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1901-07-18

House of Representatives.

LEAVE OF ABSENCE

Sir LANGDON BONYTHON

- I beg to give notice that to-morrow I will move that a further fortnight's leave of absence be granted to the honorable member for South Australia, Mr. Glynn. I may say that the honorable member is in Melbourne laid up with pleurisy, and that his medical advisers say that for some time to come he will be unable to attend to his parliamentary duties.

DISTRIBUTION OF HANSARD

Mr BATCHELOR

- I would ask the Minister who represents the Postmaster-General in this Chamber whether he will cause inquiries to be made as to delay in sending copies of Hansard to members of the various State Parliaments. It was promised some six weeks ago that this matter should be attended to, but it has not yet been done.

Minister for External Affairs

Mr BARTON

- I may say that of course the obstacles in the way of as wide a distribution as we could wish for still exist ; that is, that the Government Printer, with two Parliaments in session, is overburdened with work. But in order to have these matters dealt with as effectively as possible, I am asking the President and the Speaker to undertake, through their officers, the whole matter of the meeting and dealing with applications of this character as promptly as possible.

QUESTIONS

BROKEN BAY FORTIFICATIONS

Mr THOMSON

asked the Prime Minister (in the absence of the Minister for Defence) upon notice -

When the fortifications at the entrance to Broken Bay, approved as necessary for the defence of Sydney, are likely to be proceeded with.

Mr BARTON

- Plans and specifications for these fortifications were prepared in March, 1899, but tenders were not called for the work, and no action has been taken up to the present. Before any action is taken by the Commonwealth Government, inquiry will be made into the military necessity for the works, and as to the cost of the same.

INCREMENTS OF INSTRUMENT FITTERS

Mr HUME COOK

asked the Minister representing the Postmaster-General, upon notice -

Whether it is true that of five junior instrument fitters, three received an increment in December last of £66 per annum, and two only £6 per annum, making the salaries £138 and £78 respectively.

Whether, it is true that the three who received the larger increment are unmarried men, whilst the two who received the smaller amount are both married and have families.

Whether it is true that those who received the smaller increment are the seniors of the service, and that all do the same kind of work.

Whether the Minister will take steps to have this apparent anomaly rectified.

Minister (without portfolio)

Sir PHILIP FYSH

- The answers to the honorable member's questions are as follow -

Yes.

The Department is not aware, as no inquiry is made as to the social or domestic condition of officers when they are recommended for promotion or increase of salary.

Of the three promoted, one was the senior, one was junior to one other officer, and one was junior to two other officers. All do similar work.

There was no anomaly. The most suitable officers were recommended for promotion to the position of instrument-fitters at the increased rate of salary, and the reasons given were satisfactory to the Public

Service Board, who made the promotion accordingly.

#### AMMUNITION FOR COUNTRY RIFLE CLUBS

Mr PHILLIPS

asked the Prime Minister (in the absence of the Minister of Defence), upon notice -

Whether it is a fact that some country rifle clubs have been unable to obtain ammunition from, the Defence department ; if so, when will the department be in a position to supply the demand ?

Mr BARTON

- All clubs have received their free ammunition, except a very small quantity for members who joined last month, which will be sent out of the next issue of free ammunition. All clubs have been notified that they can purchase up to 50 rounds of Martini-Henri ammunition per member, and all applications received have been dealt with on this basis.

#### REPORTED PUBLIC EXECUTION OF SOUTH AFRICAN REBELS

<page>2744</page>

Mr.WATSON asked the Prime Minister, upon notice -

Whether he will have inquiries made as to the truthfulness of the statement that rebels have; recently been publicly executed in South Africa. - j

If the report is shown to be true, whether he will consider the advisability of protesting against such a barbarous proceeding.

Mr BARTON

- The answer is : - 1 and 2 - No doubt it will soon be made clear whether the statement is correct. In the meantime the adoption by the Government of the Commonwealth of the course suggested with the view of protesting would amount to the assumption of a right to inquire officially into the actions of the Imperial Government in affairs which are not under the self-governing jurisdiction of the Commonwealth .

#### ASSENT TO BILLS

Royal assent to the following Bills reported : -

Acts Interpretation Bill.

Supply Bill (No. 3).

#### PAPER

Mr. BARTON"

laid upon the table the following paper : -

Return showing the numbers respectively of permanent soldiers, militia, volunteers, and members of rifle clubs enrolled in each of the several States.

#### AUDIT BILL

Consideration of committee's further report.

Report adopted.

Treasurer

Sir GEORGE TURNER

- As it is a matter of some urgency that this Bill, which is certainly non-contentious, should be sent to the Senate as quickly as possible, I would ask that its passage may be facilitated. If I am allowed to send it on to-day the Senate will be able to make the second reading an order of the day for Wednesday next ; but if not, we shall not be able to send it forward until Tuesday, and delay will thus be caused. There is very little upon the business paper of the Senate, and under the circumstances I think I might ask for the suspension of the standing orders. I move -

That the standing orders be suspended to enable the Bill to be passed through its remaining stages without delay.

Question resolved in the affirmative.

Bill read a third time.

#### CUSTOMS BILL

In Committee

(consideration resumed from 17th July,

vide

page 2690) :

Clauses 251 to 253 agreed to.

Clause 254 -

No person being summoned as a witness at any inquiry under this Act shall -

Disobey such summons;

Refuse to be sworn as such witness,

Refuse or fail to produce any document he may be required to produce;

Being sworn as a witness refuse or fail to answer any question lawfully put to him.

Penalty- £20.

Mr CONROY

- We have a penalty of £20 provided for in this case, and I think that that is too high for the offence of failing to answer a question. When it is remembered that in clause 239 we have provided that a man shall be compelled to give evidence for the prosecution, and shall be liable to be cross-examined, it becomes the more incumbent upon us to consider whether we are not making the penalty under this clause much too high. I, therefore, move -

That the word "twenty," line 9, be omitted, with a view to insert in lieu thereof the word "five."

I would like to ask the Minister to look at sub-clause (3)

Sir MALCOLM McEACHARN

of the clause. That sub-clause seems very sweeping, providing that no person shall -

Refuse or fail to produce any document he may be required to produce.

A person may have a satisfactory explanation - to give why he is not able to produce a document, but there is no provision in the clause for such a contingency. A person may not have the document he is required to produce.

<page>2745</page>

Minister for Trade and Customs

Mr KINGSTON

- A special meaning is attached to "produce documents," the interpretation clause prescribing the meaning of those words to be the production of documents by a person to the best of his power.

Mr. CONROY

(Werriwa). - I must protest against the severe penalties proposed. One would think a convict had been placed over convicts to draw up rules, so severe are the penalties. No one would dream for a moment that these penalties were meant to apply to ordinary civilized men of to-day; we should have to go back to the times of Norfolk Island to find similar rules. If a man fails to produce a document, or fails to answer a question at the sweet will of the Minister for Customs, who is going to assume control over courts, these heavy penalties are to be imposed.

Amendment negatived.

Clause agreed to.

Clause 255 -

The Minister may make regulations prescribing all matters which by this Act are required or permitted to be prescribed, or as may be necessary or convenient to be prescribed for giving effect to this Act, or for the conduct of any business relating to the Customs.

Mr KINGSTON

- I promised to make it plain that these regulations should not be inconsistent with the Bill, and I move -

That after the word "regulations," line 1, the words "not inconsistent with this Act" be inserted.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 256 -

All regulations made by the Minister may afterwards be confirmed by the Governor-General and after such confirmation shall -

Be published in the Gazette:

Take effect from the date of publication, or from a later date to be specified in such regulations; and

Be laid before both Houses of the Parliament within thirty days after publication, if Parliament is in session, and if not, then within thirty days after the commencement of the next session;

But if both Houses of the Parliament pass resolutions at any time within thirty sitting days after such regulations have been laid before Parliament, disallowing any regulation, such regulation shall thereupon

cease to have effect.

Mr V L SOLOMON

- In many cases in some of the States we have found that this power to frame regulations, which shall have the force of law the moment they are published in the Gazette, is a very dangerous power. I suggest to the Minister that it would be much better, seeing that Parliament is now in session, if the necessary regulations were framed and laid on the table of the House, as they could be long before we go into recess. There is no occasion to give this power to frame regulations which shall have the force of law on publication in the Gazette.

Mr Mauger

- Suppose a special regulation be wanted ?

Mr.V. L. SOLOMON.- I do not think that in regard to the necessary regulations for the working of an Act like this there is any possibility of any such case arising. We have experience as to the Customs throughout the States, and we have the existing regulations to guide us. We have some months of time in which to frame the necessary regulations, over which the House might exercise a certain amount of control, and I therefore suggest to the Minister that the second sub-clause had better be amended. There may be cases in some legislation where it is necessary to provide for extraordinary regulations being framed during recess, but when the House is in session it certainly seems much fairer that honorable members should have an opportunity of seeing and expressing an opinion on regulations. If it be necessary to frame regulations in recess, the ordinary course is that they shall be laid on the table of the House within 30 days after the commencement of the next session.

Mr Kingston

- The regulations must be laid on the table.

Mr V L SOLOMON

- Precisely ; but still the regulations have the force of law from the date of publication. Is there any necessity for that while the House is in session? I submit that there is no necessity for it, and that the clause sets rather a bad precedent.

Sir MALCOLM McEACHARN

- I proposed moving in the same direction as that suggested by the honorable member for South Australia, Mr. Solomon. The present system of bringing into force regulations on publication in the Gazette may be applicable to the States as they have existed in the past. But where we bring in regulations that may have to take effect at Rockhampton, Townsville, or other distant places, it is very unfair that they should come into force immediately. I move -

That all the words after " effect," sub-clause 2, be omitted with a view to insert in lieu thereof the words "twenty-oneday's after publication, unless for reasons of urgency an earlier date is specified in such regulations."

I quite recognise that there may. be circumstances under which it is essential regulations shall be brought into force immediately, but I ask the Minister to accede to my request.

<page>2746</page>

Mr KINGSTON

- The form in which the power of making regulations is prescribed is by no means an unusual one. Honorable members know that it may be necessary to make a regulation to come into force at a very early date. We also recognise that in view of the larger area which may be affected by a regulation, it is desirable that full notice should be given unless there is some special reason to the contrary. But all these considerations must have weight with the Minister before he makes the regulation, and with the Governor-General before he confirms it, in fixing the terms of the regulation. It is not as if it were here provided that it is necessary for the regulations to come into force at once. What is declared is that the regulations will come into force on the day of publication, or on a later date to be specified in them. That is a fair thing.

Sir Malcolm McEacharn

- No.

Mr KINGSTON

- I think the provision is a fair one under all the circumstances, unless honorable members desire to cripple the hands of the Government in dealing with any special case.

Mr Conroy

- We do not want to give the Minister too much power.

Mr KINGSTON

- That is the one discordant note over there which disturbs the general harmony in one direction.

Mr V L SOLOMON

- There are plenty of similar notes over here on such questions.

Mr KINGSTON

- The principle which it is sought to recognise in the amendment of the honorable member for Melbourne is one which will undoubtedly guide a Minister and the Executive in making regulations ; and to declare that there shall be an arbitrary rule of the character referred to, might prove unsafe.

Sir Malcolm McEacharn

- Under the amendment the Minister can still deal with a matter of urgency.

Mr KINGSTON

- The honorable member desires that the regulations shall come into force at the end of a specified term of 21 days.

Sir Malcolm McEacharn

- Unless there be a matter of urgency.

Mr KINGSTON

- It might be a relaxing regulation.

Sir Malcolm McEacharn

- Then the Minister can make it a matter of urgency. It is entirely in the Minister's hands.

Mr KINGSTON

- If it is entirely in the Minister's hands, why not have it stated so in good set terms, without endeavouring to attach a formal limitation, when, as a matter of fact, practical limitation is not intended. I would ask the honorable member to consider whether any such limitation has ever been previously attached to a clause of this sort. I know of none, and under all the circumstances I would ask that the provision be left in the usual form, feeling sure the committee will believe that the Executive will not exercise a power of this sort recklessly. I further say that in connexion with the bringing of a Bill of this sort into force, a number of regulations may be in course of preparation, and it may be desirable to enforce them earlier than at the expiration of the interval suggested. I hope that under all the circumstances honorable members will see their way to leaving the clause as it is.

Sir MALCOLM

McEACHARN (Melbourne). - We are dealing with circumstances such as have never arisen in these States up to the present time. To my mind the amendment is absolutely necessary, and I intend to press on the Minister that we ought to have sufficient time for these regulations to be considered. The Minister is in a perfectly safe position, because, should he consider a matter to be one of urgency, the amendment leaves it entirely in his hands, whether the regulations shall come into force immediately. It is unfair to the various States to a great extent, that regulations should be passed and come into force immediately, of which regulations they have not the slightest knowledge. If the period of 21 days is too long, I am quite willing to reduce it to 14 days, but I am determined to press the amendment which I consider highly necessary. I may say that I am not dealing with this matter merely from my own point of view, but after communications from various parts of the States, urging that such an amendment should be passed.

Mr WATSON

- I trust the committee will not pass this amendment, which, so, far as it goes, merely states the words of sub-clause (2) in another shape. The honorable member for Melbourne has moved that the regulations should take effect 21 days after publication, or sooner in the case of urgency, while the clause provides that the regulations should take effect from the date of publication. The latter may be assumed to refer to cases of emergency.

Mr Kingston

- Yes.

Mr WATSON

- And then the subclause goes on to provide that the regulations may take effect at a later date to be specified in such regulations. It seems to me that the amendment and clause are exactly the same except

to the extent that the amendment would limit the notice to be given at the utmost to 21 days. I can quite understand that in some cases it would be wise for the Minister to give notice extending over a couple of months.

<page>2747</page>

Sir Malcolm McEacharn

- Let us make it not earlier than 21 days. I quite see the honorable member's point.

Mr WATSON

- I do not see that there is any virtue in the amendment suggested, because in the long run it will pan out in the same way as the clause itself. The Minister has the power under the clause of making regulations immediately operative, and he also has the power to make them come into force upon any future date which he may think fit. There is no essential difference between the object of the honorable member for Melbourne and the provisions of the clause itself.

Sir Malcolm McEacharn

- I beg to disagree with the honorable member.

Mr WATSON

- In each case it rests with the Minister to decide whether the matter is one of urgency or whether the regulations shall become operative at a later date to be specified. As there is only a matter of phraseology involved at the best, while at the worst there seems to be a possibility of limiting the notice to be given, I hope that the amendment will not be carried.

Sir Malcolm McEacharn

- If the honorable member's argument is correct the Minister ought to give way.

Mr Kingston

- Why alter the Bill for the sake of altering it ?

Sir MALCOLM McEACHARN

- It is considered a very important matter by those who know the circumstances. May I alter the amendment by making it read, "not less than 21 days after publication ? That will meet the views of the honorable member for Bland.

Amendment amended accordingly.

Mr PIESSE

- I should like to know who is to determine whether it is urgent that a regulation should come into force immediately?

Sir Malcolm McEacharn. - The Minister.

Mr PIESSE

- The amendment does not say so. I recognise that there is a good deal of force in what has been urged by the honorable member for Melbourne, but I think that it ought to be left to the Minister to make a reasonable use of this power. No doubt it is necessary that regulations should sometimes come into force immediately, and therefore the objection of the honorable member for South Australia, Mr. Solomon, will have to be passed over, because, if we have to wait until Parliament is in session, it may be that there will be a sitting to-day, and then an adjournment for three or four weeks, and it is impossible to say when regulations would come into force.

Mr KNOX

- As has been already pointed out, the conditions under which this Bill will shortly become law are exceptional. The mercantile community are very much concerned as to what these regulations will be. There is not the slightest wish to restrict the power of the Minister, but the mercantile community do desire that there shall be some limitation, and I hope that the Minister will reconsider the provision, and consent to the amendment proposed by the honorable member for Melbourne. I only wish to say that I shall be bound to support that amendment. I do so, not with a desire to restrict the power of the Minister in any shape or form, but simply to allay the feeling of insecurity which exists among the mercantile community in regard to the introduction of quite a new order of things. I hope that the Minister will see his way clear to reconsider this matter.

Mr REID

- It really seems scarcely necessary to appeal to the Minister by pointing out the absurdity of regulations taking effect from the day of publication all over a continent which has a coast line of about 8,000 miles.

These regulations will, to the extent to which they go, have the force of law, and penalties, no doubt, will be attachable to them, with the usual provision that there shall be a minimum. Apart from the question of punishment altogether, would it not be more in the interests of the Customs, to prevent disputes, friction, and vexation, that the authorities should give people a reasonable time in which to become acquainted with the laws in connexion with business matters which they are expected to observe? In the case of a Bill which is introduced into the House, they have the means of getting a general knowledge as to its provisions during its progress through Parliament. They get a certain amount of notice as to what are the provisions of any Bill. I think that this Bill is not to come into force until a date to be proclaimed. But with the regulations the case is altogether different. Supposing that the Minister feels there is one regulation in regard to which there should be an interval of notice between its publication in the Gazette and the period when it becomes operative-

Mr Kingston

- Could not the Minister give the notice under this clause?

<page>2748</page>

Mr REID

- Yes ; but that is no answer to my original contention.

Honorable Members. - Oh !

Mr REID

- I suppose that is a perfectly sensible remark to make. Surely if I find that one of two positions is not correct, that does not involve the destruction of the other? Is there any sense in that idea? I go back to the original idea which struck me, namely, that it is contrary to common sense that a regulation conceived in an office - conceived in the dark so far as the public are concerned - should appear in an equally mysterious publication called the Gazette, which not one person in a million ever sees, and should take effect immediately the Gazette goes out of the printing-office over a coastline of over 8,000 miles. The most rudimentary intelligence on the part of "any member of this House, or any member of a debating club, will show that that is going a little too far. If it is only a week, some period should be allowed in order to enable the telegraph wires to be worked.

Sir Malcolm McEacharn

- Or a fortnight.

Mr REID

- I want to come down to the grade of perception which I am addressing. I think a fortnight might seem to be an extravagant period of notice, and I want to accommodate myself to my surroundings. I would suggest - abjectly suggest - to the Minister, that he might let people get seven days' notice in which to advise their constituents all round the coast of Australia as to any new regulation of the Customs which may affect their business.

Mr Piesse

-What would be an extreme limit?

Mr REID

- I think that the amendment of the honorable member for Melbourne suggests a perfectly reasonable limit.

Mr PIESSE

- The regulations can provide that.

Mr REID

- They may ; but perhaps a department has been slow in getting the regulations ready, and endeavours to make up for its delay by giving immediate effect without allowing any period for notice. It may be important that the regulations should take effect on a certain day. In the case of a coast line such as I have delicately referred to, does the honorable and learned member for Tasmania, Mr. Piesse, not think that there should be a few days' notice given before the regulation takes the effect of law ? Surely some notice ought to be given, and it should be compulsory on the part of the Minister to give it. We are not asking any favour from the Minister. Regulations affecting Customs business ought to be known immediately, because the business of the next day all over Australia must be governed by that regulation issued from Melbourne. Some interval ought to be allowed. I do not intend this point to have any personal application to the present Minister, because we know that he will always do the right thing. But I do not

think that my right honorable friend has been appointed to a permanent office yet, and I want to see that his successor shall be bound by some restriction.

