?

Senator Macfarlane

- If he pays expenses.

Senator O'CONNOR

- In some remote port the officials may have already been working overtime, and there may not be a sufficient number left to carry on more work, and in such case are we to ask the collector to subordinate his arrangements to the convenience of the ship? No doubt the Customs, officials will always endeavour to meet the convenience of the ship, but the collector must be the judge of the circumstances. If there is an agreement there will be no trouble, because the collector can allow overtime ; but inasmuch as the whole matter at issue is the collection of revenue, it is right . that the fixing of the hours should be in the hands of the Customs officials.

Senator Major GOULD

- There is force in what Senator O'Connor says, but the utmost facilities for unloading and loading should be given to all ships. We do not want a ship-master to find that work can only go on for eight hours a day, with some holiday intervening,. during which the ship has to be idle, with: charges and expenses accruing.

Senator O'Connor

- Is that not really the kind of administration which Parliament and the press watch ?

Senator Major GOULD

- No doubt ; but instances might occur from time to time that would render a port unpopular, because of some undesirable man being in charge, who could not be got rid of in a moment. I. understand there is at present some provision by which ship-owners can fix the. hours on paying expenses, and Senator Macfarlane wants to place that arrangement . beyond doubt.

Senator O'Connor

- Supposing the officers have been working overtime, and cannot , work any longer?

Senator Major GOULD

- How do we manage at the present moment ? Men are always to be had if they are paid.

<page>3701</page>

Senator Sir FREDERICK SARGOOD

- The clause is undoubtedly the existing law in Victoria, and it has been administered very liberally, the convenience. of the ships being studied- rather than the convenience of the Customs-house officials. Lately, however; there has been a change, and during the last month or two I have known a. case in which) permission to discharge cargo from a large ship on a holiday was refused. The present Minister of Customs was appealed to, but he backed up the officers, and the ship had to remain idle, although there would have been no difficulty in getting labour: at an increasedpay.

Senator Pearce

- It was Eight Hours Day.

Senator Sir FREDERICK SARGOOD

- I know it was some special day. The lumpers were perfectly willing to work, but permission was refused.

Senator Walker

- I think the penalty of £50 is too high.

Senator Drake

- That is the maximum penalty.

Senator O'Connor

- There might be thousands of pounds worth of cargo put out of a ship at two or three o'clock in the morning.

Senator WALKER

- I was once on a steamer which arrived at Bundaberg at 11 o'clock at night, and in order that it might get away with the tide at two o'clock in the morning, I had myself, as a clerk, to lend a hand. It is outrageous that the owner of such a boat should be fined £50 because the master does some little tiling which contravenes the law.

Senator MACFARLANE(Tasmania).I still press that some amendment should be made to carry out my object. Greater freedom should be given to shipowners in this matter when they pay all expenses. Their men are always ready to do their share of overtime, and there is no difficulty at present in administration-
Senator PULSFORD(New South Wales). Possibly Senator O'Connor can inform us what the provision in the English Act is on this point, and also what is the usage in the States.

Senator Lt Col NEILD

- I. support the request that the clause be postponed. On referring to the interpretation clause I see that the word " collector " includes a considerable number of Customs officials, any one of whom might materially interfere with the working of large vessels, involving demurrage charges, and much loss. So far as my experience of the port of Sydney is concerned I do not think the men engaged in the discharge of ships object to working overtime, seeing that they are handsomely paid for it? It is unreasonable that any one of at considerable number, of officials should have it in his power, apparently without any appeal, 'to stop and harass a ship-master who may per haps have made himself a little unpopular by some small outbreak of temper.

Senator O'CONNOR

- Section 48 of. the English. Consolidated Customs Act 1876 provides that no goods, with certain exceptions; shall be. landed on Sundays or holidays, unless by special permission of the Commissioner of Customs, nor shall be put on shore on any other days, except between eight o'clock in the morning and four in the afternoon. It is. obvious that that is a cast-iron section. The penalty is the forfeiture of the goods.

Senator Lt Col Neild

- What is the date of the Act;?

Senator O'CONNOR

- 1876.

Senator Lt Col Neild

- It is a quarter of a century old.

Senator O'CONNOR

- That is not. an objection. At all events it. is the law now, and it has not been found necessary to alter it. Compare that with' what this Bill proposes. Whatever be the value of the goods the penalty is not to exceed £50, and the time of day when the work may be carried on is all the working days and hours prescribed, except when overtime is permitted by the collector.

Senator Macfarlane

- Why not by the ship-owner ?

<page>3702</page>

Senator O'CONNOR

- Surely the honorable senator is not serious. Where the ship-owner or the ship-master and the Customs authorities do not agree, some one must decide: Is the right to decide to be with the owner of the ship, or the master, or the Customs officials? The Customs officials must be put in such a position that they can carry on their work, and they should not be compelled to do so at unreasonable times insisted upon by the ship-owner, or master. The matter has to be' left in the last resource in the hands of the collector of Customs-. I should be quite willing to consent to a postponement, if I were in favour of the principle of Senator Macfarlane' s suggested amendment, or if I saw any possibility of such an amendment being drafted as would preserve the interests- of the revenue. But as I am altogether opposed to the principle the honorable senator advocates,. I do not see any advantage in postponing, the clause, which is a very reasonable one as it stands. It is admitted by Senator. Sir Frederick. Sargood that, except in one instance, where the observance- of eight hours day was involved-, the Customs authorities have studied the convenience of shipowners and masters. If' they do nob do so, there are the collector, the comptroller, and the Minister over them to whom complaints can -be made if there is any incivility or' want of cooperation on the part of the officials, to secure discharge. The interference with the right of super1 vision which is involved is a very serious one, and I ask the committee not to make a departure from what is really a very reasonable provision in view of enactments existing in other places.

Senator CHARLESTON

- I am sorry that Senator O'Connor will not agree to a postponement. Senator Macfarlane is evidently extremely anxious to insert some words which he thinks are absolutely necessary. I do not know that J. should agree with his amendment, but we ought to have an opportunity of judging clearly of it. Seeing that the committee have facilitated! the passage of this Bill to such an extent, the honorable and learned gentleman might meet the wishes of some honorable senators -in the matter.

Senator MCGREGOR

- It would be a very peculiar way of. carrying on the work of a legislative body if, after a Bill has been introduced and read a first and second time, a member can take it up and, finding something which he should have looked at previously, ask for a postponement. I do ' not object under exceptional circumstances to the postpone' ment of a clause, but under present circumstances I do not see that the necessity arises. The amendment suggested by Senator Macfarlane is not one that any honorable senator who has considered the matter would support. Does Senator Charleston mean to- tell the committee that instead of the control of the Customs business- being, in the hands of the Customs authorities-, we should hand it over to a ship-owner or master ? Yet that is what' Senator Macfarlane wants in. the amende ment, he- has. indicated.. I do not believe in any amendment that could- be drafted for the purpose of handing, over control- to some cranky ship-master who might prefer to unload on a Sunday or on a holiday rather than at a proper time. 11 i 2

Senator DRAKE

- The postponement of a clause is justifiable when there is some difficulty that may be elucidated by subsequent discussion, or- where the" matter is' of a' complicated character and requires further debate or the services of a draftsman. But in this clause there is a very clear-cut issue, about which there is no reason for delay. In Great Britain and in all the States of Australia the customs laws require that certain working, days and' times shall be prescribed for- the unloading of ships. There is a great, deal of reason for that, because die Customs department has to keep its officers on the- spot during the unloading. Surely the department is the proper authority for arranging the days and hours. Senator Macfarlane's idea is that a ship-owner shall say that he will have his ship unloaded on a day that may be a holiday or ai Sunday. To do so may be- very inconvenient to the Customs authorities.

Senator Sir Frederick Sargood

- And ' to the merchants.

<page>3703</page>

Senator DRAKE

- The department may not be able to have its officers on the spot. Possibly there may be no lumpers ready to unload the ship, and the merchants may not be prepared to take delivery of their goods: Surely we are not, as a deliberative body, going to leave it to the ship-owner or master to decide upon what days the Customs officers shall superintend the unloading. Section 46 of the New South Wales Act provides that -

Except as hereinafter provided no goods -

With exceptions which I need not read - shall be unshipped or landed from any ship without the authority of the collector on Sundays or the holidays defined by section 7 of this Act, or on Saturdays after the hour of noon, or on any day beyond the appointed hours. Nor shall any goods be unshipped or landed unless in the presence or with the authority of the proper officer of the Customs.

There are exceptions in the case of- live animals, fresh meat,, coin, or bullion. Then section 47 of the Queensland Act is as follows : -

No goods except live animals, fresh meat, fresh sheep, fresh fruit, coin,, and bullion shall be unshipped or landed or put on shore from any ship arriving from, parts beyond the seas at any port or place where an officer of Customs- is stationed except on days not being Sundays or holidays within the legal hours, that is to. say between eight in the morning and four in the afternoon' from the 1st day of October to the 31st of March, and between nine in- the morning and four in the afternoon from the 1st day of April to the 30th day of September in each year, excepting on Saturdays and on every Saturday in each year from eight o'clock in the morning until twelve o'clock at noon unless special authority be given by the collector or principal officer, and then only upon depositing the overtime pay due to the officer attending.

Then I have an authority from outside. The Indian Customs Act contains the following section : -

Except with the written permission of the Customs collector, no goods, other than passengers' baggage, shall in any Customs port be discharged from any vessel or be shipped or waterborne to be shipped -

On any Sunday or on any holiday or day on which the discharge or shipping of cargo, as the case may be, is prohibited, by the chief Customs authority ;

On any day, except between such hours as such authority from time to time appoints by notification in the official Gazette.

I have not got the Ceylon Customs Act to refer to, but section 32 of the South Australian Customs Act is on this point identical with the provisions I have read, and under it no goods, except live stock and articles afterwards provided for, can be unshipped from any ship arriving at any port from beyond the seas except on days which are not Sundays or holidays, and within the legal hours. I need not read the provision. The penalty under the South Australian Act is not exceeding £50, and not less than £10.

Senator Charleston

- The South Australian Act says that certain goods may be landed.

Senator DRAKE

- So does every other Act. This clause says "as prescribed," and no doubt the same exception will be made in all the other Acts with regard to live stock, fresh meat, fruits, vegetables, and other articles of a perishable nature, and coin and bullion.

Senator MACFARLANE(Tasmania).A great deal of difficulty has . been made about points that I have not raised. I have not suggested any . amendment to provide that ships should be loaded or unloaded on Sundays or holidays. What I have suggested is that, for the convenience and advantage of the public, persons might be permitted to discharge goods at any hour of the day or night upon a working day. There would be no difficulty, because the Custom-house would have officers there in any case. The question might arise of the employment of an extra man, but I can see no difficulty in the matter.

Senator Major GOULD(New South Wales). - There is no doubt that there are provisions in the Acts to which the Postmaster-General has referred with regard to the discharging of ships, but we do not find that there are any restrictions with regard to the loading of ships, and the clause in this Bill deals with both subjects. Though it may be perfectly true that, when the Senate ultimately comes to deal with this matter, we may make no amendment, when we have an assurance from Senator Macfarlane that he desires to

submit an amendment for the consideration of the Senate, the honorable and learned senator in charge of the Bill might agree to the postponement of the clause-. Senator Macfarlane has not at any time attempted to block the transaction of public business, and I see no real reason why the clause should not be postponed. The honorable senator has, to a certain extent, indicated the nature of his amendment, but he has not had an opportunity of putting it directly before the committee. It is a fair thing to agree to his suggestion that the clause should be postponed, and I believe that it would facilitate business if that were done.