Mr A McLEAN

- I think that throughout the whole of this Bill we have been disposed to ignore the interests of the public in favour of the convenience of the Customs department. There is no doubt that we have drawn the widest possible distinction between the manner in which the general public are to be treated and the treatment which is to be extended to the Customs officers. But in this matter I certainly think that the Minister ought to give way. It seems monstrous that any person in a distant part of the continent should be liable to penalties for non-compliance with a regulation which has the force of law, before it was possible for him to receive any intimation as to its existence. Surely, if we expect people to respect the law, we should make it possible for them to do so. As this clause stands, it will be impossible for a person to be aware of the existence of a regulation, and yet he is to be held responsible for any violation of that regulation. I ask the Minister, who has shown a commendable spirit throughout - although he has been a little stiff at times - to give way upon this point.

Mr KINGSTON

- It is very difficult to resist the suggestion so temptingly put" by the honorable member who has just spoken.

Mr Reid

- Temptingly?

Mr KINGSTON

- Yes.

Mr Reid

- As if the right honorable gentleman could be tempted.

<page>2749</page>

Mr KINGSTON

- I should like to say to the right honorable and learned member, if it is not above the grade of perception to which he referred, that it would not be a bad thing for him to read a clause before he commences to criticise it, and then he would avoid half his speech. It seems--

Mr. REID

(East Sydney).- Am I to be attacked in this way,

Mr. Chairman?

I do- expect you to protect me from onslaughts, which seem to come systematically from the right honorable gentleman. Do you observe that my right honorable friend imputes to me that I have not read the clause ?

The CHAIRMAN

- I trust that honorable members - not only Ministers, but the leader of the Opposition - will assist me to maintain order. The Chair cannot maintain order unless the committee is determined that order shall be maintained. There is no reason why honorable members, even if they do not read the clauses, should not read the standing orders.

Mr KINGSTON

- I drop it all, and I say that the right honorable member did read the clause, but he did not understand it. In reply to the honorable member for Gippsland, I wish to say that if this clause were so framed that it necessitated a regulation coming into force immediately on the date of its publication-

Mr A McLEAN

- But it is possible. It may come into operation immediately.

Mr KINGSTON

- The Government, in that case, would not have a leg to stand upon, and I would cheerfully consent to an amendment of the character referred to. If, also, it were to be a recognised thing that Governments, having the power to do stupid things and being under the control of this House, did things which could be aptly described as monstrous, it would be necessity to modify the clause, but I wish to put two points to the honorable member. First, this clause does not necessitate the coming into force of a regulation upon the day of its publication, but distinctly contemplates its becoming operative on a later date than the date of publication - on a later date to be specified in the regulation.



Mr A McLEAN

- That is a secondary condition.

Mr KINGSTON

- The point I put to the honorable member is this - In some cases the regulation may not be so stringent, and in others it may be of a character relaxing or relieving previously stringent conditions. Would it not be a desirable thing that an amending regulation of the latter kind should be brought into force at the earliest possible moment.

Sir Malcolm McEacharn

- My proposal would give the Minister that power.

Mr KINGSTON

- While we would naturally resent a suggestion of bringing highly penal provisions into force without proper notice, still, the right of bringing into operation regulations of an altogether opposite character should, I venture to think, be left unchallenged. What I propose to give the Minister the light to do is to fix the date, subject to the control which Parliament possesses. Honorable members will notice that power is given to either House to interfere and cancel regulations if they wish to do so.

Sir Malcolm McEacharn

- But Parliament may not be sitting at the time.

Mr Conroy

- The Minister would take care to publish the regulations when Parliament was not sitting.

Mr KINGSTON

- The effect of this clause is that the power of making regulations is in - the form in which it is usually enacted, and I know of" no case in which a power of that sort has been abused.

Sir Malcolm McEacharn

- The Harbor Trust give a fortnight or three weeks' notice.

Mr KINGSTON

- And will not the Government of Australia be equally sensible?

Sir Malcolm McEacharn

- Then put the provision in the Bill.

Mr KINGSTON

- But the power given to the Harbor Trust to make regulations is not limited in the way the honorable member suggests. What we ask is that the usual power may be given on the usual terms.

Mr EWING

- It must be apparent to the committee that we are fighting about nothing. Of course if the Minister in charge of the department were an ignorant man it is perfectly clear what the result would be, but with a thoughtful administration there would be no danger of the clause. I desire to make a suggestion to the Minister. A number of his honorable friends are apprehensive that certain things may be done without fair consideration. It is only a matter of apprehension. In order to get over the difficulty could we not make the clause provide that the regulations shall take effect from a date to be specified in the regulations. In this way we would take out the objectionable part of the clause, which is annoying to the constitutional corner.

Mr A McLEAN

- Why not give Parliament power to fix the date.

<page>2750</page>

Mr EWING

- But Parliament cannot make regulations.

Mr A McLEAN

- There is no reason why the date should be left to regulations.

Mr EWING

- The amendment would leave it in the power of the Minister to fix a date, and give him an arbitrary power if he found it necessary.

Mr A McLEAN

- The regulations should not take effect from the date of publication unless in a case of urgency.

Mr EWING

- What the honorable member fears is the immediate coming into effect of these regulations. That fear

would be removed by providing that they should take effect from a date to be specified in the regulations.

Mr Reid

- We should state that the regulations shall take effect on a subsequent date, because unless we do that we shall be no further on.

Mr EWING

- Then the Minister could make the notice as short as he liked.

Mr JOSEPH COOK

- There is something in it, then?

Mr EWING

- No ; it is only one of those cases in which we find sensible men fighting about nothing.

Sir EDWARD BRADDON

- Did I understand the Minister in charge of the Bill to say that this clause specially provides that the regulations shall not come into force directly they are published ?

Mr Kingston

-i can assure the right honorable member that I did not say so.

Sir EDWARD BRADDON

- At any rate, the right honorable and learned gentleman said that Ministers desired to do as they liked on certain occasions. However great our confidence may be in Ministers, we do not want them to be able to do as they like when there is a chance that they may desire to do something dangerous to the welfare of the people of the Commonwealth. It seems absolutely monstrous, as the leader of the Opposition has pointed out, to provide that regulations shall come into force immediately on publication.

Mr Kingston

- The clause does not say that they " shall."

Sir EDWARD BRADDON

- It says that they shall come into operation at a later date. Does the right honorable and learned gentleman contend that the clause does not say so?

Mr Kingston

- It does not say they shall.

Sir EDWARD BRADDON

- It says that they shall come into force from the date of publication, or on some later date.

I think we ought to remove the danger of their coming into operation at once, and give the people a chance of knowing under what laws and regulations they are to live before they are passed.

Mr CONROY

- It is perfectly clear that if there is any hope of this provision being cast out we must not allow honorable members on the Ministerial side to speak about it, because, as soon as any Ministerialist gets up and opposes a clause, he at once regards that as a true reason why he should vote with the Government. I think all has been said on the subject that can be said. The Minister appears to be determined to carry out this provision, and as several honorable members behind him have openly declared that it is a bad clause, we know that they intend to vote for it.

Mr. REID

(East Sydney). - I am sorry that my honorable and learned friend and loyal backer has not tried upon this occasion to pour some soothing influence on the minds of honorable members on the other side. We do not ask our honorable friends to do an unreasonable thing. I would suggest to the Minister, as it is not a very large matter, that he might consent to some alteration, which would involve the principle that no regulation shall take effect on the very day that it appears in the Gazette.

The right honorable and learned gentleman may do that in any form that is acceptable to himself.

Mr Kingston

- Supposing we say that they shall take effect " on a subsequent date " ?

Mr REID

- Rather than have any wrangling on the matter, I would accept that proposal. It would recognise the principle we are contending for - that in no case should these regulations take effect on the day of publication, and Parliament will have expressed its will that there shall be notice.

<page>2751</page>

Sir MALCOLM McEACHARN

-I do not want to unduly press this matter, but I think the merchants and shipowners should have some consideration. In order to meet the Minister, I would amend the clause so as to provide that the regulations "shall take effect not less than fourteen days after publication, unless for reasons of urgency the Minister considers an earlier date should be specified in such regulations. I think the Minister should accept this suggestion. It is a very important body which is pressing, this matter forward, although I myself am only a very bumble individual.

Mr KINGSTON

- Does not the honorable member see that the Minister makes the regulation. He fixes a date, and he will not fix an earlier date than is required. Therefore, the provision which he suggests is not required in the Bill. It is the Minister who takes the initiative in these matters.

Sir Malcolm McEacharn

- Then why provide that the regulations shall take effect from date of publication?

Mr KINGSTON

- But, we add, that they may take effect from a later date, to be specified.

Sir Malcolm McEacharn

- That is what I object to. It is laid down in the amendment that a certain notice shall be given, and the Minister is to take the responsibility.

Mr KINGSTON

- And so he does, because he makes the regulation. I hope I do not appear persistent in this matter.

Sir Malcolm McEacharn

- I feel equally persistent.

Mr KINGSTON

- The desire of the Government has been to make as good a Bill as possible in the interests of all concerned.

Sir Malcolm McEacharn

- In the interests of the Customs.

Mr KINGSTON

- Oh, no ; it would be one thing to please the Customs, but another thing altogether to please the community.

Sir Malcolm McEacharn

- It is a very trivial thing which is being asked, but it means a great deal to those interested.

Mr KINGSTON

- The honorable member will not find any precedent for a form of the sort he has indicated, and it does appear to be a little troublesome.

Sir Malcolm McEacharn

- The honorable and learned gentleman was going to make his own precedents a little while ago.

Mr KINGSTON

- Yes, I was. But it does seem a little bit objectionable that we should put the provision in the shape suggested in the schedule. It is altogether unusual. The clause really means the same thing, and I think we had better leave it as it is.

Mr. REID

(East Sydney). - I understood the Minister was willing to amend the clause so as to provide that the regulations shall take effect from a date " subsequent to the date of publication."

Mr A McLEAN

- That would be mandatory. There are some urgent cases, in which it would be necessary for the regulations to take effect at once.

Mr REID

- It would settle the principle that there is to be some notice. Where regulations which would affect no one injuriously were concerned, the Minister could provide for them to come into operation on the day after publication, if my suggestion were adopted, so that he would practically have a free hand. It would enable Parliament to state on the face of the Bill that it considered notice should be given. The Minister would

interpret that provision to mean that where a regulation would inconvenience no one, it should come into operation the day after publication, but that where it would seriously and injuriously affect any man, reasonable notice should be given.

Mr KINGSTON

- If I can avoid the trouble of a division by an alteration providing for a later date, I do not mind, but if I cannot, then, having put the Bill in the best shape we could, we will do our utmost to stick to it.

Mr PAGE

- But the regulations may be necessary at once.

<page>2752</page>

Mr KINGSTON

- In all the circumstances I think we had better adhere to the clause as it is.

Mr. A.

McLEAN (Gippsland). - I think the Minister might reconsider this matter, and allow that Members of Parliament have some little responsibility in dealing with a question of this sort. We have the interests of the public to look after just as well as have the members of the Government. I have never throughout the whole of the discussions upon this Bill taken up five minutes of time, but I have assisted the Minister on every possible occasion, and sometimes I have done violence to my own feelings. This, however, is really a matter in which the interests of the public are vitally concerned. The proposal of the leader of the Opposition appeared to me at first to meet the case admirably, but there are some cases - very rare - such as an outbreak of a terribly contagious disease, in which it might be necessary to bring regulations into operation forthwith. The motion of my honorable friend, the member for Melbourne, or some modification of it, provides for that, because it allows of the Minister bringing regulations into operation forthwith if he considers that the matter is one of urgency, while in all other cases it is provided that due notice shall be given to the public before the regulations are enforced. Surely that is not an unreasonable thing to ask for, when, as has been pointed out, the matter is one that affects such an immense territory. The position is now very different from what it would be if we were passing regulations to have force in one State only. I have had experience in these matters myself, and I have known of many cases when it has been very questionable whether it was desirable even in the State to suddenly bring certain regulations into operation. We, however, are now dealing with the whole continent, and the case is so different that it appears to me that a custom that might be tolerated within the narrow limits of a State could not be permitted when made applicable to a whole continent. Why should the Minister seek to adhere so slavishly to a questionable custom of this kind

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I think the interests of the public should have some consideration, and that this fighting over small matters is not the way to promote good legislation.

Mr THOMSON

- I have been very reluctant to take part in this debate, because the difference between the two sides is so small. I have no hesitation, however, in saying that the Minister might have given way with good reason, because if there is any difference it is in favour of the proposal of the honorable member for Melbourne. There is no restriction of the Minister's power under that proposal, but it possesses the advantage of calling the Minister's attention to what is to be the basis of his decision. Ministers get into the habit of signing notices put before them by their officers. I do not speak from experience as a Minister, but from the experience of those who have had to do with Ministers, and I believe that Ministers very naturally are given to this habit. The proposal of the honorable member for Melbourne will have the effect of merely fixing the attention of the Minister upon what is to be the basis of his decision that any regulation is to take effect immediately. It will simply show him that he has no right to sign a regulation that will have immediate effect unless a case of urgency is shown by the officer who desires his signature.

Sir Malcolm McEacharn

- That is really my object.

Mr THOMSON

- At the same time the Minister's power will not be restricted one iota.

Mr Mauger

- Then what is the value of the amendment 1

Mr THOMSON

- I have already explained my reasons, and I think the amendment has the value that I have described. There is not a great deal of difference, but what difference there is is in favour of the proposal of the honorable member for Melbourne, and the Minister would have done well and saved time had he accepted it in the first instance.

Mr. REID

(East Sydney). - I would like to point out that one reason given for the provision in the clause, viz., that there might be some outbreak of disease which, would require to be dealt with promptly, is a very fanciful and ridiculous suggestion, because such a matter would not come under this Act at all. The Government are not bound by Acts of Parliament when they are called upon to arrest the spread of an infectious disease. When that terrible outbreak of disease took place in Sydney recently, and people were taken from their homes and placed in the quarantine station, there was not a shred of law to justify the action of the Government. There was nothing in the law to warrant the action

6i

the Government in barricading streets, in secluding houses, and burning property in houses, and yet all these things . were done by the Executive.

Mr A McLEAN

- It might be necessary to deal with diseases in stock.

<page>2753</page>

Mr REID

- The power to do anything in the way of preventing a public calamity is one which the Executive will always exercise with the confidence that Parliament will validate their action, and it is of no use bringing up these small bugbears in the discussion 'of a matter of this, sort. As I pointed out, under my suggestion the regulations would come into force the very next day, and that would be practically immediately, but the member for Melbourne goes further,' and would allow the Minister, where there is a case of urgency, to bring the regulations into operation forthwith. The Minister spoke of the power of Parliament to censure the Minister in cases where he does wrong ; but supposing that we pass this provision and the Minister I makes a mistake in judgment, and issues regulations without notice, such as the public ought to have, and supposing, further that he is pulled up in Parliament - although such an opportunity does not often occur - the Minister would at once say - " Why didn't you say so ; why didn't Parliament put provisions in the Act providing that notice should be given ; Parliament showed that the presumption was to be in favour of notice, unless there was some urgency about the matter."We are responsible for laying down the lines of regulation that the Minister has to follow in his department, and if we allow him to do all these things, all sorts of unsatisfactory things may follow. To refuse the request of the honorable member for Melbourne seems to be a stretch of arbitrary power ; but it was only when the Minister found that he was supported by the labour corner that he came to the decision to fight the matter out. My feeling is that when thoroughly reasonable amendments are proposed by Ministerial friends and supporters, which leave the Minister in practically as good a position as under his original proposal, his resistance to such suggestions is not calculated to assist the course of legislation. I made a suggestion which I thought was a perfectly peaceable one, and if the Minister will not accept that I think he at least ought to agree to the one proposed by the honorable member for Melbourne.

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

The Committee divided -

Ayes ... .. 31

Noes ... .. -25

Majority ... .. 6

Question so resolved in the affirmative.

Amendment negatived.

Mr REID

- May I point out the delightful distinction that seems to be made by the Minister between the public and the Customs officials. Whilst the public are not supposed to need any information about new regulations that are to govern them, and are to be made subject to them without any notice, the most leisurely steps on the part of the officials are provided for after the regulations have been duly published in the

Government Gazette. Every one knows that the Government Gazette is one of those papers which nobody except a limited official circle, such as Government poundkeepers, and people of that sort ever reads. The best chance the public have of information regarding regulations that have been passed is when those regulations are placed on the table of this House. The regulations then come within reach of the press, and in that way the public get some knowledge of them. But the Government, who would not allow even a day to intervene between the publication of the regulations in the Gazette and their having the force of law, actually take 30 days after they are published for the task of laying them on the table of this House - the very onerous task of bringing a piece of paper from the Government Printing Office and laying it on the table, so that the public may have an opportunity of knowing what the regulations are. With the assistance of our friends in the corner, we have prescribed a lightning pace for the public, and now I ask my honorable friends whether they will sanction the official pace - 30 days after publication in the Gazette.

An Honorable Member. - That is the Government "stroke."

<page>2754</page>

Mr REID

- Is that the stroke honorable members desire ? May I suggest that seven days is the period allowed under other Acts, and that would be a fair period to allow under the present circumstances.

Mr Kingston

- Make it ten days.

Mr REID

- Whichever the Minister likes - seven days or ten days.

Mr KINGSTON

- The period prescribed in the clause is a long one, but things of this sort--

Mr Thomas

- Stick to the Bill.

Mr Kingston

-I will stick to the

Bill so long as I think the Bill is right, but when I think the measure can be improved, shall assent to its improvement ; and I only wish I. could see with my friends opposite more than I have had the good fortune to see with them in regard to this measure! I am willing to cut down the period from thirty days to ten days.

Mr Reid

- Cannot the Minister make it seven days?

Mr KINGSTON

- Three days are hardly worth disputing about.

Mr Reid

- Then why not make it seven days ?

Amendment (by Mr. Kingston) agreed to-

That the words "thirty," in paragraph III. be omitted with a view to insert in lieu thereof the word "seven. "

Mr ISAACS

- I would suggest to the Minister that the last sub-clause be omitted. The clause already provides that regulations shall be published in the Gazette, and shall take effect either at the date of publication' or at any subsequent date the Minister may fix ; and finally it is provided that the regulations shall be laid before both Houses of Parliament within seven days. In the last sub-clause it is provided that a resolution of both Houses is required to rescind regulations, and I suggest that provision should not be adhered to. Under the Acts Interpretation Act, section 34, sub-section (3), it is provided that where an Act confers a power to make regulations, that is to include a power exercisable in like manner and subject to like conditions, if any, to rescind or vary them. It will be very questionable, in the first place, whether the express provision of this sub-clause would not prevent the Minister acting under the implied power in the other Act. It might be considered as amounting to a Parliamentary declaration that that was the mode of getting rid of regulations. In any event, I think it is too much to say that it will require a resolution of both Houses of

Parliament to induce the Minister to vary or rescind a regulation. I would suggest to the Minister that he

keep full power. If there is an intimation under sub-clause (3) from either House of Parliament, but more particularly from this House, requesting him to rescind a regulation, he should have full, ample, and unquestionable power to rescind it. When the Minister comes to consider, I think he will see that the last sub-clause puts a possible fetter on him, while it cannot possibly give him any power he has not now.