<page>3704</page>

Senator PEARCE

- I trust the Minister will not agree to postpone the clause, because it is not the form of words that we are dealing with at all. Since Senator Macfarlane has given us the spirit of the amendment which he proposes to suggest, I think we can take a vote upon the clause now, which will show whether the Senate 'is willing to accept the spirit of his proposal or not. I am in a position to say that I would not agree to any such amendment as the honorable senator has suggested, no matter how it was worded. I am in accord with the spirit of the clause as it stands.

Senator CHARLESTON(South Australia). - It is a very unfair way of dealing with honorable senators to take a vote on the postponement of the clause as indicating whether we are in favour of Senator Macfarlane's proposal or not. So far as I understand the honorable senator, I cannot say that I would support the amendment he suggests, but I will support a proposal for the postponement of the clause, under the circumstances in which we find ourselves just now. I think that in refusing the postponement the leader of the Senate is not treating honorable senators with that courtesy with which we all thought he would treat them.

Senator O'CONNOR

- I have to consider not only the convenience of honorable senators, but the public time. We have already devoted a great deal of time to this discussion, and I do not object to that ; but now I am asked to postpone this clause for the purpose of enabling Senator Macfarlane to formulate an amendment which he has already clearly indicated, and to which I believe the majority of the committee are absolutely opposed. What is the use, after all this discussion, of postponing the clause in order to enable the honorable senator to formulate something which will carry out the views he has expressed when we know that, as soon as the matter comes on again, we shall have the whole of this discussion repeated ? However anxious I may be to concede a personal request by an honorable senator, I have the public to consider, and I have to consider the necessity of getting on with the business. I ask the committee to help me to carry on the business with the most reasonable expedition, and to come to a division if necessary upon this clause.

Senator Sir FREDERICKSARGOOD (Victoria). - I ask the Vice-President of the Executive Council to accede to the request to postpone the clause because I believe he will save time by so doing. I do not think it at all probable that any amendment will be proposed in the clause that J can vote for. But I know that this particular clause, with other clauses, is at present being considered by the Chamber of Commerce in Sydney. I believe that in a day or two a memorial will come down from the Chamber of Commerce in Sydney, and the Minister will save time by agreeing to the postponement of the clause. We have undoubtedly spent a lot of time already that might have been saved if the clause had been postponed earlier.

Senator O'Connor

- Can the honorable senator point out what amendment the Sydney Chamber of Commerce is likely to suggest ?

Senator Major GOULD(New South Wales). - I can say that the Chamber of Commerce in Sydney have this Bill under consideration, and one of the members told me that their suggestions would be submitted by the end of the current week. That is one of the reasons why I was anxious to see the committee stage of the Bill only taken.

Senator MACFARLANE

- I would have been prepared with my amendment, but I did not understand that the committee stage of the Bill would be taken to-day. I am disposed to formally move that the clause be postponed.

Senator O'CONNOR

- If the honorable senator has an amendment to propose I will undertake to recommit the Bill. That will come to precisely the same thing.

Senator Macfarlane

- I accept the honorable and learned senator's promise.

Clause agreed to.

Clause 34-

Goods imported through the Post-office shall be subject to the control of the Customs equally with goods otherwise imported.

Senator PULSFORD

- I shall be glad if Senator O'Connor will explain the method in which these duties will be collected.

Senator O'CONNOR

- I take it that it will be prescribed by regulation ; I presume that the officials of the Post-office and the Customs being under the same Government, will make an arrangement by which the inspection in the Post-office is carried on so that it will be sufficient. They both have to exercise control over these goods, and I take it that an arrangement will be made for working together.

Senator Major Gould

- How is it done now in Victoria? .

Senator O'CONNOR

- It is done, but at the moment I am unable to explain the method.

Senator CLEMONS

- At the present time in several States goods which come through the Post-office are not subject to customs entries. The addressee receives the goods at the Post-office by paying the customs duty without having to pass a customs entry. At the Post-office in Tasmania, and, I believe, at the Post-office in South Australia it is possible to receive dutiable goods by applying there and paying the amount of duty, which is there and then assessed. That, I take . it, is the practice which we want to obtain in the Commonwealth. I believe that we discussed this question on a clause of the Post and Telegraph Bill.

<page>3705</page>

Senator O'CONNOR

- I am now in a position to explain the method. In the Post-office there is a Custom-house official, and in regard to small things on which the duty is not very large it is paid, and thereupon the goods are handed over, tout "if the goods are so valuable as to require a Customs entry to be passed it has to be passed at the Customhouse in the ordinary way, and the goods . are then allowed to go through. It is at the option of . the officer to say whether it is sufficiently important to have an entry passed or whether it is a small thing, which may be 'handed over on payment of the duty. There is really no difficulty experienced in practice. I understand that the method is very much the same in all the States. Senator Clemons suggests that it can be amplified, but I do not see in what direction it can be done. One of the merits of this Bill is that its clauses do not contain anything more than is essential], but they do contain everything which is essential. I do not see how this clause can be amended with any -advantage.

Senator PULSFORD(New South Wales). - Would Senator O'Connor object to eliminate the words "equally with goods otherwise imported," "because clause '35 provides that entry may be made for all goods subject to the control of the Customs.

Senator O'Connor

- -They may be made through the Post-office as well.

Senator PULSFORD

- After the explanation which Senator O'Connor has given we might be satisfied with clause 34 without the last five words. I move -

That the clause be amended by the omission of the words " equally with -goods otherwise imported."

Senator CLEMONS(Tasmania).- In his remarks Senator O'Connor has admitted so far as he knows that when the goods are of comparative small value the practice is not to require a customs entry. In Tasmania no entry is required. It is a very desirable procedure to adopt in the Commonwealth, and it is so desirable that Senator O'Connor has indicated that he recognises it as a practice. If he can put in some words which can . make it certain that goods of small value may be received through the Post-office without passing an entry I shall be quite satisfied.