Mr KINGSTON

- It is not a question of giving the Minister power he has not, but of giving Parliament power it has not. at present. I think the better criticism in regard to this special clause is that it does, not give sufficient power to the other House.

Mr Isaacs

- Does not give sufficient power to the other House?

Mr KINGSTON

- We have had a practice in another State of making all regulations subject to parliamentary disallowance, and there is a great deal to recommend that course. Whatever there may be to recommend such a course in a State Legislature, there is more, it seems to me, to justify, it in a Federal Legislature. If we were to strike out this sub-clause the simple position would be that there would be no power for the other House to do much in connexion with the suspension or cancellation of regulations. As this is a modified power of legislation, I doubt whether we should be justified in, going to the extent suggested, and the better alteration would be to omit the word "both," and insert "either," making the clause read, "But if either House of the Parliament, " and so on.

Mr EWING

-Supposing the Houses pass different resolutions, which . would the Minister obey ?

Mr KINGSTON

- I think it is fairer, under all the circumstances, to both Houses of the Legislature, to take out " both " and insert " either."

Mr. ISAACS

(Indi).- May I point out the consequence of retaining the sub-clause ? The sub-clause actually says that the Minister, without consulting this House, may make a regulation, and that this House is to have less power than the Minister in saying whether the regulation shall, be disallowed.

<page>2755</page>

Mr Kingston

- Less power?

Mr ISAACS

- Less power, because this House may pass a resolution disapproving of a regulation, and yet the Minister is not to have the power, on that mere resolution, to cancel the regulation.

Mr Kingston

-no ; the vote cancels the regulation.

Mr ISAACS

- I say that the Minister need not obey this House. .

Mr Kingston

- Then the Minister goes elsewhere.

Mr ISAACS

- I say that the position is wrong. If the House passes a resolution disapproving of the act of the Minister, the Minister, according to the sub-clause, may not act on the resolution.

Mr Kingston

- The Minister will undoubtedly act on a resolution of this House.

Mr ISAACS

- Do I understand the Minister to say that, although the subclause requires both Houses to pass a resolution, he will act on a resolution of this House ?

Mr Kingston

- I am proposing to make it "either" House.

Mr ISAACS

- I object to that, because I think it is wrong.

Mr KINGSTON

- In answer to the honorable and learned member's question, I may say I take it that the authority to make will carry the authority to unmake, irrespective of any exercise of this clause. That has been held time and again. Regulations have been made with this authority given to either branch of the Legislature to veto them. That power has not been exercised, and again and again the Minister has repealed regulations and put others in their stead. This is not a limitation of the power of the Minister or the Executive in the slightest degree, but is conferring a power on either branch of the Legislature ; and, as this is a modified species of legislation, it is a power they ought to possess.

Mr McCAY

- I would ask the Minister to consider what he is. doing. I listened to his remarks with a good deal of alarm and apprehension. Suppose that without this sub-clause the Minister brought into force regulations of which this House did not approve. In such case this House would very soon make the Minister repeal or cancel those regulations, and very properly so, because the Minister is responsible to this branch of the Legislature.

Mr.Kingston -Hear,Hear

Mr McCAY

- And to no other branch of the Legislature, whatever its importance may be otherwise.

Mr Kingston

- Hear, hear.

Mr McCAY

- We have advisedly and deliberately adopted, so far as we can do it in black and white, the principle that the Government is responsible to one Chamber.' The clause, as it stands, produces the result that the Minister can almost say, as a matter of law, that he has to get the decision of both Houses, before he can be called on to repeal regulations ; and, if the clause be altered to " either House," there will be a beautiful state of affairs. It will mean that this House is to have taken away from it that control of Ministerial existence which is a portion of the essence of its powers... For example, suppose regulations are framed and gazetted by the Minister, and that this House approves, while the other House disapproves, of those regulations, then this House, to which the Minister is directly responsible, would find itself over ridden by a branch of the Legislature to which the Minister is not responsible, and the responsibility of Ministers to the House of Representatives would thereby be very much lessened and interfered with. We do not want to initiate a system that will in effect enable the other branch of the Legislature to pass votes of want of confidence in Ministries.

Mr Isaacs

- In effect, to legislate.

Mr McCAY

- In effect, to make laws contrary to our desires, because if a regulation is passed here of. which the other House disapproves, then the other House practically repeals legislation which we desire to see in existence. The Minister must see that it is impossible to make the clause read "either branch of the Legislature." He must make it both branches. It may appear a small thing-

Mr Kingston

- It is not a small thing.

<page>2756</page>

Mr McCAY

- At present, of course, we have the two Houses in a state of the utmost friendliness, but if they were in a state of tension we do not know to what results these little things might possibly lead - what subversion of what we consider is the proper constitutional status of Ministers might flow from it. I urge the Minister not to alter the clause in the way suggested.

Mr. REID

(East Sydney).- I have very rarely found myself at issue with the views advanced by. the honorable and learned member for Indi during the course of the debates upon this Bill. On this occasion, however, I must differ from him. I should like to put forward my view, which, I think, is a sounder view. The Act will be the result of the legislation of the two Houses. The regulations will be legislation in the name of the Parliament by the Minister, and new legislation, because if a thing is in the Bill already it need not be put into a regulation. It is legislation, and new legislation. Just as a Bill requires the concurrence of both Houses to



make it law, so, if the Minister legislating in the name of the two Houses takes a line of which either House disapproves, the disapproval of one House should be sufficient to veto the legislation of the Minister, because his legislation should not be more easily passed into law than the legislation of this Chamber. Our legislation cannot pass into law unless the two Houses concur in it. Why should legislation by the Minister pass into law, and be beyond the power of either House to veto it

1

It is giving him a larger power of legislation in that respect than we ourselves possess.

Mr HUME COOK

- To which House is he responsible?

Mr REID

- That is raising a very mischievous and unnecessary contention upon this particular clause. Whatever our views on the point may be, we never wish to raise them when it is not at issue. These are among the reserve powers of the Chamber, which we do not wish to parade when they do not come into question. I would point out that that question does not come in here, because the other House undoubtedly has the power to throw out a Bill, or any clause of it, if it disapproves of it. It has power to throw out any clause of which it disapproves, and no honorable member will say that it has not the right to throw out a machinery clause. If it is right that the Senate should have the power to reject a clause which this House has approved, surely the other Chamber ought also to have the right to reject a clause which under the authority of both Houses the Minister, by regulation, has enacted, because that would be legislation over which neither House has any control except that which is given by a clause of this sort. Unless this proposal is inserted on the very theory raised by the honorable member, the other House would be debarred from any practical influence over the regulations of the Minister in virtue of the Act. This House has a hundred ways of making the Minister do as it wishes. But on the theory of the honorable member, the other House has no such opportunity of carrying out its views. It can do so only by resolution, which the Minister would disregard if it took the form which has been referred to. Consequently, the Minister is making a sound alteration, and one which will not bring the two Houses into conflict. There is no procedure specified here to compel the other House to pass a resolution. It is not as if the clause compelled both Houses to express an opinion, in which case there might be a conflict. Such a conflict might arise under the words "both Houses." But if the disapproval of one House will settle the matter there will be no conflict, because if this House passes a resolution the matter is over, and the regulation is dead. So, if the other House passes a resolution against a regulation, that regulation is dead, and there is no occasion for this House to interfere. It is very unlikely that anything would come up which would warrant a conflict between the two Houses, because this House could always assert itself without any provision in an Act. We do not need these clauses, but the other House may need them in order to refuse its sanction to legislation which is proposed. Their privileges, in certain events, cannot be pushed very far. The dearest and best privilege of all is that of dealing with the Executive Government of the country.

Mr HUME COOK

- That is just the opportunity which we do not wish to give them. ,

Mr REID

- But when we are dealing with legislation the case alters. . The Executive Government and its relation to the Houses is one thing, and the power of legislation is another thing. With reference to the power of legislating under this Act, the other House has equal power with us, and therefore the other House should have the right to veto a piece of legislation passed by the Minister under this Bill if it thinks fit.

<page>2757</page>

Mr WATSON

- There is only one little phase of this question to which I wish to draw attention. I agree with the tenor of the remarks made by the Minister and by the leader of the Opposition. But in answer to the objection put forward by the honorable and learned member for Corinella, I wish to say that it seems to me that unless the amendment be carried, there is a danger, not of this House losing power, but that it may have legislation forced upon it without the possibility of other than a protest. Supposing that the consent of both Houses were necessary to disallow any regulation. This House might protest against any particular regulation, and having so protested - finding the other Chamber in favour of the regulation- the Minister

and the other Chamber would prevail', and this House would have no opportunity for its consent being obtained.

Mr Piesse

- The Minister would revoke it upon his own initiative then.

Mr WATSON

- He might, or he might not. So long as either House can prevent legislation going through, this House can, at least, insure that no regulation is passed in which it does not believe. It seems to me that under the bi-cameral system we can ask no more than that each House should be placed upon an equal footing. I therefore favour the amendment proposed by the Minister.

Sir MALCOLM McEACHARN

- I should like to ask what effect this sub-clause will have. Supposing that regulations are cancelled, will they cease to be operative from the date of their cancellation, or will they have no effect from the date upon which they were made? It may happen that certain charges have been made and certain expenses paid under a regulation which does not become law. Under this clause it appears to me that in such a case the money would not be returned. I think that the words " from the date when such regulation came into force" should be added to the clause.

Mr Kingston

- I think not.

Mr Reid

- That would create great confusion.

Mr Kingston

- That would have a retrospective effect, and acts done under the authority of the regulation might be questioned, with the most extraordinary results.

Sir MALCOLM McEACHARN

- That is why I wanted a longer period. I can see more reason than ever for a longer period being prescribed.

Mr KINGSTON

- I move-

That the word "both," sub-clause (4), be omitted with a view to insert in lieu thereof the word " either."

Mr PIESSE

- May I suggest that it is desirable that some notice should be given of any intention to pass such a resolution? Otherwise a resolution may be passed upon a catch vote, and it is very undesirable that regulations should be nullified by a vote carried in such a way. There ought to be some days' notice given of the intent to move such a resolution.

Mr WINTER COOKE

- I have been very much impressed by the arguments of the honorable and learned member for Corinella. It seems to me that if another place were to disapprove of regulations passed by the Minister, and this House expressed its approval of them, there would very likely be friction between the two Houses eventually. The Minister might try to ignore the decision of the other Chamber, but he could not actually ignore it, because it is provided for within the four corners of the Act. I think that in such a case a very dangerous precedent might be established, because, if, as has been pointed out by the honorable and learned member for Corinella, a regulation were passed by another place which was not passed by this House, there would be a feeling raised, within a very short time, between the two Houses, which would be very undesirable indeed. I would much rather see the sub-clause passed as it stands, or omitted altogether.

<page>2758</page>

Mr A McLEAN

- I would point out to the Minister that under our present Constitution legislation requires the sanction of both Chambers before it can become law. If both Chambers do not agree to the passing of legislation, then its passage must be postponed until they become in accord. Now, the regulations Of the Governor-General have the sanction of law. They are to all intents and purposes legislation, and therefore they should have the concurrence of both Chambers. If they conform to the provisions of the Act, then they have the concurrence of both Chambers, but if the Minister departs from the spirit of the Act in the

opinion of the other Chamber, then I think it is quite right that that legislation should be postponed until both Chambers are in accord. Therefore it is better to adopt the suggestion of the Minister, and to substitute the words " either House"for "both Houses." No injustice will thereby be done to either House, because the first resolution passed by either House will have the effect of rescinding the regulation. The other House need not move in the matter at all. Thus no conflict or friction whatever can arise. It is an easier method of rescinding a regulation to provide that it maybe done upon a resolution of either House than to insist that a resolution of both Houses should be necessary. We have no guarantee that both Houses will pass similar resolutions. One House might not move at all. Therefore if one House passed a resolution, and the other House did not, friction might be the result.

Mr Sawers

- Supposing the other House does exactly the opposite.

Mr Kingston

- It would be useless.

Mr A McLEAN

- Such a contingency is not likely, but it is necessary under our Constitution that legislation should have the sanction of both Houses.

Mr Isaacs

- And also that the repeal of legislation should have the sanction of both Houses.

Mr A McLEAN

- But it is only tentative legislation until laid on the table of the House.

Mr McCay

- Oh, no !

Mr A McLEAN

- I quite admit that the action of the Government in bringing it into operation instantaneously would not be desirable.

Mr McCay

- There is a right to repeal existing legislation under this sub-clause.

Mr A McLEAN

- It confers a right to repeal a regulation framed by the Minister, but supposing either House considered that that regulation was not in accordance with the letter and the spirit of the Act, then either House would have a perfect right to express its opinion to that effect.

Mr SAWERS

- I cannot understand the argument raised by the leader of the Opposition and my honorable friend the member for Gippsland. I prefer that the Minister should adhere to the clause as it is or abandon it altogether. We do not require to be told that both branches of the Legislature are equal, but if we are equal in passing laws we should also be equal in doing away with them. What is the position 1 By a small majority in the other House regulations under this Act might be disapproved of. One House is to have the right to disapprove of legislation, and, as has been pointed out, the effect of this amendment will be to permit one House to undo what the two have done.

Mr Watson

- No; only what the Executive have done.

Mr SAWERS

- It would be far better to do away with the clause and leave the responsibility with the Minister. I would vote against the idea of one Chamber having power to undo what the two branches of the Legislature had previously agreed to.

Mr Watson

- But the two Houses do not make the regulations.

<page>2759</page>

Mr SAWERS

- Supposing the two Houses disagreed in a matter of this kind, if a resolution of either House were to do away with a regulation, then one House would be able to do something against the will of the other Chamber. This House, for instance, might affirm that certain regulations were right, yet a resolution passed in another place would compel the Minister to undo them. Thus, we might have one House

expressing disapproval of certain regulations and causing them to become null and void, while the other House might absolutely approve of them. I hope that the Minister will stick to the clause as it is, or else adopt the suggestion made by the honorable member for Indi.

Mr. McCAY

(Corinella). - I want to state a case to the committee, taking a subject within our competence in which at present there is no feeling. Supposing on the question of weights and measures the two Houses held very different views ; supposing there was a majority in this House taking one view of a measure on the subject, and a majority in the other House taking the opposite view, and that we had passed a Bill relating to weights and measures at a time when the two Houses did not feel so very strongly on it. If a question afterwards arose, when regulations were being framed to insure the proper enforcement of that Act, then the House which wanted to enforce the law would be at the mercy of the House which did not wish to do so, and the latter could annul the regulations as fast as they were made. I presume that under this Bill a large number of regulations will be necessary, in order to enable the Customs authorities to take proper steps in regard to their Tariff laws and Customs laws. Supposing that one House of the Legislature, owing to heated public feeling, made up its mind that it did not want the Customs or Tariff laws in operation to be carried into effect more than could be helped, and therefore persistently annulled by resolution the regulations which the Minister and the other House recognised were absolutely necessary in order to carry those laws into effect. If the other House continually annulled those regulations, while this House approved of them, the Ministry would be under the whip of the other House, in a way that would utterly destroy any responsibility they might have to the Chamber which wanted to see the regulations carried into force. The more I think of the matter, the more I fear that one branch of the Legislature, by persistently saying "No," could bring the Ministry under its thumb to an extent which should not be permitted, however responsible the Ministry ought to be to any particular House.

An Honorable Member. - Would not the other House have helped to pass the Bill?

Mr McCAY

- Yes; but this amendment places in the hands of either House an instrument of warfare which at present they do not possess. On any contentious matter the two Houses may have considerable differences of opinion. It may be that one House will persuade the other to accept its views ; it may be that compromise may be necessary.

Mr Isaacs

- Or amendment.

Mr McCAY

- There is no power here to adjust regulations when the two Houses are not in agreement. I do not think that we should agree to a power in the Minister to keep bringing down regulations, conferring with either House, until each had suggested proposals, and until finally quasi amended regulations had been got into a certain form. I think we should leave the clause as it is - that is, if the Minister wants it to remain in the Bill at all. In my opinion, however, it is better to leave it out altogether. I am very much afraid it involves a limitation of the power of repeal which the Minister would otherwise have.

Mr A McLEAN

- Supposing this House passed a resolution for the rescission of certain regulations, and the other House would not move in the matter, would the honorable and learned member have the Minister flout the opinion of this House?

Mr McCAY

- That is a reason for omitting the clause. I say that whatever is right, to give this power to either House is wrong. To give to a House which does not approve of a measure a whip over the Minister, and to enable it to repeal the regulations under that measure, would be a very unwise procedure. It would be a power given to one House to control the Minister to such an extent as to alter his position as intended to be settled by the Constitution. I am afraid that this sub-clause, as suggested by the honorable and learned member for Indi, impliedly forbids the Minister to repeal regulations in any other way.

Mr Kingston

- Oh, no !

<page>2760</page>

Mr McCAY

- I think it does. I think it gives to the two Houses another weapon with which to smite each other when constitutional warfare arises. I do not consider it is a wise thing to keep giving to the Houses fresh legal constitutional weapons, so to speak, for use when we do come into conflict. No doubt we shall find occasion for quarrel in some way or other. In the interests of peace and good government, and in the interests -of the community, it is not desirable to do anything "which will increase the possibility of friction between the two Houses.

Mr. ISAACS

(Indi). - I do not think the Minister "has quite done justice to the view put before him. There are two points to be considered in regard to this sub-clause. The first is whether it cuts down the power possessed by the Minister " under the ordinary law, quite independent of this proposal to rescind or vary regulations at his discretion. If it does cut down that power as it now stands it will equally cut down the Minister's power if he alters the expression " both Houses " to " either House." If it does not cut down his power, then he gains nothing whatever in point of power by putting' this sub-clause in. He provides that either House may compel the rescission of regulations, and he would leave himself in this position. There are two ways of getting rid of regulations - either at the discretion of the Minister or at the discretion of either House. The effect of the sub-clause, as pointed out by the honorable member for Corinella, is, that although the Minister responsible- primarily to this Chamber may think a certain regulation is necessary for the purpose of guarding the Customs, and this House agrees with him in that respect, still the joint opinion of the Government and this House may be overridden by the vote of the other- Chamber. Surely that is a novel feature in responsible government. I should like to say to the honorable gentleman that he seems to me to be rather ill-advised in courting friction in this respect. He has the power to rescind a regulation independent of this sub-clause if he sees fit. ' Either as the result of a resolution of the other Chamber or of this Chamber, or as the outcome of an expression of opinion outside, he has. always the power to rescind a regulation. But if this House is called upon to express an opinion, and expresses the opinion that a regulation which is in force should not be repealed, and the other House comes to another conclusion, why should that regulation be repealed by the will of the other chamber ? I certainly think that the right honorable gentleman should strike out the clause and not raise this question. There is no necessity to raise it,, and by doing so he is courting friction.