Senator Drake

- What would "-small " mean?

Senator CLEMONS

- If Senator O'Connor will agree to allow goods up to the value of £5 to go through the Post-office without compelling the addressee to pass an entry he will be consulting the convenience of a very large number of persons. But if the clause stands as it is it may be in the power of some collector of Customs to insist upon an entry being passed for every article however small, so long as it is dutiable and comes through the Post-office, and that of course will distinctly interfere with the convenience of the general public.

Sir WILLIAM ZEAL

- The statement of Senator O'Connor is only a partial explanation of the procedure in the Postal department in this State. There is an officer of Customs attached to the Post-office. To every parcel which comes from London to Victoria through the Post-office is attached a declaration by the sender as to the value of the goods, and the parcel is stamped. As soon as it arrives in Melbourne a notice is sent by the Post-office to the addressee, and he is notified that he must either pass an entry or send in his invoice and get the entry attended to by the postal authorities. On the receipt of that notice the addressee either sends back to the Post-office word that he has not received an invoice, and cannot state the value of the goods, or elects to have them valued by the Customs officer. Within 24 hours the parcel is delivered to him if he pays the duty which that officer declares is due. This practice has been working here for years, and no difficulty has been experienced. The entry is passed by the Custom-house officer, and the recipient of the parcel has no trouble.

Senator DRAKE (Postmaster-General - Queensland). - The practice in Queensland has been exactly that which has been described by Senator Sir William Zeal. When a parcel appears to contain dutiable goods a notification is sent to the addressee. He goes down to the Post-office, and if necessary he can pass an entry or he can produce an invoice to show the value of the goods, or if he has not an invoice he can tell the Customs officer to open the parcel and value the goods. If it is a small matter he puts a value on the parcel, and the addressee pays the customs duty according to the value and receives the article.

<page>3706</page>

Senator O'CONNOR

- I would really like to know from Senator Pulsford what reason he has for moving an amendment of this sort ?

Senator PULSFORD (New South Wales). - My Object is to simplify the clause and to facilitate and increase the convenience of the public. The Customs authorities cannot require the observance of all the entries and so on that are required when cargo is landed ; certainly it would facilitate the arrival of small packages. I do not see any objections to the amendment.

Senator O'Connor

- Is not this a matter of daily practice ? In all the States it is carried on under a similar law, and why interfere with it ?

Senator PULSFORD. - The honorable and learned senator has shown that there is not quite the same control over the goods that go through the Post-office, inasmuch as he admits that an entry is not required. If an entry is not required why should the clause be made so strong as it is?

Senator Sir FREDERICK SARGOOD

- To my knowledge for 30 years this practice has been carried out without the slightest difficulty. It does not say that all the forms of entry are to be gone through, but that these goods shall be under the control of the Customs equally with other goods. We do not want the control to be either less or more than it is on other goods. If it would meet the views of honorable senators we might put in the words " as prescribed," but it would make no difference. The detail of carrying out this control is simplicity itself. It is a matter of everyday occurrence. No entries are needed. A printed form is simply sent to the addressee, with a notification, and if he does not care to go up to the Post-office, he can ask the Customs officer to value the article, and thereupon he receives a note that the duty is so much, and he pays the duty. It is much more simple than having to pass an entry through the Customs.

Senator Sir JOSIAH SYMON

- I think Senator Sir Frederick Sargood has totally misunderstood the point. I am afraid that the insertion of the words " as prescribed " would make confusion worse confounded. I do not know where the

department would be if we put in the words. The only effect of clause 34 is to declare that goods imported through the Post-office shall really be under the operation of clause 30, which defines the kind of goods which are subject to the control of the Customs. Unless we put in clause 34, it might be held that goods coming through the Post-office were not under the control of the Customs, by virtue of clause 30. Clause 34 carries the provision no further than that. It is simply an interpretation clause defining that these goods shall, with others, be within the meaning of goods as indicated in clause 30. The point which Senator Pulsford is directing 'attention to is that while it may be true that in Victoria and other States the Post-office authorities are very kind to the recipients of letters containing dutiable articles, and do not insist in every case upon a customs entry being passed, under the provisions of this Bill they might insist upon a customs entry being passed. I do not know whether the custom which exists in this State prevails in other States. I know that in the case of small articles, they do not pass customs entries in South Australia, but that is a mere practice in the Post-office. In the Post and Telegraph Bill we passed a provision that postal articles or envelopes containing or supposed to contain dutiable goods shall be dealt with in the prescribed manner. If this be left to regulation, there is possibility of conflicting regulations in the Customs department; but I fancy Senator Pulsford's desire is to prevent the possibility of entries being required for goods of the value of not more than £5, and I suggest that an amendment would more properly be made in clause 35.

Amendment negatived.

Clause -agreed to.

Clause 35 -

Entries may be made and passed for all goods subject to the control of the Customs.

Senator CLEMONS

- I move -

That, after the word "Customs," the following words be inserted: "except for goods imported through the Post-office, and not exceeding the sum of £5 in value."

My intention is to avoid the formality and expense of making entries in the case of small articles coming through the Post-office. I can see no danger to the Customs in the amendment, which will be an added convenience to the public.

<page>3707</page>

Senator O'CONNOR

- The amendment would result in decreasing very largely the convenience which now obtains in dealing with dutiable goods through the Post-office. At present there is no difficulty, but if the amendment were passed, whenever goods over £5 in value came through the Post an entry would have to be made, seeing that the limit must have some binding effect on the officials. The discretion now exercised would be taken away.

Senator CLEMONS (Tasmania). - The amendment makes it certain that in no case whatever where the goods are under £5 in value, shall an entry be necessary. It would still be optional but not compulsory for an officer to insist on an entry for goods over the value of £5.