Mr HUME COOK

- Let the other House look after itself.

Mr ISAACS

- Exactly. I think it is ill-advised to put such a sub-clause into the Bill. The Minister is giving rise to a question which might have momentous consequences. I think that the right honorable gentleman is rightfully claiming, as . he has done throughout this Bill, to have full power. The Minister would have more power without it than with it, as he could not be coerced practically without a vote of want of confidence in the Government, on the. ground that they had not carried out the resolution of the House. Yet the Minister is proposing to build up material for possible future conflict. The argument of the leader of the Opposition would appear, at first sight, to have considerable force, but, if he will allow me to say so, there is a fallacy underlying it. While the consent of the two Houses is undoubtedly necessary to enact a law, once that law is enacted, and regulations are declared by the earlier part of the section to be an enactment, nothing is void that is done under it. It is also the fact that the joint consent of the two Houses would be required to repeal that law, and therefore the argument of the right honorable gentleman seems to be wanting in force when he considers that the will of one House will be sufficient to repeal it. I do not think that we should have a. provision that the vote of either House should of necessity secure the repeal of a regulation. AVe should leave it law until repealed by the powers which enacted it. Then no advantage would be given to either House on the face of an Act of Parliament. No distinction would be made in the power of either House with regard to repeal, and the whole matter would be guided by ordinary course of Constitutional practice. If the Minister adheres to his present intention, this House will be very chary of granting wide powers of regulation. The House will see that the Minister does not have power to make regulations which may be swept aside, however much this House may wish them to remain in force, merely at the will of another Chamber. I think that the Minister will do well to strike out the clause, which really gives him no power, and which may possibly take power away from him.

Mr. PIESSE

(Tasmania). - I hope the Minister will take the course that has been suggested by the honorable and learned member for Indi. I must confess that my opinions have undergone a change since I have heard this debate. I thought, and doubtless it was generally recognised, that the Minister framed this clause with a view to conceding to Parliament the power of review over the extreme authority which was to be reposed in him under this Bill ; but, on full consideration of the arguments -I have heard this afternoon, I am constrained to think that the right course will be to leave the clause out of the Bill.

Mr FISHER

- I differ from the honorable members who have just addressed the committee, because I hold that no Executive should have power in excess of that exercised by either Legislative Chamber.. I admit at once that the Executive has no power unless such power has been delegated to it by both Chambers ; but if one of the Chambers in its legislative capacity has given the Executive all the power it intended to give, and the Executive exercises powers which it was not .intended to give, has not that Chamber the right to say - "Ave never gave you the power, and we object to your exercising it against ourselves ;) ?

Mr Isaacs

- If any power were exercised beyond that conferred by Parliament, the action of the Executive would be illegal.

<page>2761</page>

Mr FISHER

- I quite understand that; but if the matter were in doubt, who would decide? That is the whole question. . Does the' honorable and learned member for Indi imagine ' that a regulation that it would be clearly within the power of the Executive to make would be in any way questioned by the other Chamber? Is it to be supposed that the Senate will not always consist of men who are as able and anxious to legislate for the just good of the country as ourselves? We must be guided by common sense as well as legal acumen in these .matters. I have been endeavoring to cut down the power of the Executive for many years, and I think that in a matter of this sort we should not grant too wide powers to the Executive. I have no fear-that anything will be done by the Other Chamber to encroach upon our rights, but if any attempt of that kind should be made, we could deal with the question by legislation, and if they refused to agree to that legislation, we could avail ourselves of the remedy that the Constitution provides, and if necessary go to the country. When such a time arrives we shall be quite capable of fighting the matter out, and I have no doubt that those who have the best case will win the day.

Mr KINGSTON

- The matter appears to the Government in this way : That this power of making regulations is a power of legislation by Executive on minor matters, practically with the tacit approval of both Houses of the Legislature ; and we can hardly expect that both Houses would be willing to confer unrestricted power on an Executive that was responsible to only one branch. It seems to me, therefore, that if this regulation of minor matters depends upon the tacit approval of both Houses, there must be some mode provided of enabling either branch of the Legislature to say whether it approves or not. If either branch of the Legislature does nothing, its approval is to be taken for granted ; whilst if it, disapproves it acts accordingly by disapproving of the regulation.

Mr Isaacs

- Have the Government given this power in any other of their Bills.

Mr Reid

- It is in the Inter-State Commission Bill, but in a better form. It is not in any of the other Bills.

Mr McCay

- It is in the Inter-State Commission Bill as regards the commissioners.

Mr Isaacs

- Yes; but that is another matter.

Mr KINGSTON

- It is a very familiar provision with us in another State.

Mr V L SOLOMON

- And it has never worked any harm.

Mr KINGSTON

- No, it has never worked any harm.

Mr A McLEAN

- In Victoria we have such a power under the Factories Act, not in connexion with regulations, but for bringing trades under the operation of the Act.

<page>2762</page>

Mr KINGSTON

- It seems to me that we can hardly fairly ask the other branch of the Legislature to consent to the large power of making regulations. which is conferred by this Bill, unless we concede to them the same power as we possess ourselves with reference to the making of those regulations. I am satisfied of this - I do not know whether the honorable and learned member for Indi holds a different opinion, but I think he expressed himself in some qualified terms - that the power of the Minister as regards the making and unmaking of regulations exists subject to the Parliamentary control here provided. It has always been held with us that the power to make implies the power to unmake by similar procedure. Our present point is as to whether we should deny to the other branch of the Legislature the power we would undoubtedly possess ourselves. With regard to the suggestion that the other branch of the Legislature, which has first deliberately committed itself to the principle of certain legislation, would persistently obstruct and prevent effect being given to that legislation by the exercise of some power which might be given to it in connexion with the framing of the regulations, I do not think there is any fear of that, and I do not see any reason to withdraw from the position I have already taken up on the matter.

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

Ayes ... 12

Noes- ... 38

Majority ... 26

Question so resolved in the negative.

Amendment agreed to.

Mr KINGSTON

- There must be. a consequent amendment altering the word "Houses" to "House." Then the time of 30 days allowed in the sub-clause is somewhat long, and I propose to reduce it to 15 days. I move - That the word " Houses," line 14, be omitted, with a view to insert in lieu thereof the word "House."

Amendment agreed to.

Amendments (by Mr. Kingston) agreed to.

That after the word "pass," line 1:5, the word "a" be inserted ; that the word " resolutions," line . 15, be altered to "resolution"; that the word " thirty," line 16, be struck out, with a view to insert in lieu thereof the word "fifteen"; and that the word "Parliament," lines 17 and . 18, be omitted, with a view to insert in lieu thereof the words " such House."

Mr KINGSTON

- There is another amendment I would suggest, namely, that after the word "regulation," line 18, the words " wholly or in part," be inserted, so that there would not be a disallowance of all the regulations.

Mr ISAACS

- That might be equivalent to making a new regulation. An -exception, for instance, might be struck out.

Mr McCay

- The word " not " might be struck out.

Mr KINGSTON

- If there is any objection to the proposed amendment, I will not press it.

Clause, as amended, agreed to.

Clause 257 (Date of collection of new duties).

Mr KINGSTON

- Various criticisms were levelled against this clause. The Government hardly think the criticisms well founded, but we believe that the matter could be better met by other clauses, of which we -have given notice, and I therefore propose to -negative the clause.

Mr REID

- I confess that I am glad, for reasons I mentioned, some time ago, that the Minister has not persevered in proposing the course -which is outlined in clause 257. But -I would like to press on the Minister, before we

strike this clause out, a suggestion whether something cannot be done to provide that when the Tariff proposals are made - and it will facilitate the operation of the Tariff very much - we shall be able to take that as the date of the establishment of Inter-State free-trade. The great object we had in view by this federal union and by a uniform Tariff, was that these two steps would make it possible to stop at once the interferences which exist between Australians in carrying on their operations of commerce. That is one of the grand objects we have had in view all through.

Mr Kingston

- Hear, hear.

Mr REID

-I think the suggestion I have made would simplify the position of the Minister very much, because I quite see the embarrassment the Minister will be in, no matter what he proposes. There are several troubles ahead which I think we should all, as far as we can, combine in the public interest to remove. It might simplify the position of the Government, and be a distinct gain to the States generally, if we had some provision, the effect of which - and it might be contained in this Bill - would be to establish Inter-State free-trade from the date of the Treasurer's financial statement. That is one part of the federal undertaking which is bound to come about. We may have differences of opinion as to the rate of particular duties, and as to the policy on which the proposals are founded, but it is inconceivable that there can be any difference on the point that we want that part of the business carried out now, at once. I think that must be the feeling all through Australia, now that we are united. I am not quite sure whether such a provision could be put into the present Bill, and, therefore, I do not make any proposal to that end. It is a matter that might be dealt with either in this Bill or in some short Bill of one" clause. I admit that it is a matter which has to be seriously thought out, but if it be feasible to introduce some such proposal between this date and the date of the financial statement, that should be done. I do not expect the Minister to do so in connexion with this Bill, because we are at the end of the measure and there may, perhaps, not be time. But if it be impossible to legislate, even in the form of a short Bill, between now and the date of the financial statement, it would, I think, be desirable.

Mr Kingston

- Has the right honorable gentleman looked into the matter closely?

Mr REID

- No, not yet, but the object is a good one.

Mr Kingston

- Hear, hear.

<page>2763</page>

Mr REID

- It is such a good object that I feel the matter is worth looking into, though I confess I have not looked into it, and there may be many difficulties in the way. I do not want to place my utterances before the public as if what I have suggested can be done. I do not want to put the Ministry in an unfair position. If the suggestion cannot be carried out, it would be very unfair for me to put the matter as if it could be. I do not say at present that it could be. But if it can be done - and we have a little time between now and the Treasurer's statement - it is a matter well worth the consideration of the Ministry. I think this is the one element in the financial policy about which there can be no possible dispute or change, because, to begin with, it is provided in the Constitution. We are standing on much firmer ground in this matter than we should be in proposing a new Tariff. A new Tariff has not the sanction of the law behind it ; but in carrying out InterState free-trade we stand behind a principle of the Constitution. We might be anticipating Inter-State free-trade 'by a short time - that is, by the interval between the carrying of the Tariff into law and the statement of the Treasurer - but I should say that that would be a circumstance of which no one would be heard to complain. The carrying on of a uniform Tariff, together with the collection of duties under the InterState fiscal system, would create such difficulty on the part of the Government that I should be very glad if the Minister would consider whether, before the Budget speech is made, a short method cannot be adopted under which the Government would begin their fiscal policy by an arrangement which will bring at once to the people of Australia the benefits of Inter-State freetrade.

Mr Kingston

- We can rely upon the right honorable member's hearty sympathy.



Mr REID

- I do not think there is one man in the Commonwealth who would withhold it. The question is broader than that. It is one of the main objects on which we are united. Whether protectionists or free-traders, the subject is one upon which we are all agreed ; in short, it is an object which, I think, will command the approval of almost every man in the Commonwealth. The only question now is - " Is it possible to do it " 1 I shall be very glad if the Ministry will take the matter into consideration.

<page>2764</page>

Minister for External Affairs

Mr BARTON

. - The matter mentioned by the right honorable and learned member opposite has not escaped the attention of the Government. Far from it - we have been giving it very anxious consideration. It is the desire of the Government, if we possibly can, to see that the bringing down of the Tariff is accompanied by Inter-State free-trade. The difficulties in our road are not difficulties of policy, because we are convinced that the people of Australia all round - whatever fiscal faith they may hold - would welcome the consummation of InterState free-trade at the same time as the collection of duties, under whatever authority they are collected. The committee may take the assurance from me on behalf of the Government, that we wish to do this, and that if we can see our way to do it, so as to be free from difficulties and not to imperil the revenue, we shall do it. The personal inclination of every one of us is to do it if we can, and I think I can meet the suggestion which has been made by saying that I am heartily in accord with the right honorable and learned member opposite, and that if this course can be pursued with safety to the public interest, it will be done.

Clause negatived.

Clause 258 -

As regards goods imported before the imposition of uniform duties of Customs into any State or into any colony, which whilst the goods remain therein becomes a State, and which on thence passing into another State within two years after the imposition of such duties become liable by the Commonwealth of Australia Constitution Act to any duty chargeable upon the importation of such goods into the Commonwealth less any duty paid in respect of the goods on their importation, this Act shall apply to the collection of the duty to which such goods are liable in manner prescribed.

Mr. G.

B. EDWARDS (South Sydney). This clause is a transcription of the constitutional provision. It strikes me, however, that it will necessitate the retention of Customs barriers for some time to deal with a few very small matters. The definition of "goods" in the Bill is any movable property. Under this clause, the department will be under the necessity to collect duty, if there be any, on personal effects such as pianos, and anything of that class which are not goods in the ordinary common-sense acceptation of the term. Consequently we shall have to keep up all the provisions for ascertaining whether these personal effects have been imported within the time stipulated. Seeing that that would be a difficulty and would necessitate a lot of search, I think that possibly the Minister might consider the wisdom of adopting a line in the Tariff to exempt certain goods such as personal effects and second-hand machinery.

Mr Kingston

- I am obliged to the honorable member for the suggestion.

Amendment (by Mr. Piesse) agreed to- '

That the words " Commonwealth of Australia," line 7, be omitted.

Clause, as amended, agreed to

Clause 259 (Records of Inter-State trade).

Mr G B EDWARDS

- I see a reference in this clause to duties of excise. I am not quite certain whether those words ought not to be omitted. We shall certainly require a Bill dealing with excise matters, and I think the object contemplated by the reference here might be met by such special legislation.

Mr Kingston

- It is only with regard to statistics.

Mr G B EDWARDS

- Seeing that we have to deal, with excise matters in a special Bill, I think that the portion of the clause to

which I have referred should be eliminated. All matters referring to questions of excise should be dealt with in one Bill, and all matters concerning Customs in another.

Mr KINGSTON

-It is only a repetition of the constitutional provision to the extent that the particulars required are to be kept, and it is to the interest of every one concerned that some one should be charged with the duty of collecting those particulars.

Clause agreed to.

Clause 260-

The person in command of any ship holding commission from His Majesty, or from any foreign State, having on board any goods other than ship's stores laden in parts beyond the seas, shall, when called upon by the comptroller or a State collector, or an officer specially authorized by the Minister or the comptroller or a State collector so to do

deliver an account in writing of the quantity of such goods, the marks and number's thereof, and the names of the shippers and consignees, and declare to the truth thereof ;

Answer questions relating to such goods.

<page>2765</page>

Mr McCAY

-I wish to point out that this clause and the next embody in effect the same principle, namely, the right of the Commonwealth to demand reports from or to search foreign ships of war. I hold in my hand the 1895 edition of Hall's International Law, and in that the question is discussed at some length as to the ex-territorial rights of armed vessels of foreign powers. I do not intend to quote the whole of the references, but I should like to draw the attention of the Minister to two or three. Hall, in discussing how far we can interfere with foreign ships in our waters, says -

Turning to England, it is no doubt true that under the Customs Act foreign ships of war are liable to be searched, and that it has been the practice to surrender slaves who have taken refuge on board English war vessels lying in the waters of other States, &c.

But on the other hand it is pointed out that certain things have not been done. The author speaks of the right to search under the Customs Act, with no very great satisfaction or approval. I would remind the Minister that since the cases dealing with this matter were decided, international opinion has advanced considerably in the direction of maintaining far greater immunity for foreign ships of war. In summing up the position, on page 202, Mr. Hall says the law may probably be stated as follows : -

A vessel of war, or other public vessel of the State, when in foreign waters is exempt from the territorial jurisdiction ; but her crew and other persons on board of her cannot ignore the laws of the country in which she is lying, as if she constituted a territorial enclave. On the contrary, those laws must as a general rule be respected. Exceptions to this obligation exist, in the case of acts beginning and ending on board the ship and taking no effect externally to her -

Until the supposed improper goods leave the ship's side, the act of having them there begins and ends on board - firstly, in all matters in which the economy of the ship or the relations of persons on board to each other are exclusively touched, and secondly to the extent that any special custom derogating from the territorial law may have been established, perhaps also in so far as the territorial law is contrary to what may be called the public policy of the civilized world. In the case of acts done on board the vessel, which take effect externally to her, the range of exception is narrower. The territorial law, including administrative rules, such as quarantine regulations and rules of the port, must be respected, to the exception, it is probable, of instances only in which there is a special custom to the contrary.

I would draw the attention of the Minister to the fact that Hall, in summing up the case, carefully leaves out as the modern settled practice, the right claimed under the English Customs Act, of searching foreign vessels of war in British waters.

I do not know whether as a matter of fact that right is ever exercised. But I should be strongly inclined to hazard an opinion, with a very great deal of belief in its accuracy, that the right of search, which is claimed under the Act, is never exercised. What I wish to point out is, that so long as the matter is within the ambit of the vessel's bounds, except in the case of acts of hostility of course, the English Customs officers do not interfere.

Mr Reid

- The honorable and learned member a moment ago spoke of " search." There is a difference between " search " and "interfere." This clause does not propose to search.

Mr McCAY

- But the next clause does. The two clauses run together. This clause says that the captain of a ship shall report. Now, according to Hall's summing up, the modern practice is that it is absolutely in the captain's own discretion whether he reports or not, so that, though not to the same extent, if the second be an infringement, the first also is an infringement. Hall goes on to say, page 204 -

When acts are done on board a ship which take effect outside it, and which if done on board an unprivileged vessel would give a right of action in the civil tribunals, proceedings in the form of a suit may perhaps be taken, provided that the court is able and willing to sit as a mere court of inquiry, I could quote case after case from the books to that effect - and provided consequently that no attempt is made to enforce the judgment. In at least one case the British Admiralty has paid damages awarded by a foreign court against the captain of a ship of war, in respect of a collision between his vessel and a merchant vessel in the port. It must, however, be clearly understood that the judgment of the court can have no operative force ; the proceedings taken can only be a means of establishing the facts which have occurred ; and the judgment given can only be used in support of a claim diplomatically urged when its justice is not voluntarily recognised by the foreign Government.

There is no international recognition of this right of search, although the question has been discussed at times. This clause relates to foreign ships of war, and if we endeavour to exercise the right of search over them, I think we shall find ourselves in the midst of a nice embroglio. Such a step would certainly be liable to bring England into diplomatic relations with other countries. However proper it may be to put such a provision into the British Customs Act - the Imperial Parliament being the sovereign Parliament - in our case, seeing that we form part of the Empire, and do not enter into relations with foreign nations except through the Imperial Parliament, it is a matter which is more than doubtful. I submit to the Minister that we do not want questions of this kind raised here. Does he think that the Bill will be seriously harmed if we omit these clauses ? I think that if they are retained injury may be done under them.

Mr G B EDWARDS

- There is a great deal in the argument of the honorable and learned member for Corinella. We certainly could not exercise the right of search beyond the territorial waters of the Commonwealth.