Senator EWING

- It would be very little more trouble to pass an entry than to prove that goods were under £5 in value. A declaration of some kind would have to be made, and the only difference that I see lies, perhaps, in the payment of a small fee of 2s. 6d. for making an entry. That difficulty might, however, be met by providing that in the case of small imports through the Post no fee should be charged.

Postmaster - General

Senator DRAKE

- If the amendment be passed, the person receiving an article through the Post-office would be bound to accept the valuation of the Customs officer. How could the value be proved, seeing that passing an entry would be prevented?

Senator Clemons

- The value could be proved without passing an entry.

Senator DRAKE

- An entry is simply a declaration that a person is the owner of certain goods, and that these goods are of a certain value. The amendment interferes with the practice that has gone on for years without

occasioning the slightest difficulty, and leaves the addressee no means of disproving the value fixed by the Customs officer.

Senator McGREGOR

-Whenever dutiable articles come through the post, or in any other way, attempts are often made to pass them under value ; and if the value be challenged it is the duty of the receiver to make a declaration, or in other words, to pass an entry. The fact remains that everywhere eke except in Tasmania this business through the Post-office has been done in an agreeable manner, without any difficulty, and we ought to leave the clause, as more convenient for the public and a protection against the Customs authorities being cheated.

Amendment negatived.

Clause agreed to.

Clause 37 -

Entries shall be passed by the collector signing the entry, and on the passing of the entry the goods shall be deemed to be entered ; and any entry so passed shall be warrant for dealing with the goods in accordance with the entry, and the goods shall forthwith be dealt with accordingly. Penalty, £100.

Senator PULSFORD

- I should be glad if the Minister will explain who is to pay the penalty of £100. It appears to me that if the collector does not do certain things he may find himself liable for that amount, although the whole scope of the Bill is to make " the other fellow " pay.

Senator O'Connor

- Whoever violates the clause is liable to the penalty.

Senator Major GOULD

- It is rather difficult to see who is to pay the penalty. Does that clause apply to the collector if he does not sign the entry ?

Senator Drake

- No ; it is the person who does not deal with the goods "accord- ingly".

Senator Major GOULD

- I presume it would be quite sufficient if it were stated that the man who committed an offence in contravention of clause 37, should thereupon be fined £100, unless he proved he had not done anything in contravention of the clause. But as he would not know what he was charged with, he would be in a great difficulty.

Senator Sir Josiah Symon

- The penalty has been inserted there by mistake.'

Senator Sir FREDERICK SARGOOD

- The entries in question have to be passed by the collector, and then following upon that comes the delivery of the goods. But instead of providing to that effect the clause goes on to say that the goods "shall forthwith be dealt with accordingly," whatever that means. I have copied from one of the existing Acts the form of my amendment, which conforms to the practice in all the States, and really carries out what is wanted. I move -

That the following words be omitted : - " And the goods shall forthwith be dealt with accordingly.

Senator O'Connor

- I accept the honorable senator's amendment, which really carries out the object of the clause.

Amendment agreed to.

Amendment (by Senator Sir Frederick Sargood) proposed -

That the following words be inserted after the word "entry" (line 5): - "and such entry shall be transmitted to the proper officer and be his warrant for the delivery of the goods mentioned therein."

<page>3708</page>

Senator Sir JOSIAH SYMON

- I do not think that it is necessary to add these words to the clause. The clause is sufficient as it is with the amendment that has already been made.

Senator Sir Frederick Sargood

- The entry says nothing about delivery.

Senator Sir JOSIAH SYMON

- But why impose an obligation of that kind by statute, when in the discharge of ordinary duties entries will be sent to the proper officer ? There is no need for these additional words. Knowing the draftsman of this Bill as I do, these are words which I should imagine he would prefer to have eliminated. The clause as it stands embraces all that is necessary.

Senator Sir FREDERICKSARGOOD (Victoria). - I am rather inclined to doubt Senator Sir Josiah Symon's statement. The form of entry does not contain any instruction to deliver. It is merely an indication that the value of such goods is so and so. The words of my amendment are taken from the Victorian Customs Act, and have been in operation for many years. They properly and correctly describe the processes of dealing with goods. I think they should be inserted merely to show that the entries should be passed.

Senator Playford

- There is a warrant for dealing with that.

Senator Sir FREDERICK SARGOOD

- The warrant does not say that they are to be delivered. "What harm can there be in inserting this amendment? However, if the Minister thinks the words unnecessary I shall not press the amendment.

Senator O'CONNOR

- It appears to me that the amendment is really unnecessary, because the - warrant for dealing with the goods is in the clause already ; so that what Senator Sir Frederick Sargood desires to secure, in his amendment will be really carried out.

Senator Sir Josiah Symon

- I think also that the entry always describes the goods as entered for home consumption or for export!, and that is what is meant by the goods being " dealt with accordingly."

Amendment, by leave, withdrawn.

Clause, as amended, agreed to.

Clause 38 (Passengers luggage).

Senator Major GOULD(New South Wales). - Does this clause apply to the personal goods of passengers? [presume that they would not have to pay duty in any case. Suppose a passenger brought jewellery as part of his personal belongings, would duty have to be paid upon it?

Senator O'CONNOR

- This clause refers to duty upon the personal baggage of passengers. Of course what a person is wearing or has with him as personal belongings would not be included. What would be included would be goods brought by a passenger in his luggage, such as jewellery or boxes of cigars upon which duty would have to be paid. It only means that dutiable goods carried by a passenger in his personal luggage will not, because they are so included, be exempt from duty.

Senator PULSFORD(New South Wales). - Suppose that there was amongst a passenger's luggage some wearing apparel that had not been worn, would duty have to be paid upon that ?

Senator O'CONNOR

- Certainly.

Senator PULSFORD

- It is well that the public should know that.

Clause agreed to. Clause 45 - Whenever any such Customs security is put in suit by the collector the production thereof without further proof shall entitle the collector to judgment for their stated liability against the persons appearing to have executed the same unless the defendants shall prove compliance with the condition or that the security was not executed by them.

Senator O'CONNOR

- An amendment will be necessary at the end of this clause. There are two other sets of circumstances than those mentioned in which the defendant would be entitled to a verdict - that is where the bond has been released or where satisfaction has been entered. I move -

That after the word " condition " (line 7) the following words be inserted: - "or release or satisfaction."

Amendment agreed to. Clause, as amended, agreed to - Clause 46 - In order to the due importation of goods : - (1) The ship may be boarded. (2) The cargo shall be reported. (3) The goods shall be entered unshipped, landed, and examined.

<page>3709</page>

Senator CLEMONS

- Although I approve of this Bill as a whole I should like it to be grammatical. The words of the first sentence -

In order to the due importation of goods, really mean nothing. I suppose that what is intended to be conveyed is "for the purpose of the due importation of goods." As the clause stands it seems to me to be very crude legislation. I appeal to any honorable senator who is competent to construe an ordinary English sentence to say what these words mean as they stand. I could understand it if it said "in order to secure the due importation of goods." I suggest that the representatives of the Government should make the clause grammatical -before we 'go any further.

Senator O'CONNOR

- This clause is simply a general indication of the powers that are given more specifically afterwards. It indicates in a very few words what may be done. A ship may be boarded, the cargo is to be reported, the goods are to be entered and shipped. Senator Clemons' criticism is on grammatical grounds. He objects to the phrase - in order to the due importation of goods.

Does not the honorable and learned senator understand the meaning of those words ?

Senator Clemons

- I certainly do not understand them without reference to the context.

Senator O'CONNOR

- Then the honorable and learned senator must be the only member of the Senate who does not understand them. The provisions of this Bill are such as can be read by any one who understands English in the ordinary "way" - not perhaps with the niceties and elegancies of precision, but the English language as it is understood by business people. I cannot conceive of any person who understands English misunderstanding the meaning of these words. A large number of words might have been used to convey the meaning, but it is quite clear already what the meaning is, and I do not think the committee should be troubled seriously with this kind of criticism.

Senator CLEMONS(Tasmania). - The honorable and learned senator's reply to my criticism is very instructive, but if he wishes to tell me that these words represent decent draftsmanship, I differ from him. Probably the words that ought to have been used are "for the purpose of the due importation of goods." The clause might be materially improved by the substitution of some such words.

Senator EWING (Western Australia). It does not seem to me that the words complained of by Senator Clemons are intelligible as they stand. If one looks at the context, and is ingenious and draws all sorts of conclusions, he can satisfy himself as to what is meant. But that should not be left to the imagination of the individual.

Senator O'Connor

- Does the honorable and learned senator think it worth while to move an amendment on the point I would rather consent to an amendment than waste time over the matter.

Amendment (by Senator Clemons) proposed -

That the words "in order to" (line 1) be omitted, with a view to the substitution of the words, "for the purpose of."

Postmaster-General

Senator DRAKE

. I do not like the idea of hacking the clause about in this way. Senator Clemons is not clear in his own mind. His amendment is to -strike out the words "in-order to" and to insert the words "for the purpose of," but he does not see that the word "securing" will be just as necessary in one case as in the other. The real point of his grammatical objection is that that word is not in. I contend that the proposed substitution is no improvement. There are a number of things which have to take place in a certain order. I like the expression as it stands.

Amendment agreed to.

Senator PULSFORD(New South Wales). - In sub-clause (3) the word "landed" is not required, because the word "unshipped" is quite sufficient.

Senator O'Connor

- Suppose that the goods are unshipped into a lighter or a boat? .

Senator PULSFORD

- It constantly happens that goods are unshipped into a lighter for the purpose of being -put on to another vessel to be conveyed to some port. For instance, goods coming by the San Francisco steamers are dealt with in Sydney for all Australia. Lots of them are not landed at all. There is no necessity for them to be landed so long as they are put overboard direct into the vessel which is to convey them to another port or into a lighter which is to convey them to the vessel which is to take them to that port. The use of the word "landed" in sub-clause (3) would compel goods to be put on the wharf when there was no necessity for doing so, and 'would cause a great deal of expense. I think Senator O'Connor will see that the provision for the purpose of the Customs is quite as strong -without the word "landed." I move - That sub-clause (3) be amended by the omission of the word " landed."

<page>3710</page>

Senator O'CONNOR

- I hope that the committee -will not accept the amendment, because the word is required to cover a distinct class' of cases. The goods are entered and unshipped. That means taken' out of the ship. If they are put into a lighter they are not landed.; they are put over the side of the ship. If the goods are put from a ship on to a wharf, it may be that the taking of them out of the ship is landing them, but they may be unshipped and put into a lighter and taken a considerable distance and landed at another wharf or direct into another ship. They would be unshipped, landed, and examined. No penalty is imposed by the clause. It only indicates the steps which are to be taken. The word "landed" is quite as necessary as the word " unshipped."

Senator PULSFORD(New South Wales). - I cannot agree with Senator O'Connor in his definition of the word " landed," because there arrive in certain ports of the Commonwealth goods which are intended for other ports. In a very large number of cases there is no necessity for landing such goods. It is quite sufficient that these goods are removed either direct from over the ship's side into the vessel which is to take them direct to the next port, or removed from a vessel, into a lighter for the purpose of being put on another vessel lying at a wharf. This clause covers both dutiable goods and free goods. We know that dutiable goods must be landed in some place where they may be dealt with. The objection to the clause is that it compels goods on which there is no duty to be landed, and to be charged with wharfage, and perhaps landing expenses and cartages, which might mean no small expense and increase the cost of the goods to the owner, without in any way adding to the security of the Customs revenue.