Mr KINGSTON

- The clause is one of some importance, and the powers conferred by it must be exercised with infinite discretion ; but it is a necessary provision. There are foreign ships, which, although they are by no means men-of-war in the ordinary sense of the term, hold commissions, and if there were not a provision of this sort in the Bill the results might be injurious to our revenue. But the power is not to be recklessly exercised. It is to be exercised, only in the event of the ship having on board - other than ship's stores, and "ship's stores" is a very large item. In such a case -

When called upon by the comptroller or a State collector or an officer specially authorized by the Minister or the comptroller or State collector, the person in command must deliver an account and answer questions relating to such goods. In clause 261 there is the usual power to search and to bring goods ashore and place them in a King's warehouse. Not only is it within our power to legislate in this manner, but the matter has occupied the attention of authorities both here and elsewhere, and it is the general opinion that, although the power should be exercised with the greatest discretion, it is a proper and necessary power to confer.

Mr. CONROY (Werriwa). - I think, perhaps, it would be better if the Minister had inserted in the clause the words " specially authorized by an act of the Executive Council."

Mr Kingston

- That would provide rather a troublesome procedure.

<page>2766</page>

Mr CONROY

- Does the Minister think it sufficient that the comptroller or a State collector should be able to give this authority ? We know what the result of its improper exercise would be in the event of heated national feeling. It might lead to considerable difficulty. One would almost think that an act of the Executive should

be required to authorize the exercise of such power as this. It ought to be done very deliberately.

Clause agreed to.

Clause 261 (Commissioned ships maybe searched).

Mr. CONROY

(Werriwa).- It seems to me that a State collector is scarcely the proper officer to authorize the searching of commissioned ships. It would be better to allow the revenue to be defrauded by a foreign ship of war to the extent of £5 or £10 than to allow any serious difficulty to arise.

Mr Kingston

- But does the honorable and learned member think that when a ship is to be searched, the Minister should make the search himself ?

Mr CONROY

- I think that he should be directly responsible for it, and that he should be the only person to authorize it. I should have preferred to see- an Executive act made necessary to authorize it, but I should be willing to give the Minister the power to authorize. I hardly think, however, that the collector of a State should have such power. If a State collector was not fully acquainted with the responsibilities attaching!- to his position, and wrongly exercised this' power, great confusion would be created.

Mr Kingston

- Men do not generally rise to be State collectors before they know their duty.

Clause agreed to.

Clause 262-

As to sales by the collector -

The goods shall be sold by auction or by tender and after such public notice as may be prescribed, and where not prescribed after reasonable public notice.

The goods may be sold either free of or subject to duty and charges, and the price shall be paid in cash on the acceptance of the bidding or tender.

No bidding or tender shall be necessarily accepted, and the goods may be re-offered until sold at a price satisfactory to the collector.

Mr V L SOLOMON

- Paragraph (b) provides, as to sales by the collector, that the goods may be sold either free or subject to duty and charges, and that the price shall be paid in cash on the acceptance of the bidding or tender: but I think that honorable members will see that it would be most unfair to traders who had paid the ordinary duties and charges on similar goods if such a provision were carried into effect.

Mr KINGSTON

- We must get rid of the goods.

Sir Malcolm McEacharn

- We must give the Customs authorities a free hand in this matter.

Mr V L SOLOMON

-As a matter of justice to the traders who have paid duty upon similar goods, it should be enacted that unless forfeited goods realize at least the amount of duty chargeable on them, they will be destroyed. "I believe that that is now the law in some of the States. If it is not, it certainly should be, because it is unfair to, say, tobaccoists, that several tons of tobacco which have been forfeited because an attempt has been made to smuggle the goods into the country, should be sold in the open market at prices less\* than the duty chargeable.

Mr Kingston

- The "reasonable notice" that is required will prevent that happening.

Mr Higgins

- It is inconceivable that it should happen.

Mr V L SOLOMON

- I do not think that it is. As a general rule, only a very small ring attend the sale of bonded stores for which the rental charges have not been paid, and they get excellent bargains.

Mr Isaacs

- The owner of the goods could attend the sale.

Mr V L SOLOMON

- Yes ; but that would be no protection to traders who had paid duty on similar goods.

Sir Malcolm McEacharn

- Clause 96 provides for the destruction of goods not worth the amount of duty chargeable on them.

Mr McCay

- That could not apply to goods upon which advalorem duties were payable.

<page>2767</page>

Mr V L SOLOMON

- I do not think that clause 96 meets the . case that I wish to meet. In common justice to traders who have paid the duty on similar goods, we should enact that forfeited goods shall not be sold at a lower price than the duty payable upon them, and to insure that, I move -

That the following words be added to paragraph (b) - " but shall not be sold free of duty at a less price than the duty chargeable on such goods."

Mr Harper

- The honorable member should provide what is to be done with the goods in the event of their not being sold.

Mr V L SOLOMON

- I presume that they could be destroyed, as goods would be destroyed under clause 96.

Mr MAUGER

- It seems a remarkable thing to me that the honorable member holding the fiscal faith he does, should propose to put a bar upon goods being sold to the lowest bidder. What should it matter what they are sold for so long as the consumer gets them cheap. If we can give the people cheap goods, we need not bother ourselves about whether other people are being undersold or not.

Sir MALCOLM McEACHARN

- I do not see that the point raised by the honorable member for Melbourne Ports has anything to do with the case.' I think there is a very great deal in the argument put forward by the honorable member for South Australia, Mr. Solomon, and I would ask the Minister to see if he cannot do something to prevent goods being sold free of duty to the disadvantage of those who have paid duty. I do not know exactly whether the amendment submitted by the honorable member would meet the case, but, doubtless, the Minister will be able to find some way out of the difficulty.

Mr. HIGGINS

(Northern Melbourne).I think that there is some measure of justice in the contention of the honorable member in its theoretical aspect. It does seem unfair that a man who has paid the duty honestly should have to compete with those who have goods which have not paid duty, but I think that in practice there will not be any great hardship. The quantity of goods that would come in and be sold for less than the amount of duty must be very small - infinitesimally small - in proportion to our total imports. We have to choose between two evils, and if we do not sell the goods we shall have to destroy them.

Mr V L SOLOMON

- They do so in other cases.

Mr HIGGINS

- Is there any State which adopts the insane policy of destroying good stuff where it can be sold ?

Mr Conroy

- In Victoria they destroy good food by pouring kerosene over it.

Sir Malcolm McEacharn

- In some cases also tobacco is destroyed.

Mr HIGGINS

- In any case, is it possible that a few hundredweight of tobacco, or even a few tons of tobacco, would not find a purchaser up to the amount of any duty that might be chargeable upon it ?

Mr G B EDWARDS

- Yes.

Mr HIGGINS

- Of course, the duty on tobacco is a heavy one, but is it likely, having regard to its being an article widely in demand and a staple import, that any tobacco seized and forfeited and worth smoking would not fetch the amount of the duty chargeable upon it 1

Mr V L SOLOMON

- It frequently occurs that they turn it into sheep-wash in bond, because it is not worth the duty.

Mr HIGGINS

- Well, if tobacco is used only as sheep-wash it certainly will not interfere with the ordinary sale of the duty-paid article.

Mr V L SOLOMON

- I want that carried a little further, so that forfeited tobacco in a good state will not be sold at less than the amount of duty paid on other tobacco.

Mr HIGGINS

- I am only dealing with the suggestion of the honorable member that a forfeited article should not be sold at less than the amount of duty chargeable upon it, and as the amendment stands I am afraid that it cannot be worked out to any reasonable conclusion.

Mr KINGSTON

- The result of adopting the suggestion of the honorable member for South Australia would be that the Customs department would have the goods left on their hands. I sympathize with the honorable member in his new-found zeal to prevent traders from being subjected to cheap conn petition, but I suggest that during the session he may have a better opportunity of applying that new-found principle.

Mr V L SOLOMON

- It is not newfound. I never had anything to do with letting a railway to be constructed by cheap labour, but the Minister did.

Mr KINGSTON

- I am inclined to think that it is not worth while to rake up our records in other States.

Honorable Members. - Hear, hear.

Mr V L SOLOMON

- The Minister must not play the game, or he will get it back.

<page>2768</page>

Mr KINGSTON

- The position put by the honorable member is that trade is likely to be affected by passing these goods that have not paid duty into competition with the duty-paid article, and that, therefore, we should not allow them to pass into consumption, unless we can secure an amount equal to the duty. It is contended that the goods ought to be destroyed after reasonable and proper notice has been given to the owners."

Mr V L SOLOMON

- What is the rule in the States at present?

Mr KINGSTON

- If it is not the same as we propose, it ought to be. Do honorable members seriously contend that these goods should be destroyed or sent to the great unknown ? The honorable member for South Australia does not suggest any destination for them.

Mr V L SOLOMON

- One point at a time : we are dealing with the principle now.

Sir Malcolm McEacharn

- If the goods are worth anything and there is a duty on' them, what they realize should go first to the payment of duty, and therefore the word "free " should be omitted.

Mr KINGSTON

- But the money goes to us in any event. . The revenue is well protected. Clause 263 provides that, whatever we get for the goods, goes first in payment of the expenses, and next in the payment of duty.

Mr V L SOLOMON

- That is if they realize more than the duty.

Mr KINGSTON

- The point taken by the honorable member for South Australia, Mr. Solomon, is that, unless we get the whole of the duty, we should not sell the goods at all, but destroy them. I venture to suggest that we should sell the goods.

Mr Barton

- Would the honorable member for South Australia have us make a bonfire of them?

Mr V L SOLOMON

- They do it now in some of the States.

Mr Barton

- I know they do sometimes, but they should not.

Mr KINGSTON

- I think that if reasonable notice is given of the sale of these forfeited goods the commercial community will prove to be sufficiently alive to their own interests to see that the goods do not pass into the hands of purchasers at anything less than their fair value. This is not a matter of certain goods coming into competition free of duty, but we have to dispose as best we can of certain goods which are thrown upon the hands of the collector, and at the same time protect the revenue as far as possible.

Mr SYDNEY SMITH

- I would ask the honorable member for South Australia, Mr. Solomon, to withdraw his proposal. In the State of Victoria there are a number of unemployed who are crying out for food, and yet we find that there is a law in that State in regard to cattle imported from Riverina and slaughtered in bond for exportation, which prevents the possibility of these poor people getting the advantage of the livers, hearts, or lungs of the animals slaughtered. I understand that the State Government at the present time has a Customs-house officer stationed at the abattoirs at South Melbourne in order to see that these livers and hearts do not go into consumption, but are destroyed by having imported kerosene thrown over them and burnt. I am told that last month about 200 carcasses were treated in this way, and I say it is a barbarous state of affairs to exist in this country. I object to the honorable member's amendment, because, if it were carried, it would make it impossible, even for the Government of Victoria, to give consideration to the requests of these poor people, and allow this food to be used. I therefore suggest that the honorable member should withdraw his amendment.

Mr A McLEAN

- I am sure that the people of Victoria will be very grateful to the honorable member for Macquarie for his lecture, but he will scarcely contend that it is fair that where a private trader has paid duty on his goods he should be subjected to the competition of another trader who has been able to import his goods duty free. The present case is not on all-fours with that. I admit that there is a good deal in the contention of the honorable member for South Australia that it would not be fair to private traders who had to pay the full amount of duty if confiscated goods were sold duty free, and I think the object of the Minister would still be carried out if he applied whatever the goods brought, whether the full amount of duty or not, to the payment of that duty.

Mr Kingston

- We do that ; it is provided for.

<page>2769</page>

Mr A McLEAN

- Then I. do not think there is much to complain of.

Mr. SYDNEY

SMITH (Macquarie).- I did not intend to lecture the people of Victoria,, but I think that I was justified in pointing out what I did. I recognise that I represent Victoria as well as New South Wales, and it is therefore my duty to look after the people of Victoria as well as those in other States. I consider that it is a barbarous thing to prevent the poor people of Victoria from having the advantage of this good food.

Mr HARPER

- What have the poor people got to do. with it?

Mr SYDNEY SMITH

- They have asked for the food, and they ought to get it.

Mr Harper

- Is that the sort of food they give the unemployed in New South Wales?

Mr SYDNEY SMITH

- The honorable member knows it is good wholesome food - food that we largely consume ourselves.

Mr A McLEAN

- What part of the beast does the honorable member say should go into consumption duty free, when, the whole beast is subject to duty?

Mr Kingston

- That is the question.

Mr SYDNEY SMITH

- I think that it is an iniquitous thing that the whole of this food should be destroyed by pouring kerosene over it.

Mr A McLEAN

- That could be avoided by the payment of a fair proportion of the duty.

Mr SYDNEY SMITH

- But suppose the owners of the food are willing to give it free, why should they not be allowed to do so. We find that meat is worth 10d. a pound in Victoria, and yet the people are deprived of this opportunity to get good wholesome food.

Mr A McLEAN

- The food can be sold if the duty is paid.

Mr SYDNEY SMITH

- The price, as I understand, will not enable them to pay the duty required by the Customs-house officer. I merely mentioned this matter as an argument against the case put forward by the honorable member for South Australia, Mr. Solomon, and surely there is no necessity for the heat displayed by my Victorian friends, who seem to get excited on very slight provocation.

Mr E SOLOMON

- I am very much afraid the amendment proposed could not be carried out. I might mention instances where every three months or six months there is a sale at the Government warehouses - I know it is so in Western Australia - and goods are sold by auction for whatever they will fetch. The goods are generally sold in the cases unopened, and very frequently fetch high prices, and I scarcely see how, under the circumstances, there could be any reserve.

Mr V L SOLOMON

- Those are sales of lost luggage and things of that kind.

Mr E SOLOMON

- No; there are frequently sales of merchandise in the way I describe and I scarcely think the amendment could be carried out in cases of that description. Cases of tobacco and cigars are easily distinguished, and the duty could be levied subject to the prices realized. I think the amendment ought to be withdrawn.

Mr G B EDWARDS

- There is a great deal to be said in favour of the amendment. The Minister for Trade and Customs does not seem to be aware that it is the practice in some of the States to hold a reserve price equal to the duty.

Mr Kingston

- There is power in the Bill to have a reserve.

<page>2770</page>

Mr G B EDWARDS

- Honorable members are in correct in saying that these goods are sold for what they will fetch, because they are sold with a reserve equal to the duty. The Minister is fully protected, because, by sub-clause (e), no bidding or tender is necessarily accepted, and the goods may be re-offered until sold at a price satisfactory to the collector. I contend that in another way, and with a quite different object, we are bound to see that the duty is paid. If the goods are in a sound state, and fit for human consumption, the Minister will hold them over in order to get a price at least equal to the duty; and if on a subsequent date these goods will not fetch the duty, it is conclusive proof that they are not fit for human consumption, but are in an unsound state and had better be destroyed. Apart from that, which is really a protection to the public, the contention of the honorable member for South Australia, Mr. V. L. Solomon, is worthy of support, because we should do what we can to prevent the effects of smuggling or malpractices under the customs, affecting honest bond fide traders. If we can, by the amendment, prevent goods from being sold for less than the duty chargeable on them, we should do so in the interests of the honest trading portion of the community. I shall support the amendment.

Mr. HARPER

(Mernda).- I think too much is being made of this question. Practically, I believe these Customs sales result in very good prices, because people go there with the expectation of getting bargains, with the



usual result that they' bid against each other, until prices are very often beyond what the goods would fetch if sold in the ordinary course. In any case, it seems to me that the honorable member who submitted the amendment has not aided the Minister in disposing of the goods, which is the object of the clause. The honorable member proposes that the goods shall not be disposed of unless they fetch the amount of the duty, but he does not tell the committee or the Minister what is to be done in the event of a price equivalent to the duty not being realized.

Mr V L SOLOMON

- Has that anything to do with the justice or injustice of my contention ? Nothing whatever.

Mr HARPER

- I do not think the question of justice enters into the matter at all. Very often people who pay duty have to sell the goods for less than the duty, if the goods deteriorate or become unfit for the purpose for which they were intended. I cannot conceive that in the case of a Customs sale any goods, which were fit for the purpose for which they were intended, would be sold for less than the duty due on them. They might fetch more than was due, but certainly not less.

Mr V L SOLOMON

- Then there is no harm in my amendment.

Mr HARPER

- We should not waste any more time over this matter, which practically amounts to very little.

Mr CONROY

- The committee will certainly agree with me when I say that it is often I approve of anything the Minister does. In this case, however, I think the Minister is right, and I was very glad indeed to hear his admission - "Whoever heard of goods not fetching the amount of duty"? That was such a splendid admission by the Minister for Customs, that I hope he will act upon it, and, remembering the great bulk of the population throughout Australia, make the duties as light as possible. I am glad to see a recognition of the fact that it is a wrong thing to destroy good food, as has been done by the Minister for Customs or the officers under him. It appears, as the honorable member for Macquarie has already pointed out, that a great deal of injury to the poorer people has been done in this way. I am glad to see some recognition of the fact that they are the people who will have to pay this duty, and that the Minister intends if the clause is passed, and even before the introduction of free-trade, to do away with the barbarous system that prevails in Victoria at the present time. I feel unable to support the amendment.

Mr. V.

L. SOLOMON (South Australia).

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do not desire to load this debate with any allusions to past State political history} or to make any claim to be particularly a friend of the poorer classes. We know that with the exception of one or two gentlemen on the back Government benches" there are no real friends of the poorer classes in the House ; at any rate, we have been told so frequently. Without touching that particular point, I merely want to say that it will be grossly unfair to the importer who has paid the proper duty if the Customs authorities are allowed to sell goods of a similar class for less money than they have charged duty to the importer. It is all very well to say, as the honorable and learned member for Northern Melbourne said, that only a small quantity of goods come under this category, but who knows that it is always going to be a small quantity ? I have known instances of large quantities of tobacco, cigars, and so forth being sold.

Mr Conroy

- Supposing there were 100 cases of hats.

Mr V L SOLOMON

- Supposing 100 cases of hats were seized and sold at a fourth of the ordinary price, then, I daresay, those engaged in that particular business would feel that their corns were being trodden on. In exactly the same way large quantities of tobacco, or a few boxes containing 10,000 cigars, might come into the possession of the Customs authorities and be sold. Would it be fair to the tobacconists throughout the city of Melbourne if these goods were sold at a less price than those tobacconists had been paying in absolute duty ? I will not extend this debate, but it seems to me that my amendment is one that ought to commend itself to any reasonably-minded man.

Mr. CONROY

(Werriwa).- It appears that the Minister of Customs reserves to himself, under clause 96, the power to destroy certain goods. Does confectionery come under that clause? If confectionery does not realize the amount of duty, will the Minister allow the Customs officers to regale themselves by destroying it?

Mr Kingston

- Confectionery is "goods."

Amendment negatived.

Clause agreed to.

Clause 263 (Proceeds of sale).

<page>2771</page>

Mr SALMON

- Has the Minister in the allocation of the proceeds of sales not overlooked the fact that in cases which have occurred, in Victoria at any rate, importers have been indebted to the Customs; for instance, in such a case as we have just discussed where goods have not realized sufficient to pay the duty. If some importer were to again offend, it would be a fair thing for the Customs to deduct from the proceeds of the further sale the amount due on the previous sale; but there is no power in the clause given to the Minister to use or appropriate any of the proceeds for the purpose of paying a debt which might be due by the same importer.

Mr Harper

- How could an importer have any debt at the Customs-house? The Customs authorities do not give credit.

Mr SALMON

- But sometimes goods sold do not realize even the duty. There are cases where importers are indebted to the Customs. Indeed, there are cases where goods have disappeared altogether without the duty having been paid. I ask the Minister whether he does not think it worth while to insert a provision making it possible to appropriate a portion of the money to the payment of a debt incurred by the same person previously.

Mr KINGSTON

- I hardly think it is worth while; the cases are so rare. No doubt it could be done by inserting words to the effect that the proceeds might be applied to the payment of any money due to the Customs by the owner of the goods, but Customs sales are so rare, and repeated default by the same man is so rare, that I do not think it worth while to make the amendment. Had I thought of it sooner I might have put the words in.

Mr SALMON

- I do not press the amendment.

Clause agreed to.

The CHAIRMAN

- Postponed clauses-

Sir Malcolm McEacharn

- Are we not going to deal with the schedules?

The CHAIRMAN

- No. The standing orders provide that postponed clauses must be taken before the schedules. Then come the new clauses.

Mr Kingston

- Will any motion be in order to bring on the schedules before the postponed clauses?

The CHAIRMAN

- I think that, with the concurrence of the committee, it might be done.

Mr Kingston

- I propose that course, because I think it will be more convenient.

The CHAIRMAN

- With the concurrence of the committee, I shall put the schedules before the postponed clauses.

Schedule 1.

Commonwealth of Australia.

Security to the Customs.

By this security the subscribers are, pursuant the Commonwealth of Australia in the sum of - [here insert amount or made of ascertaining amount intended to be paid in default of compliance with condition] - subject only to this condition, that if - [hereinsert. the condition of the security] - then this security shall be thereby discharged.\*

Mr. HIGGINS

(Northern Melbourne). The Minister was good enough to promise me that he would consider the question whether it is not desirable to insert in the schedule a list of all the existing State Acts relating to Customs which will be no longer applicable after the passing of this Bill.

Mr Kingston

- I promised that.

<page>2772</page>

Mr HIGGINS

- I would remind the Minister of the analogy of the Defence Bill, where there is a corresponding provision. But I do not propose a formal repeal of the State Acts. There may be great doubt as to whether we have power to repeal State Acts ; but I would point out a few concrete cases where importers and others may be greatly embarrassed, owing to not knowing exactly the limits of their duties. I see that in clause 59 there is a provision that when a ship is wrecked, the master must report the wreck and deliver an inward manifest either at the main Customshouse of the State, or at the nearest Customs-house. But let us suppose that there is a State Act which requires the master to do something else also? It will be very awkward if the master, having complied with the Federal Customs law, is told - " You were also to deliver another manifest to some one else." No doubt it is provided in the Constitution that if a State law and a Commonwealth law are inconsistent, the federal law prevails. But there would not be anything inconsistent in such a case as I have put. There is nothing inconsistent in a Commonwealth law providing for an inward manifest being delivered to the nearest Customs-house and a State law providing that a similar document shall be given to somebody else. I do not know how it appeals to honorable members, but to me there is nothing so irritating or prejudicial to trading operations as uncertainty regarding the conditions under which merchants are to act. In the case which I have put, they might think that they were doing all that was required of them by carrying out the provisions of this clause. Then they might be told that they were liable, because they had neglected to do something else which was provided for in a State Act. There are several other matters of a similar character which could be suggested. It may be said that it is very unlikely-

Mr Kingston

- I hope the honorable and learned member does not think that I have overlooked the point.

Mr HIGGINS

- There are several other things which appear to me to show the outside limits of a man's duty, but I think it would be easy to provide in this Bill that certain sections of specified State Acts shall not, after this Bill comes into force, operate with regard to imports or shipping within the Commonwealth. Such a provision is not formally a repeal. It simply says that we have power to determine under what conditions a man shall carry on shipping and make imports within the Commonwealth. I merely wish it to be intimated to merchants that if they comply with the provisions of this Bill, nothing more is required of them.

Mr Kingston

- Insert the words " compliance with the provisions of this Act shall suffice for all purposes."

Mr HIGGINS

- I admit that it is very burdensome and troublesome, but I know that , the Minister has very valuable assistants, who are acquainted with the Acts of all the States, and it would be quite possible to state definitely in the schedule what Acts shall no longer apply.

Mr PIESSE

- It would be a very great trouble to do it, though.

Mr HIGGINS

- Yes, but the honorable and learned member for Tasmania has convinced me that difficulties are only made to be overcome. He seems to worry himself over difficulties in a very energetic manner. There are several other clauses which show . that it is important to a man to have the Customs Act by him, and to be able to say - " Now, I have only to obey this Customs Act, and to do nothing else." I think we ought to

make an exhaustive law, if we are to have any law.

Mr PIESSE

- I am sure that what the honorable and learned member for Northern Melbourne has suggested is the most desirable thing that can be done. But I am very much afraid, after a cursory examination of the Customs Acts of the different States, that very awkward questions will arise in the administration of the Customs when this Bill becomes law, because there are many things which apparently are to be dealt with by regulation. The honorable and learned member for Indi mentioned one, namely, the question of the restriction of diseased animals. Then there is the matter of the importation of kerosene. Both of these subjects in four out of the six States are dealt with explicitly in their Customs Acts, and I am very doubtful whether the proposal of the Minister to deal with them by regulation will be effective. I doubt whether any regulation which he can frame will be sufficient, to repeal the existing provisions of State Acts. Of course, we have the difficulty all through of ascertaining whether the law we are now framing will be in conflict with State laws. The only satisfactory way of dealing with the matter seems to me for the several States to repeal their own State Acts so far as this Bill is in conflict with the provisions of those Acts. The placing of a schedule into this Bill, detailing the provisions intended to be affected by it, would be a very considerable work to attempt, and I am not at all sure that it could be done satisfactorily. It would be reposing in some one appointed to undertake the task, the same duties possibly as the High Court of Australia will be charged with in construing the law.

Mr G B EDWARDS

- I think that the honorable and learned member for Tasmania, Mr. Piesse, has suggested the only possible way of dealing satisfactorily with this matter. We have several different Customs Acts operating throughout Australia. It seems to me that the States, if they wish to retain any of the provisions of their existing Customs Acts, will have to repeal the rest in order to retain them. There is, it seems to me, only that one course open to them.

<page>2773</page>

Mr KINGSTON

- I am going to look into the matter and see what is best to be done. I wish to point out to the honorable and learned member for Northern Melbourne what I am sure he had overlooked, namely, that the question which we are now considering has nothing to do with the matter mentioned by him. I am under a promise to the House to declare the Government intentions with regard to it. It is a difficult question, and I want to deal with it.

Sir MALCOLM McEACHARN

- I wish to point out that the commercial community generally look on this particular point with very grave fears. Unless we know what Acts are repealed we can see interminable trouble ahead. I am very glad, therefore, to have the assurance of the Minister that he will look into the matter.

Schedule agreed to.

Schedule 2 -

At any other place such fees shall be charged as may be prescribed.

Sir MALCOLM McEACHARN

- I wish to point out in connexion with this schedule that there are a great many of those who have warehouses who feel aggrieved that the charge should be raised from what I understand it has been, namely, £1 per annum, to £25. It is quite true that in the case of general warehouses the amount has been reduced from £250 to £200 per annum. But at the same time this schedule will press harshly on the smaller class of warehouse-keepers if they are to be forced to pay £25 per annum, in lieu of the £1 which they pay at present. This remark applies particularly to machinery warehouses. The matter is one which I think the Minister might look into. Apart from the fee which is paid they have to pay 2s. an hour or part of an hour for the services of any locker.

Mr Kingston

- I have a report here which does not seem to touch upon that point, but I will look into it.

Mr E SOLOMON

- I desire to ask the Minister if he has considered the question of the population of some of the States in comparison with that of others. Some States I may point out have very large populations whilst others have a relatively small population, and consequently the quantity of goods stored in bond is not so large

in the latter case as in the former. I should like the Minister to take this point into consideration in the framing of this schedule. It is a matter of grave concern in small communities. Where people can afford to pay £200 or £300 a year in a large State like Victoria they cannot do so in a small State like that of Western Australia.

<page>2774</page>

Mr HARPER

- I have been appealed to by the bonded storekeepers of Melbourne with regard to the position which is to be occupied by the second class of warehouses, namely, private warehouses under clause 73. In the case of private warehouses to be used only for goods, the property of the licensee, the charge of £200 per annum is to be made for the entire services of a locker, but only £25 a year is charged when only the partial services of a locker are required, with a further charge of . 2s. an hour for each hour or portion thereof that a locker may be in attendance. The bonding warehousemen, who have invested a large amount of capital in providing bonding warehouses in various cities of the Commonwealth, appear to fear that if only this nominal charge is made for private warehouses their business will be seriously lessened, and I think that there is something in the contention. The bonding warehousemen have made every provision for the safety of the goods intrusted to their care, in the interest both of the Customs and of the public. The private bonds which will be charged this lower fee will be warehouses in which only the goods of the licensee may be stored, which limits their usefulness very much, and it is not an arrangement which should be received with favour by the authorities.

Mr G B EDWARDS

- At all events it is a public convenience.

Mr HARPER

- Only to a small extent.

Mr Kingston

- To what class of bonding warehouse does the honorable member refer?

Mr HARPER

- To class 2 in schedule 2. If a merchant sold twenty chests of tea which he had in such a warehouse, and passed a Customs warrant for it, the goods would have to be instantly removed to another warehouse, or else his warehouse would become a general bond. Such an arrangement cannot be a great convenience to the general public ; and, as the bonding warehousemen contend with reason, if private bonds are very largely increased, the Customs will not have the same security. Generally these bonds will be portions of an ordinary warehouse partitioned off, and they will be supervised occasionally by a locker. On the whole, I think they are not a class of bond which should be largely encouraged. While the bonding, warehousemen do not object to these bonds being charged a lower fee than is charged on public bonds, they say that the fee should be higher than £25 a year, and suggest that it should be £100 a year. I think it is well, in the interests of the department, that private bonds should not be encouraged by too low a fee, because the public bonds provide ample accommodation for all the goods likely to be placed in bond by the general public, and where individual merchants doing an extensive business wish to have bonds of their own, £100 is not too much to ask them to pay for their accommodation. I do not propose to move an amendment, but I commend the matter to the consideration of the Minister. - Mr. KINGSTON.- I look upon these warehouses as not so much a subject of revenue--

Mr G B EDWARDS

- As a convenience to trade.

Mr KINGSTON

- Yes. I do not think that the fees which are provided for are at all stiff.

Mr Harper

- No; they are too low.

Mr V L SOLOMON

- It is not often that one hears that complaint.

Mr KINGSTON

- It is a delightful thing to have revenue forced upon us. But in my opinion, so long as the goods are secure, there is no reason for discouraging private bonds. In some of the States they are not so generally availed of as in others ; but, so long as there is no possibility of a loss of revenue, I think that they should

not be interfered with unnecessarily. In Western Australia, private bonds are very common, and I believe that the charge for them is £50 per annum, and 1s. 6d. an hour in addition for the services of a locker.

Mr Harper

- That is a more reasonable charge.

Mr KINGSTON

- The charge in the Bill is £25 per annum, and 2s. an hour for the services of a locker, which Dr. Wollaston tells me, will come to practically the same thing ; and he is able to make an estimate, because of his knowledge of the extent to which these bonds are used. If honorable members desire to consider the schedule further, the Government will raise no objection.

Mr CROUCH

- I should like to know why Geelong is not in the list of towns named in the schedule. It has a bonded warehouse, and it is a more important place than seven or eight of the places mentioned here. It is the second port in Victoria.

<page>2775</page>

Mr KINGSTON

- I think the intention is that Geelong shall be treated with greater leniency in the matter of licence-fees, but if the honorable and learned member desires that a higher rate should be charged, for Geelong, no doubt that can be done. I propose, however, to allow Geelong to have the benefit of the provision that—At any other place Such fees shall be charged as may be prescribed.

At least no higher fee will be prescribed than the fees in the scale in the schedule.

Mr W H GROOM

- I wish to accentuate the remarks which fell from the honorable member for Kennedy with regard to the charges upon bonding warehouses in the places mentioned in the schedule. For instance, Rockhampton, with a population of 16,000, according to the last census, is put on the same footing as Sydney and Melbourne, with a population of nearly 500,000 each. Townsville is also mentioned in the schedule. Surely there should be some discrimination. What the honorable member for Fremantle has contended with regard to Western Australia applies with equal force to Queensland, where the whole population of the State is only something over 500,000, and where the volume of business is very much smaller than in Sydney and Melbourne.

Mr Reid

- What is the charge at Rockhampton at the present time?

Mr W H GROOM

- I could not say, but it is nothing like so high as the charge fixed in the schedule. I do not think we should put the small ports on the northern coast of Queensland and Western Australia on the same footing as Sydney and Melbourne.

Mr KINGSTON

- As regards this part of the schedule, I have taken the recommendation of the collectors, who have expert local knowledge, which I do not possess ; but with the information furnished by honorable members, I shall be only too glad to secure the further consideration of the matter, and to state later on the attitude which the Government propose to adopt.

Mr G B EDWARDS

- I do not know why the people living in the smaller ports should be treated differently from those living in the larger ports. If a bond requires the entire services of a locker, they cannot be obtained for less than £200 per annum. In the larger bonds of Sydney and Melbourne two or more lockers may be required. It would be impossible for this Legislature to give differential treatment in respect to bonding warehouses between the different States. With regard to the fees for private, warehouses, the honorable member for Mernda was speaking entirely in the interests of the large capitalistic bonding warehouses.

Mr HARPER

- I stated that I was speaking for the bonding warehousemen though they are not capitalistic.

Mr G B EDWARDS

- This Parliament would always resist any attempt to create a monopoly, and it is one of the bright features of the Bill that the Ministry have allowed merchants to bond their goods in their own private warehouses. What the honorable member says about the difficulty of dealing with these small bonds is

quite inapplicable.

Mr R EDWARDS

- I strongly support the argument of the honorable member for Darling Downs with regard to the fees for bonded warehouses, particularly in connexion with Rockhampton and Townsville. It is well-known that these towns have a very limited population - although they may be flourishing and prosperous, and I hope they will continue to be so - and I think they deserve every consideration at the hands of the Minister. The Minister has left out the city of Geelong, evidently with the intention that Geelong shall benefit by the relaxation of the conditions, and I hope the Minister will take into consideration the two particular cities I have mentioned. There are no cities in Queensland that can be compared with Sydney or Melbourne, but I sincerely hope that the Minister will keep in mind our smaller centres of population, where the volume of trade is very much less than in the large cities of the south.

Sir Malcolm McEacharn

- I understand that the questions which have been raised in connexion with the schedule will be reconsidered by the Minister.

Mr Kingston

- Yes.

Schedule agreed to.

Schedule 3.

THE COMMONWEALTH OF AUSTRALIA

Customs Warrant

To

<page>2776</page>

You are hereby authorized to enter into, at anytime in the day or. night, if necessary, and search any house, premises, or place ; and to break open the same, and any chests, trunks, or packages in which goods may be or are supposed to be, and to seize and take away any forfeited goods or goods which you have reasonable grounds to believe are forfeited, you may find therein, and forthwith to put and. secure the same in the

King's warehouse, or such other place of security as the collector may direct : And for so doing this shall be your sufficient warrant.

This warrant shall remain in force for one month from the date thereof.

Dated this day of in the year One thousand nine hundred and (seal) Signature.

Mr CROUCH

- I think the Minister has taken a little more power under this warrant than is given by the clause. I suppose that the clause to which this schedule is attached is clause 188, and I think it is rather a pity that the clauses to which the schedules are attached are not mentioned. The form of warrant that is provided for in the schedule gives the right to search any house, premises, or place, but under clauses 188, 189, and 190, although the Customs-house officer has the right to break and enter, he has no right of search.

Mr Kingston

- If the right of search is not given in the Bill it is a right that must be conceded. To break a place open and walk round about it would be idle. It may be necessary to alter the Bill, but I think the warrant itself would be quite sufficient.

Mr ISAACS

- I should like to know whether the Minister thinks it necessary to give a general warrant in these terms to any officer. It is the collector, I understand, who will grant the warrants, and I think it is very important that the warrant should be limited. I can quite understand the authority to the collector being very wide - wide enough to enable the warrant to be granted for any place - but I think it would be well worth the Minister's consideration whether the collector should not specify in the warrant the house that the officer may have the liberty to break open.

Mr Kingston

- The warrant generally runs for a month - it is limited as regards time.

Mr ISAACS

- That time is sufficient to enable a lot of damage to be done, and a lot of annoyance to be caused, and to authorize an officer to break open any house or place at his own discretion seems to me to be giving too

wide a power. I can understand the collector having full discretion, but under this schedule we seem to be going back to the days of general warrants, which are open to objection. I would like to know if the Minister thinks it is necessary.

Mr Kingston

- I do, indeed.

Sir MALCOLM McEACHARN

- I should like to direct the attention of the Minister to the fact that this appears to go a good deal further than can be reasonably expected. I find that in the case of a distillery the Victorian law provides that an inspector of distilleries or other person authorized may enter upon premises and search for and seize any spirits the duty on which has not been paid, and which may be kept concealed. Under the warrant provided for in the schedule a Customs officer can enter any house or premises, and may remove any goods which he has reasonable grounds to suppose are forfeited. I think the warrant goes a great deal further than is reasonable, and I would ask the Minister not to carry things to the extreme, which he is apparently determined to do in this matter.

Mr KINGSTON

- I can assure the honorable member for Melbourne that a clause of this kind is necessary. Searches will have to be made for goods that are smuggled, and a warrant, which will have a month's currency, will be given by the collector to an officer. The warrant need not specify any particular place, because it may be highly desirable that the officer should have power to go hither and thither as soon as he can, and if the place had to be specified on the warrant there would be no end of trouble. I will, however, look into the matter, and if I find that the powers generally conferred are exceeded I will modify the provision.

Mr Crouch

- I would like to ask the Minister if there is any provision made in the act for a seal, and if not, what seal is to be used?

Mr Kingston

- Provision is made for a Customs seal, under clause 13.

Sir MALCOLM

McEACHARN (Melbourne). - I should like to ask the Minister a question which perhaps does not arise strictly under this schedule. As matters stand at present, the Customs authorities collect the wharfage dues for the Harbor Trust. I should like to know if that matter has been thought of in connexion with this Bill, or whether it is necessary to make any provision for it ?

<page>2777</page>

Mr Kingston

- We do not propose to embarrass this Bill with any provisions in connexion with wharfage, the revenue from which belongs to the States.

Schedule agreed to.

Postponed clause 121 -

The prescribed allowance of stores for the use of the passengers and crew and for the service of the ship may be shipped free of duty on board any ship of not less than 50 tons gross registered tonnage entered outwards for parts beyond the seas.