Senator Major GOULD(New South Wales). - In view of the provision in clause 70, I think the word " landed " is unnecessary in this clause. Clause 70 shows that so soon as goods are unshipped they must be either landed or transhipped into the vessel by which they are going to another port. If they are going to be entered for home consumption they have to be ultimately landed under that clause. I do not think clause 46 necessitates the landing at all, and the word " landed " might be very well omitted.

Senator O'CONNOR

- I do not think there is any necessity for the word "landed" and I am willing to consent to its omission.

Amendment agreed to.

Amendment (by Senator Pulsford) agreed to -

That the words "maybe" be inserted after the word " and" in sub-clause (3).

Clause, as amended, agreed , to.

Clause 47 -

Prohibited imports shall be imported. Penalty, £100.

Senator PULSFORD

- This clause would seem to come better after clause 49, which defines what goods shall not be imported. The amount of the penalties is a matter which we could better understand when we have acquainted ourselves with what is the object aimed at. But I do not know, if Senator O'Connor desires to keep the clause where it is, that we need object to its position very strongly, but clearly it is not inserted in its right place. If we pass the penalty of £100 as it stands, then we shall deal with the question of prohibited imports, with the knowledge that we have placed a heavy penalty on the importation of prohibited imports, and it will necessarily have some weight with us in deciding what articles shall be made subject to such a heavy penalty. Under another provision Of the Bill a man who brought in a few pounds of oleomargarine would be subject to a minimum penalty of £5 or to a maximum penalty of £100 under this clause. In view of the fact that by consenting to the large figures of £1'00 we know that we shall be influencing the debate

on the clauses which follow, I am willing to allow this clause to pass as it stands.

Agreed to.

Clause 48 -

No goods may be imported in any ship which has not been lawfully registered in the country to which she belongs or which has not her certificate of registry on board unless the absence of the certificate is satisfactorily accounted for. Penalty, £100.

<page>3711</page>

Senator Sir FREDERICK SARGOOD

- I am informed that in cases where they have not a certificate of registry they have what is called a pass issued by the proper authorities. I move -

That after the word " board " the words " or pass issued by the proper authorities " be inserted.

That, again, is a copy of the provision of the existing law.

Senator O'Connor

- What does it mean exactly ?

Senator Sir FREDERICK SARGOOD

- The pass is issued in lieu of the certificate. Occasionally there is a difficulty. On account of a ship leaving suddenly, or from some reason or other they have not got the certificate ready, but in these cases they get a pass issued by the same authority as issued the certificate.

Senator Sir JOSIAH SYMON

- Perhaps Senator Sargood will explain who is the proper authority to grant the pass 1

Senator Sir Frederick Sargood

- I do not know who issues the certificate of registry at home.

Senator Sir JOSIAH SYMON

- That is issued under the Merchant Shipping Act. I know of no provision in that Act for granting a pass ; I do not know that Senator O'Connor does. The usual provision is that which is contained in this clause, and the safest thing to do is to pass it as it is drafted so far as this point is concerned. Senator Sir Frederick Sargood will see that the concluding words provide a safety valve. If there is a pass, it will be accepted as sufficient, but the danger is that, if we put in the words he has suggested, it will give an alternative to the master of the ship to produce something which may be a pass purporting to be issued by what are called the proper authorities, and for which there is no provision in the Merchant Shipping Act, and it might be a foreign ship.

Senator Sir Frederick Sargood

- There is a provision in the Customs Act. I shall ask for the clause to be recommitted if necessary.

Senator Major GOULD

- Supposing a man had a pass, it could be produced and would be a satisfactory accounting for the absence of a certificate. But the certificate or the pass might by some mischance get destroyed after the vessel sailed, and when the captain reached this port, he would be in this fix that he could not land any of his goods. He might explain how the certificate got destroyed. It is far more satisfactory to allow the clause to stand as it is, and to leave it to the Customs authorities to be satisfied that the absence of the certificate was satisfactorily accounted for.

Amendment, by leave, withdrawn.

Clause agreed to.

Clause 49 -

The following are prohibited imports : -

Any work which is, or appears to be, an infringement of any copyright existing in any part of the King's dominions, and of the existence of which copyright written notice shall have been given to the Minister by or on behalf of the proprietor.

False money and counterfeit sterling, and any coin or money not being of the proper standard in weight or fineness.

Blasphemous, indecent, or obscene works or articles.

Goods manufactured or produced wholly or in part by prison labour, or which have been made within or in connexion with any prison, gaol, or penitentiary.

Exhausted tea, and tea adulterated with spurious leaf or with exhausted leaves, or being unfit for human

use, or unwholesome.

Oleomargarine, butterine, or any similar substitute for butter.

All goods, the importation of which may be prohibited by proclamation.

All goods having thereon or therewith any false suggestions of any warranty, guarantee or concern in the production or quality thereof by any persons, public officials, Government, or country.

Senator Major GOULD

- The majority of the imports prohibited by this clause are already prohibited by legislation in the States. I do not propose to take exception to the sub-clauses (a), (b), (c), (d), and (e) ; but we ought to consider sub-clauses (f) and ((g). In the first place, I take exception to sub-clause (f), which deals with oleomargarine and butterine, because these articles, I am told, are being produced in the States at the present time.

Senator Sir Frederick Sargood

- In New South Wales.

Senator Major GOULD

- I am told they are also manufactured in "Victoria.

Senator Sir Frederick Sargood

- No; their manufacture is absolutely prohibited by the Victorian Act.

<page>3712</page>

Senator Major GOULD

- I am simply stating what I have been informed. But even assuming that oleomargarine and butterine are not manufactured in the States, I still contend that this is not the proper Bill in which to place a bar against the introduction of articles of that kind, unless they can be shown to be unfit for human consumption or unwholesome. An

Adulteration of Foods Act could deal with persons who sold these preparations as butter, but, so far as I am aware, there is no law in the States against their manufacture, and, therefore, it is very unfair to prohibit their importation.