Mr REID

- I am not sure that this clause raises the question which has already been dealt with at some length. There was the case put of a vessel from beyond the seas calling at Fremantle, and the difficulty I had was with reference to ship's stores brought by such a vessel from beyond the seas. I could not see how the Customs could have any jurisdiction to seal such stores down, or to interfere with the liberty of the ship-owners to use them for the passengers or crew during the continuance of the voyage to another Australian port. That was a matter that seemed to present a great deal of difficulty, but this clause has reference to stores shipped in an Australian port for the use of the passengers and crew. I do not see the same serious objection to this clause as I had in view regarding another provision in the Bill.

Mr McCAY

- I would ask the Minister if this clause does not practically create a preference for the final port of departure from the Commonwealth of these- ships, as compared with the intermediate ports. For example, if a ship arrives at Adelaide, and is going on to Melbourne and Sydney, and then leaves Sydney



for a port beyond the seas, as I understand it, entering outwards means that the next port of call has to be beyond the seas.

Mr Kingston

- Yes ; I am not quite sure.

Mr McCAY

- When a ship has entered outwards, does it mean entered for the next port she is going to visit?

Sir Malcolm McEacharn

- Yes.

Mr McCAY

- Then that means that practically the only port at which stores can be shipped free is the final port of clearance within the Commonwealth ?

Mr Kingston

- No.

Sir Malcolm McEacharn

- It is the last port. The ship may be entered outwards for ports beyond the seas.

Mr McCAY

- The last port the vessel touches at in the Commonwealth?

Sir Malcolm McEacharn

- The vessel may be entered outwards for London vid ports.

Mr McCAY

- That gets over the difficulty, if the vessel may be entered for ports beyond the seas vid ports. I was afraid that if it had to be left to the last port at which the vessel called before her departure from the Commonwealth, it would mean that at no port but the last would she get stores, and that might mean giving preference by regulation in the matter of trade and commerce to one port in the Commonwealth over another.

Sir MALCOLM

McEACHARN (Melbourne). - The leader of the Opposition was quite right in supposing that the discussion took place on this clause.

Mr Reid

- I was not clear about it.

Sir MALCOLM McEACHARN

-The Minister, in his speech on the second reading of the Bill,, said : -

Instead of having trade between the States with different Tariffs, we have trade in one Commonwealth, and under these circumstances it appears to the Government that the proper course - seeing that the stores are practically consumed within. Australia - is to provide for the payment of duty on those stores for the benefit of the Australian revenue. That will be the natural effect of the Bill, and special reference is made to the matter in part VII.

Mr V L SOLOMON

- How will that affect oversea ships after they arrive at the first Australian port V

<page>2778</page>

Mr KINGSTON

- In that case the stores will be sealed up. We cannot adopt in this connexion a rule to the advantage of the trader from oversea, and to the disadvantage of the Australian trader.

This brings us back to the question that was raised whether under the covering clause 5 of the Constitution Act the Minister has any right to charge duty on vessels entered outwards for ports beyond the seas. The point that they are beyond the limits of the Commonwealth is, it appears to me, a good point, and certainly one that has not been answered up to the present time. The effect of the clause will be that the only vessels which can get stores will be vessels entered outwards for ports beyond the seas, and which have a larger registered tonnage than 50 tons. That means that those vessels which are competing with our Australian - owned vessels will be placed at great advantage as compared with coastal steamers, which are defined in another place, and which are trading between here and Fremantle. I will give an instance. The steamers of the Peninsular and Oriental Company, the Orient Company, or the North German line will not, to my mind, be chargeable with duty under the clause. That

being the case, they will have their stores free between here and Fremantle, and will be able to carry passengers with cheaper crews, and compete to the great disadvantage of the coastal steamers. J. know that is not the intention or desire of the Minister, and I would like to know whether, since the discussion took place, he has come to any definite decision on the subject.

Mr KINGSTON

- The idea of the Government is that our Australian traders shall not be exposed to a disadvantage in comparison with oversea ships. The subject of stores is a matter of some interest in this connexion. The rule has always been that as regards ships going to foreign ports, stores could be allowed - that is, dutiable goods could be given to them out of the warehouse, duty free.

Mr Reid

- Does the Minister mean to explain the law as it is at present? That might help the committee.

Mr KINGSTON

- It is a matter of some little interest, and possibly some little difficulty, and I am sure honorable members generally will sympathize with the idea which is animating the Government, namely, that they intend to do whatever they possibly can for the protection of the revenue, and equally for the protection of our own people against outside competition. It would be a great pity indeed if the result of our deliberations were to compel our own people, and our local shipping, to compete at a disadvantage with oversea shipping. .

Mr Reid

- Hear, hear.

Mr KINGSTON

- I think we are all perfectly agreed on a point like that. The rule, as I say, with regard to stores - goods of various descriptions, such as provisions required for the service of the ship's crew and passengers - was that those goods could be delivered free when a ship was entered outwards for a foreign port. The idea was, though not in terms, that the goods were almost an export. The goods did not enter into local consumption, and so they might be treated practically as if they were export. But that rule applied only to the case of foreign going ships, and did not apply to coasting ships - ships which as regards the commencement or end of their voyage, did not go beyond the particular State or country - and for a good reason. The ships were locally employed, and the goods consumed on them were practically locally consumed by our own people, or under circumstances under which they might be considered within the State. Before we had federation, what was the position? Take the case of a State, say Victoria. There were three classes of ships. First, the local coaster going from Melbourne to Warrnambool. No stores were issued to her, she having to pay to the uttermost penny the amount of all duties on goods which the master might desire to take out of bond. On the other hand, take an Inter-State ship, trading between Victoria and South Australia. Victoria was then to South Australia as South Australia was to Victoria, a foreign country for the purposes of the Customs Act, and so the privilege was possessed by Inter-State vessels of having their stores duty free, just as if they took them to England, or elsewhere. They went to a foreign port, so far as the State was concerned. Of course the same rule applied with even greater force to oversea vessels, say from the old country or elsewhere, either commencing or finishing their voyage here. The position, by reason of federation, is now altered. As to the Inter-State ships, they no longer trade to foreign ports.

Mr Harper

- There are only two classes instead of three.

Mr KINGSTON

- There are the coasters, and the same rule which applied to State coasters, now applies, if the law is to be continued as we practically find it, to the Commonwealth coasters. These can no longer get their stores duty free. And while last year they competed with oversea ships on equal terms, they are now called upon to pay every penny - of duty on the stores they consume - a burden from which the oversea ship is free. Under these circumstances, it seems to me that it is the duty of the Government to prevent Commonwealth coasters being exposed to that disadvantage. If we leave the matter exactly as it was as regards the old ruling practice, the Inter-State ship, becoming a federal coaster, is handicapped to the extent of the stores on which she has to pay, which stores the oversea ship will get free.

Mr G B EDWARDS

- The oversea ship will pay duty only between port and port in Australian waters.

Mr KINGSTON

- The oversea ship will get her stores duty free if some people have their way.

Mr Reid

- They can do it themselves.

<page>2779</page>

Mr KINGSTON

- Of course there are two things in connexion with this question, of stores which we must not forget. There is the matter of getting the stores out of bond duty free, and the matter of surplus stores on the arrival of the ship. To deal with the matter efficaciously, in the interests of the Inter-State ship, which becomes a federal coaster, I think we must look at the two points - not only at the matter of the issue of stores from the warehouse duty free, but the matter of the restrictions to which the surplus stores shall be exposed on their entering into the Commonwealth.

Mr Reid

- What clause is that under ?

Mr KINGSTON

- If the right honorable and learned member will allow me I will give every possible information as I go along. This is a matter of some little importance on which honorable members are entitled to have the fullest information. It is a matter on which I have conferred with various Customs authorities, and that with a considerable amount of interest. Honorable members would possibly like to be informed what would be the position if we were to allow all coasters and other ships their stores duty free. It seems to me that we have no right whatever to differentiate between the Inter-State coaster and the purely local coaster. This is one Commonwealth, and it seems to me that we can no longer differentiate as to State ships and the extent of their voyages, but that what we give to the Inter-State coaster we ought to give to the local coaster. I am told in the estimate prepared by the various collectors of Customs that if all the vessels are allowed stores duty free it will mean a difference of £60,000. Of course that is a matter which it is our duty to look at very closely before we decide on giving up that a mount of money. It is pointed out in the same estimate that if only those vessels engaged in foreign trade are allowed duty free stores, it will be a matter of £15,000. The collectors very properly guard their expressions in this connexion by the statement :-

It is very difficult to form an estimate of the effect on the revenue since there are no data available on which any reliable information can be ascertained. Roughly, we estimate the loss each year at -

Over all vessels allowed duty free stores, £60,000.

If only vessels engaged in foreign trade are allowed duty free stores, £15,000.

Sir Malcolm McEacharn

- . Does that mean that the coastal steamers would pay £15,000?

Mr KINGSTON

- No, the other way about.

Mr V L SOLOMON

- The coastal traders would pay £45,000.

Mr KINGSTON

- If all vessels were allowed duty free stores, the concession would represent £60,000, but if only vessels engaged in foreign, trades were allowed duty free stores, the amount represented would be £15,000.

Sir Edward Braddon

- That is £45,000 for the coastal traders.

Mr Reid

- That is not clear from what the Minister is reading.

Sir Malcolm McEacharn

- It might be read to mean that if we allow foreign steamers stores free, the loss will be only £15,000, because we are dealing with £60,000 loss in the first instance.

Mr KINGSTON

- The concession to all is £60,000, and the concession to foreign trading vessels £15,000 ; so that the balance of £45,000 must be made up by the concession to other traders.

Mr PIESSE

- But that £45,000 is not all new.

Mr KINGSTON

- No ; that is the result to the Commonwealth which will accrue from the different treatment of the matter which we have in hand. I do not think that the estimate is over-loaded by any means. I should like to say in this connexion that time and again the question of the allowance of these stores, and the abuse of the system has been brought under the notice of the authorities.

Mr McCay

- Will the Minister tell us if it is stated in that report upon what imagined Tariff this loss is estimated ?

Mr Reid

- All the duties are very high on spirits and tobacco.

<page>2780</page>

Mr KINGSTON

- The system, as regards stores, has undoubtedly been abused, and that abuse has been brought under the notice of the authorities from time to time. I happened to have brought under my notice papers dated back as far as 1885, in which the Collector of Customs in Sydney, Mr. Powell, drew the attention of his Government to the matter, with the result that they communicated with the other Australian Governments; Nothing, however, could be done for the reason which has so often prevented the protection of their common interests, namely, that there was no United Australia to deal with the matter. The honorable member for Melbourne rather took exception to some expression which I used when I was dealing with this question in my second reading speech. I had not then read the report which I now have, but it does seem to me that the conclusions which I drew are found to be abundantly justified if the expressions contained in the report which I am going to read are well founded. Mr. Powell expressed himself as follows : -

I have the honour to bring under your notice for the information of the honorable the Colonial Treasurer an abuse of the allowance of bonded stores for the use of vessels engaged in the intercolonial trade. The general practice of Great Britain is to restrict the free use of bonded stores to vessels engaged on trips exceeding 40 days out and home.

The British practice has been altered from time to time, generally in the direction of enlarged concessions to the shipping trade, but Mr. Powell may fairly be regarded as being familiar with the condition of the law at the time of which he wrote. He continues -

Before the separation of the colony of Queensland all the territory north of Sydney was regarded as coast-wise for trade purposes, and bonded stores were not issued from warehouse for ships' use. The quantity of stores now shipped for consumption by vessels trading on the coast, north and south, is in my opinion so great as to justify the inference that an illegal traffic is carried on to a very large extent - that our intercolonial traders are floating taverns- and that it is quite a recognised custom to sell tobacco to passengers in small quantities for shore consumption without payment of duty thereon. It appears to me an unanswerable anomaly that passengers overland by train to Melbourne, by their consumption of dutiable articles, contribute per force to the revenue of the colony, and that passengers, crew, and all persons travelling by sea are not only allowed the free consumption of dutiable goods, but also abuse the concession by carrying dutiable goods to shore. In bringing this matter under notice, I am not indulging in any wild or speculative opinions. I have tested my conclusions by a close examination of Custom-house records, and they can be referred to in proof. I have taken the experience of twelve months, from 2nd June, 1884, to 31st May, 1885, limiting myself to steam vessels only, and confining myself to three articles.

Then the names of certain firms are mentioned. These I do not propose to read, but the total amount of duty which these firms would have paid - had they paid duty upon the stores which they took out during that period - would have been £5,746. That is a matter of sixteen years ago, and honorable members can form some idea in the light of these figures

Mr Page

- Was that in one year?

Mr KINGSTON

- Yes. Honorable members, I repeat, can form some idea as to what the figures are likely to be to-day.

Mr V L SOLOMON

- What year was that ?

Mr KINGSTON

- It was in 1885.

Sir EDWARD BRADDON

-Not an abnormal year?

Mr KINGSTON

- Oh, no. I do not think that in the light of a return of this sort honorable members will be disposed to think that the figures which I referred to just now, and which are the estimate of the collectors, are in the slightest degree an overestimate. Mr. Powell goes on to say : -

The return is for Sydney only, and for three leading articles of general consumption. Bonded stores are also taken from the colonies of Victoria and Queensland, in addition to the above. This is a matter requiring unity of action between the colonies concerned. If we attempt to bring about a better state of things without the cooperation of Victoria, South Australia, and Queensland, the effect will be injury to our trade, without any corresponding advantage. I attach very little value to any attempt in the direction of restricting the quantities supplied. It is tried in Great Britain, but rendered almost useless by the difficulty of defining voyages. The old rule of restricting the use of bonded stores to vessels engaged in voyages occupying more than 40 days, out and home, practically met the difficulty.

That was the report of the Collector of Customs in Sydney which was brought under the notice of his Government, and which formed the subject of a despatch from Mr. Stuart, who was then Premier. He invited attention to the report from the collector, and suggested the advisableness of the adoption, for the protection of the fair trader, and also for the protection of the revenue, of the English rule, which restricts the free use of bonded stores to vessels engaged on trips exceeding 40 days out and home. The matter was looked into, and the conclusion come to was a very natural one under the circumstances, viz., that they could not do anything without uniform legislation on the subject. They had not the power to deal with the subject in the way its importance deserved. Three or four years ago the matter was again brought under the notice of the colonies, and an estimate was formed as regards three or four firms carrying on business in South Australia as to the difference it made to the colony. That estimate was a sum of £8,000.

Mr Harper

- Per annum ?

<page>2781</page>

Mr KINGSTON

- Yes, per annum. The amounts were carefully taken out and checked item by item. It seems to me clear beyond the possibility of doubt, therefore, that we are losing a considerable amount of money by abstaining from collecting duties in respect of ship's stores. As regards the one point of loss to the revenue there is no difficulty in establishing that, and I have already put the second point, which is that from the very creation of the Commonwealth, the Inter-State ships having become federal coasters will lose the privileges they previously possessed, and unless we do something in this connexion will be exposed to competition to which it is hardly fair that they should be subjected. What is our position? What are we to do? The Government idea is that we ought to collect from all - that it is practically Australian consumption. It is rather difficult to get a clear statement of the precise position in some of the longer Customs works, but I have had made available for my perusal a memorandum by the Solicitor to the Customs department in England, dated 1888, which treats most clearly of this question of Customs stores. It says, among other things -

The word "stores" is a term which has a large technical meaning in Customs phraseology. It relates to vessels going to or coming from a foreign voyage, and means articles of food or consumption on board such vessels. It has long been the policy to permit the storing free of duty of articles, otherwise dutiable, on board vessels going to foreign parts, and to give certain facilities for similar consumption in British waters of stores on vessels arriving from ports beyond the seas.

Then he specifies what is the rule.

First, as to vessels sailing from foreign ports - such vessels, if of the burden of 40 tons or upwards, are entitled to take on board for bond, upon due request and authority, and upon such terms and conditions as the Commissioners of Customs may direct, such stores as, with reference to the number of the crew and passengers on board, and the probable duration of the voyage, may be allowed by the collector,

acting under instructions laid down by the board. The articles so shipped are particularly specified on papers to be furnished by the master, and must be covered either by a bond given by him, or, in some special cases, by the store dealer, such bond undertaking that the goods shall be duly shipped, 'carried clear of the territorial waters, and in due course consumed on board.

There is little or no difficulty in regard to a matter of that sort. The stores are issued, and the obligation is specified within the four corners of a bond. The Act aids in the enforcement of the undertaking. The duty is to carry outside and there to consume. Perhaps the more troublesome difficulty arises with respect to surplus stores. Surplus stores I find are-

The stores which are on vessels arriving from foreign ports.

Mr Reid

- What do they do in Great Britain with reference to such stores?

Sir Malcolm McEacharn

- They seal them up when the vessel arrives.

Mr KINGSTON

- In the first place, all such stores, have to be faithfully stated by the master in his report, and the truth of his statement is tested by the examination of the Customs officer into everything on board.

Subject to certain allowances - to be mentioned - all such stores are, while the vessel is in British waters, locked up and sealed on board, or, if further foreign voyage is not soon contemplated, are removed to a Queen's warehouse, and kept in charge until required by the owners for further use.

Or if the amount is not large they may be admitted to home consumption on certain terms.

The breaking of locks or seals placed on stores on board any vessel, whether committed in the port where the seal is affixed, or in any other port, or in any intermediate waters, is a serious offence, for which the law provides a penalty, and by a necessary and wise provision throws the responsibility for any such an act mainly on the master - proof of the act done is alone sufficient - for his crew the master is properly, on this point, soliable to infraction, made primarily responsible.

It seems to me that the position is clearly stated there. When you issue stores to a ship from a warehouse you issue them on a bond that they are not to enter into local consumption, and surplus stores you seal up. You can take securities, and the obligation is on the captain that the stores will not be broken into.

Sir Malcolm McEacharn

- How could the stores be sealed up between Melbourne, and Adelaide ?

Sir John Quick

- "Intermediate waters" does not mean the high seas.

Mr V L SOLOMON

- The stores are not sealed up while the vessel is at sea. They are only sealed up on arrival at a port.

Mr KINGSTON

- The passage which I have just read, makes the breaking of locks; or seals placed on stores on any vessel, whether committed in the port in which the seal is affixed, or in any other port, or in any intermediate waters, a serious offence. If that authority is correct, it means that when a seal is placed upon stores in any port, it is expected that the vessel will arrive in some other port without the seal having been broken while she was in intermediate waters.

<page>2782</page>

Mr V L SOLOMON

- The provision can refer only to bulk stores not required for the voyage.

Mr Reid

- Surplus stores under the definition which the Minister has read.

Mr KINGSTON

- The Customs officer can allow just what he pleases, subject of course to his compliance with any rules which may be laid down for his guidance. Whatever the goods he puts his seal upon, that seal must be respected. What a monstrous position we should be placed in, if it were held that immediately a vessel got beyond three miles from the coast, those on board could do what they pleased with her stores, and would not be held accountable in the slightest degree for the condition in which she arrived at the next port. If the Customs seals are to be broken when a vessel gets beyond three miles from the coast, coastal

ships as well as over-sea vessels would be able to evade our authority, because in their passages from one State to another, their courses often take them beyond the three miles limit.