Senator Sir Frederick Sargood

- Has the Commonwealth power to deal with the adulteration of foods?

Senator Major GOULD

- It comes within the powers of the States to deal with matters of that kind. If we as a Commonwealth have no power to prohibit the manufacture of these articles, how much less should we take it upon ourselves to prohibit their importation? If the States do not interfere with these articles we should not attempt to deal with them, and sub-clause (f) ought to be omitted. Sub-clause (g) gives a power which it would be most dangerous to place in the hands of any Government. I do not know whether Senator O'Connor can point to a similar provision in any other customs law.

Senator O'Connor

- In the Tasmanian and Western Australian Acts there is a similar provision and, I believe, in other State Acts also.

Senator Major GOULD

- Whether there be a similar provision in other State laws or not, I contend that it is undesirable to place this power in the hands of any Government. To prohibit the importation of any particular article is a serious step that ought to be taken by the Legislature and not simply by Ministers. These proclamations may be made at any time and under any circumstances, and it is not a safe power to give an Executive, especially as it may be exercised when Parliament is not sitting. I have a very strong opinion that it is undesirable to allow the Executive to do any legislative work, such as this practically is, seeing that they are left free to prohibit the importation of any particular article they may see fit. If an import matter crops up during recess, surely it could wait the ordinary course, like other matters, until Parliament meets.

Senator O'Connor

- There might be a great deal of harm done in the meantime.

Senator Major GOULD

- On the other hand the Government might, in the meantime, prohibit something which ought not to be prohibited, and cause a good deal of harm. I do not say the Government would do this with any idea of opposing the interests of the Commonwealth, but I contend that it is a matter for legislation. It is my

intention, when the proper time comes, to submit an amendment with a view of omitting sub-clauses (f) and (g) and affording the committee an opportunity of exercising their judgment and discretion in the matter.

<page>3713</page>

Senator PULSFORD

- There are other sub-clauses than those referred to by Senator Gould which are debatable. Sub-clause (b), dealing with false money and money not of the proper standard of weight or fineness, might cause some trouble. If a shipment of silver sent to any part of Australia from New Zealand, Fiji, or anywhere in the South Seas, was more or less worn, it might, under this clause, be refused admission, and I doubt the wisdom of a provision of this very drastic character. We all desire to prohibit the importation of false money and counterfeit sterling, but when we come to money that has simply lost weight by use, we ought to hesitate before we consent to its being considered a prohibited import, and talk about forfeiting it, charging the owner a fine of £100, and, by a clause later on, actually confiscating the ship. I do not think any such legislation has been heard of outside the domains of the Czar. The sub-clause referring to exhausted tea appears to me very paltry. It is quite certain we are to have a duty on tea, and even if that be only 3d. a pound, any duty which this or any other Government is likely to propose would be sufficient to keep out tea that practically has no value at all. If the Government wish to prohibit exhausted tea, why not prohibit exhausted coffee? Sub-clause (f) dealing with "oleomargarine and butterine or any similar substitute for butter," is an extraordinary provision. Good oleomargarine is infinitely superior to bad butter, and there is no clause prohibiting the importation of the latter. Oleomargarine does not go rancid so rapidly as butter, and there is nothing in the former to call for our branding it as a prohibited import. Certainly every State has a right to see that trade is honestly carried on, and that any article which is impure is not sold under the name or quality of another similar article which is dearer. But when we come to treat oleomargarine as a fraud on the community, we convict ourselves of being almost in the state of mind when it becomes necessary for our friends to look after us; and I hope that sub-clause (f) will be eliminated. As I pointed-out this afternoon, a small shipment of oleomargarine might, under the Bill, lead not only to the forfeiture of the shipment; but to a heavy fine and to the seizure of the ship itself. Subclause (g), giving the Government power to prohibit "all goods," is simply astounding. The Bill deals with all Australia, and not with any particular State, and, because of this, we ought to be more careful, and not accept a sub-clause of this extremely drastic and far-reaching nature. Sub-clause (d), dealing with goods manufactured by prison labour; is almost beneath contempt, the quantity of such goods being, so small as to be of no moment in the commerce of the world. Such provisions only afford Senator O'Connor and those of his faith an opportunity to claim that they are doing wonderful things in maintaining the industries of the country, - although, as a matter of fact, there are hardly any goods of the kind imported. When we deal finally with this clause to-morrow, I shall be prepared to assist in the elimination of certain of these sub-clauses.

Senator STANFORTH SMITH

- I do not see anything to object to in any of the sub-clauses. Objection has been taken to sub-clause (b), but surely we are not going to make Australia a dumping ground for light money. Then, as to oleomargarine and butterine, we do not want spurious butter to be sent to a great butter-producing country like Australia. We can supply the people with the pure article, without allowing the importation of stuff which is very often positively injurious to health. If that is one of the planks of free-trade, I am sorry for it. Butter exported from Australia, or, at any rate, from Victoria, has to be of a certain quality. Are we to pass a Bill which will leave it open not only for butter of a low quality, but an injurious substitute for butter to come in free? Such importation should certainly be prohibited. Subclause (g), which enables the Government to prohibit "all goods," comes from Western Australia, and it revives some recollections. I believe it was under a similar provision that apples were prohibited from coming into Western Australia for several years, much to the detriment of the people on the gold-fields. This sub-clause would be very dangerous if the Government liked to use it to its full extent. At the same time it is absolutely necessary to give the Government a free hand, as otherwise, if some noxious goods were being imported during the recess, it would be impossible to stop their importation until Parliament met. It is always necessary to give certain powers to the Governor-General or the Governor in Council in Bills of this kind. By curtailing the powers of the Government, we might do great injury to the

Commonwealth.; and I hope the clause will be passed as it stands.

Progress- reported;

<page>3714</page>

22:10:00

Senate adjourned at. 10:10 p.m.