Sir Malcolm McEacharn

- Always.

Mr KINGSTON

- Therefore if we are to be held incapable of dealing with oversea ships, we should run a good deal of risk in dealing with federal coasters under the provisions in the covering section of the Constitution. A steamer trading from New Zealand, Tasmania, and on to Fremantle would be entitled to certain privileges which would not be possessed by the truly local coaster, because she would not come within the covering provisions of the Constitution; but I put it to the committee - and I do so with very great diffidence, because of my want of actual personal knowledge on the subject - that the right of the Customs officer to go on board a ship and to seal down her stores, and our right to legislate for certain penalties if the ship arrives in another Australian port with her seals broken, is practically undoubted. It would be strange indeed if we did not possess that right, because it would lead to results of a character which it is highly desirable we should avoid. Section 135 of the English Customs Laws Consolidation Act, 39 and 40 Vict., chapter 36, provides that -

If any officer of Customs shall place any lock, mark, or seal, upon any stores or goods taken from the warehouse without payment of duty as stores on board any ship or vessel, departing from any port in the United Kingdom, and such lock, mark, or seal be wilfully opened, altered, or broken, or if such stores be secretly conveyed away, either while such ship or vessel remains at her first port of departure, or at any port or place in the United Kingdom, or on her passage from one such port or place to another before the final departure of such ship or vessel on her foreign voyage, the master shall forfeit the sum of £20.

That clause refers to the breaking of seals, not simply in one port or another, but during a passage from one port to another.

Mr Reid

- If we had the power of legislation which the British Parliament has, a great many of our difficulties would disappear. There is a difference between an Act of this Parliament and an Act of the Imperial Parliament.

Mr V L SOLOMON

- If the Bill is passed as it stands, and stores are consumed between the various ports of Australia, to what State will they be credited, during the first five years of the Commonwealth ?

<page>2783</page>

Mr KINGSTON

- In England they have no free stores on the coast, nor have they free stores on the coast of Canada, with exceptions in favour of deep sea fishing vessels, or where Canadian vessels have to compete on the coast - with American ships; and they also make exceptions in favour of Canadian vessels whose voyages, are so little coastal that they extend from a port on the Atlantic coast of Canada to a port on the Pacific coast, or vice versa. I do not know what other information honorable members require in connexion with this matter. The writer from whom I have already quoted expresses himself as follows, with regard to coastal traffic : -

Vessels engaged in such traffic are held to be in the United Kingdom from the commencement to the end of their voyage, and persons on board vessels so engaged are no more entitled to the free consumption of goods than, persons on the actual land.

He then points out that various exceptions have been made in regard to the supply of stores, and he ultimately declares the full British position at the time he wrote to be as follows : -

It has, however, been long held, first as to foreign vessels, and ultimately as to British vessels, that these beginnings and ends of foreign voyages, provided they genuinely are such, shall, for the purposes of stores, be considered part of the foreign voyage, and stores be allowed accordingly.

Then he says -

The completion of a foreign voyage to its last port of destination, or the commencement of such a voyage by calls at several home ports, is a kind of traffic which is not exactly coasting, nor is it foreign voyaging.

In connexion with this concession he points out -

The arrangement, however, has to be carried out with careful provision against abuse : estimated

quantities for use while the vessel lies in the first port are allowed out there only ; and when the vessel leaves that port a further estimated quantity to last until arrival at the second port, and so on. The officer at the first port sends notice to the proper authority at the port of intended arrival of exactly what stores he left out, and what he left under seal, when the ship sailed, and any departure from this arrangement or apparent tampering with the reserved portion is closely inquired into.

Applying as far as I can the principles which are contained in the authority I have cited, it seems to me the position as to our right to regulate is this : With regard to the stores that we issue free from the warehouse we take our bond : and as regards the stores which by way of surplus are left on board on the arrival of the ship in port, we can seal them down. We can seal them down in any case : and, just as we have the right to seal down in one port, so we have the right to say that the seals shall be brought into the next port untampered with, or, if they are tampered with, that the penalty which we choose to provide shall apply.

Mr CONROY

- The penalty that is proposed is £30 higher than the English penalty.

Mr KINGSTON

- The question of the

Amount matters very little in connexion with a matter of this sort. I think - and I believe honorable members will be disposed to agree with Bie - that we have the power to regulate this matter as we please.. And the next question is - How shall we regulate it? I think we ought to regulate it with some regard for the revenue, and without disregarding sources of revenue to which we can properly have recourse, and which require coasting vessels, in all cases when within the jurisdiction of the country to which they belong, to contribute to the revenue. The question is whether our coasters shall be exposed to undue competition of the character I have mentioned. This is a subject, of interest, and one which I believe all sides will be prepared to discuss with a view to do what is best in the interests of our trade and commerce and credit, and without any party feeling whatever. And now, having in response to the requests of honorable members stated the way in which it appears to the Government that the matter ought to be regulated, we leave it in the hands of the House.

Mr A McLEAN

- I think I followed the Minister correctly, but as the question is one of considerable importance, there should be no doubt in the matter. I would ask the Minister to tell me if I have followed him correctly. I will put a concrete case. We will, assume that a ship arrives from England at Fremantle, intending subsequently to call at Adelaide, Melbourne, Sydney, and possibly Brisbane. If the ship takes her stores from Fremantle or Adelaide for the whole of the subsequent voyage, and seals up the portion which is intended to be consumed between the final port of departure and the port beyond the seas, do I understand that the other portion of the stores intended to be used on the voyage along the coast from one port to another will have to pay duty ?

Mr Kingston

- The idea is that they should pay duty.

Mr A McLEAN

- Then the portion that is intended for use along the coast will pay duty, whilst the other portion - that is intended for use only from the last port of departure to the port beyond the seas will be free 1

Mr Kingston

- Yes.

Mr. McCAY

(Corinella). - As far as I am concerned I think it is perfectly clear that oversea ships while engaged in federal traffic should be on the same footing as federal ships, but I confess that I cannot see in the Bill so far the provisions necessary to secure that object. I should like to know if it is the Minister's view that the sealing up of the ship's stores can be done under regulation, because I do not see any authority in the Bill for sealing up stores under the circumstances detailed by the Minister.

Mr Kingston

- Provision is made in clauses 177, 180, and 181. .

Mr McCAY

- Does "securing goods" refer to what I may call temporary sealing?



Mr Kingston

- Oh, yes.

<page>2784</page>

Mr McCAY

- I would suggest to the Minister that there is a possible means of getting over the question of jurisdiction, if we have not already got over it under the clause. Clause 181 provides that the seals -placed on any goods by an officer of the Customs are not to be broken. I think it was the honorable and learned member for Bendigo who raised the question as to whether the breaking of seals on the high seas, even between ports within the Commonwealth, could be regarded as within the scope of our power of regulation, in view of the limitations of covering section 5 of the Constitution Act. I would point out, however, that we could make it an offence for a ship to come into port with a broken seal it would not matter where the seal was broken, we could make the offence punishable. I do not think clause 181 does that, but if it is made an offence for a ship to come into port with a broken seal, we could get over the difficulty that has been raised with reference to our jurisdiction.

Mr Reid

- If we could do that we could legislate against ships coming into port with a broken package.

Mr Kingston

- Yes ; we could do that.

Mr Reid

- I doubt our power to make any such provision.

Mr McCAY

- I think we would have the power to do it, although we should not do such a thing. At Fremantle, a Customs officer, under the authority of the Act or regulation, would put seals on the goods, and we could make it a punishable offence for the ship to turn up at, say, Adelaide with a broken seal. If we framed the clause properly, the court would not inquire where the seal was broken, but would hold that it was apparently within our power to say that the ship should not come into port with a seal broken: That seems to me to offer a certain way of getting over the jurisdiction difficulty.

Mr Reid

- If that is certain, then everything is certain.

Mr McCAY

- I think it is good law.

Mr Reid

- Supposing that the captain of a ship had red hair, we could prohibit him from bringing a ship into port, according to what the honorable and learned member is saying.

Mr McCAY

- Yes; we could prohibit all red-haired ship's captains from coming into port if we chose ; but what we could do, and what we would do, are two different things. This is a matter of insuring jurisdiction in a case in which we probably ought to have jurisdiction. The honorable member for Gippsland put the case of a ship coming from oversea, and -proceeding from Fremantle to Melbourne and Sydney, after having shipped at Fremantle the stores necessary to carry her from Sydney to a port beyond the seas, in addition to the stores required for her passengers and crew while she was on the voyage along the coast. I do not think that a ship could take free stores on board at Fremantle or before Teaching Sydney, because she would not be entered outwards.

Mr A McLEAN

- She would be entered outwards via ports.

Mr McCAY

- Until a ship has completed her voyage from oversea to her final port of destination in Australia, she would not be able to ship stores free of duty. I would like to direct the attention of the Minister to what I consider may be a very large loop-hole in clause 121, which, unless great care is taken, might allow oversea ships to continue what I, at any rate, regard as their unfair competition against InterState ships. Clause 121 provides -

The prescribed allowance of stores for the use of the passengers and crew and for the service of the ship may be shipped free of duty on board any ship of not less than fifty tons gross registered tonnage entered

outwards for parts beyond the seas.

The Minister and the honorable member for Melbourne informed me, in answer to an interjection, that a ship which had finished her voyage at Sydney could enter outwards for London via Melbourne, Adelaide, and Fremantle. If so, unless great care is taken in connexion with the Act and the regulations, that ship at Sydney so entering outwards could take the prescribed allowance of stores from Sydney to London free of duty, and with free stores engage in the Inter-State traffic from Sydney as far as Fremantle in Competition with Inter-State traders.

Mr Kingston

- Her stores would be sealed down and bonded.

Mr McCAY

- I doubt whether that could be done under the clause as it stands. ,

Sir Malcolm McEacharn

- The authorities may be able to do it by regulation, but not under the clause.

Mr McCAY

- I do not say that it cannot be done, but under the clause as it stands, if the regulations do not provide for it, I am very much afraid that there is a loop-hole.

Mr Kingston

- Clause 39 gives power to take security for anything.

Mr McCAY

- To take security for compliance with these provisions ?

Mr Kingston

- And generally for the protection of the revenue of Customs.

<page>2785</page>

Mr McCAY

- But the Minister cannot take security for a thing he has no authority to enforce in some way under the provisions. I do not think it could be held that the Customs could take security for a ship to do something if there was no law authorizing the Customs to require the ship to do it. I draw the Minister's attention to the matter, because we ought to make sure that ships will not be able to take stores from Sydney, duty free to Fremantle, on the way to London, because in such case a large portion of our object will be defeated. "

Mr Isaacs

- In any case, could the vessel take stores free, of duty from other ports beside Sydney ?

Mr McCAY

- I think that under the clause a vessel could take stores at any of the intermediate ports on her way from Sydney.

An Honorable Member. - Once she is entered outwards.

Mr McCAY

- Once she has entered outwards, I think she could take stores in at any port of call.

Mr Reid

- Supposing a vessel is leaving Sydney and enters outwards for London, although she calls at intermediate ports, then she would come within the clause.

Mr McCAY

- I am not sure that, under this clause as it stands, the Minister or his officers would have power to charge duty on any of the stores the vessel shipped at Sydney, although those stores were being used between Sydney and Fremantle. I will put the matter again. A ship has come from London to Sydney via ports, and goes from Sydney via the ports of Melbourne, Adelaide, and Fremantle. At Sydney she enters outwards for London via these ports. She takes on board, under clause 121, free of duty all the prescribed allowance for the whole of her outward voyage which begins at Sydney and ends at London.

Mr Harper

- It begins in Fremantle.

Mr McCAY

- That is so, if it is intended that the outward voyage shall commence at the last Australian port, but the clause certainly does not mean that as it stands.

Mr Kingston

- I think so ; however, we will make it clear.

Mr A McLEAN

- The general law compels the ship to pay duty, and this clause exempts only that portion of the stores which is required for the voyage.

Mr McCAY

- I am inclined to think that this clause may be interpreted to mean a bigger exemption than was intended.

Mr Isaacs

- Does the service of the ship not commence as soon as she leaves Sydney ?

Mr McCAY

- I think the service of the ship does commence as soon as she leaves Sydney.

Mr Kingston

- That is not the intention.

Mr McCAY

- I am making these remarks for the purpose of endeavouring to insure that the clause will mean what it is intended to mean. I heartily agree with the object the Minister has in view both as regards the stores taken on board in Australia and as regards the surplus stores, on arrival at the first port of call in the Commonwealth, 11

Mr Reid

- To impose a duty on file stores even if the ship does not use them or land them?

Mr Kingston

- Not if sealed.

Mr McCAY

- If the ship has power to seal up again when she leaves, that is all right - I mean the stores used between ports. I am in accord with the clause, but I, and business men who are more familiar with trade by sea than myself, see all sorts of difficulty in the way, and great necessity for the utmost care in preparing this measure. It is with that object I take up the time of the committee in referring to these three minor, yet important, points.

Mr Kingston

- That is, the point as to the service of the ship after leaving the last Australian port ?

Mr McCAY

- That is so, and another matter is as to the breaking of the seal.

Mr Kingston

- We will make that clear.

Mr. REID

(East Sydney).- No doubt, this is in one sense a small matter, but it is really one of the most difficult matters the Ministry will have to deal with. There would be no difficulty at all if ships arriving from beyond sea or departing from our ports, to places beyond seas, were ships belonging to the Commonwealth. But we are not exactly in the same position in regard to those ships as are ships in relation to the British law. For the purpose of safeguarding our Customs revenue against the landing of ships' stores, we have every power we possibly want. But I think the Minister is wrong when he says, that, if these overseas ships can go behind the law, the coasters also can go behind our law. There is a great distinction between the two.

Mr Kingston

- I know there is by paragraph 5.

<page>2786</page>

Mr REID

- That paragraph means, something. It means that vessels arriving ; in the ports of the Commonwealth from, beyond the sea, are not subject to the laws of the Commonwealth. Of course there is, I admit, a qualification, because for the purpose of protecting the Customs against the landing of dutiable goods without paying the duty, there is, of course, full power of legislation. But the difficulty is in the fact that these stores are taken on board beyond our jurisdiction in the case of overseas ships, and are not intended to be landed. They are never intended to reach any Australian port or to be consumed on Australian soil ; therefore they are not goods which come under the control of the Customs, except for the

purpose of preventing their being landed. That is a distinction to which we must pay some regard. The strongest test of our power is, I think, to be found in the mother country. Surely we have no greater power over foreign vessels than the Imperial Parliament have over foreign vessels. I suppose we will all admit that what the Imperial Parliament cannot do with regard to French ships, we cannot do with reference to ships beyond our jurisdiction. Even the most patriotic Australian will admit that. Foreign ships can go to the ports of England, and can trade, calling on their voyage at different ports on the coast of England, and yet the British authorities cannot touch the ship's stores.

Mr Kingston

- That is a concession.

Mr REID

- It is not a concession,, but it has been held in the courts over and over again. I am sure I am going on very good authority when I rely on the book which the Minister has handed to me. It was in consequence of the fact that foreign ships could not be interfered with in this way that the same concession was extended to British ships. This book was prepared, I believe, by the solicitor to the British department of Customs.

Mr Kingston

- Yes ; and it is a very excellent little book.

Mr REID

- It is very singular that the book touches all the difficulties in a few paragraphs that we are concerned about. It first of all deals with the surplus stores on vessels arriving from foreign ports. There is no difficulty about the stores taken from on shore, because the Customs department can prevent any movement of dutiable goods from the shore. The more serious difficulty is as to the surplus stores brought by vessels from beyond the seas. Do not let us forget that there are two sides even to the question of our trading interests. "We must not forget that after we shall have attempted to deal with this matter in the way proposed, ships coming from beyond seas can possibly escape by bringing a sufficient quantity of stores so as not to be compelled to do business with Australian merchants at all.

Mr Kingston

- It is a question of sealing.

Mr REID

- I am not on the question of sealing. If the vessel's taking out of stores is to be made the subject of difficulties and duties whilst she is in Australian ports, clearly she will not buy her stores here at all, but will bring a sufficient quantity for all her requirements. One of the serious difficulties will be that a very large trade in the sale of ships' stores to vessels going along our coasts will be destroyed.

Mr A McLEAN

- The vessel cannot use those stores on her coast trade.

Mr REID

- That is exactly the point, and I am going to show that a vessel can use those stores in spite -of us. What a French ship can do in spite of British laws and of the British Government, a French ship can do in spite of the Commonwealth laws. I submit that the mother of Parliaments has greater power of legislation than we have ; at least I should think so, especially when she has expressly exempted oversea ships from the laws of the Commonwealth.

Mr Watson

- Is it clear that the British Parliament has attempted to legislate in this direction. I ask for information.

Mr REID

- Yes.

Mr Harper

- Do foreign ships trade along the coast of England ?

<page>2787</page>

Mr REID

- It is so stated in this book, written by the solicitor to His Majesty's Customs in England. The whole process is given in the book in connexion with vessels such as we are referring to. We read -  
Surplus stores ; on vessels arriving from foreign parts- ,  
That would be the case of a ship from London to Fremantle.

In the first place, all such stores have to be faithfully stated by the master in his " report " of the ship, and the truth of his statement is, of course, tested by the examination made by the Customs officers of everything on board. Subject to a certain allowance - to be mentioned - \_ .

That is the allowance between ports - between Fremantle, Adelaide, Melbourne, and Sydney if it is a voyage of that sort.

. all such stores are, while the vessel is in British waters, locked up and sealed on board, or, if further foreign voyage is not soon contemplated are removed to a Queen's warehouse and kept in charge until required by the owners.

Mr Higgins

- That does not deal with the power in question.

Mr REID

- I am only going step by step.

There is, however, as indicated above, a generous allowance in respect of stores made as to vessels resting solely in British waters.

That is to say, a vessel comes from some foreign port to London, and she is only resting there until she resumes the voyage from London to a foreign port.

There is, however, as indicated above, a generous allowance in respect of stores made as to vessels resting solely in British waters.

So whether we can do it or not, the plan now proposed is different from the plan which prevails in British commerce. That, is only one step of the matter. We will go further, and then we come to this very difficulty, on which the writer says -

The above remarks deal only with vessels sailing directly to, or arriving' directly from, and returning directly, or with only necessary delay, to foreign parts.

That is one case.

A different question arises as to vessels which may commence their journey abroad by some coasting traffic in British waters, or having arrived from abroad at one port may be destined to go to one or to several others.

That is the very case we are talking about. Let us see what follows -

The difficulty arises here, because, while this concession of stores' is allowed to vessels to and from parts beyond the seas, it is not allowed to coasting traffic.

That is the very difficulty we are on. Let honorable members listen to what follows -

Vessels engaged in such traffic - That is going from port to port.

Mr Kingston

- That is the coasting traffic.

Mr REID

- Yes, the Minister is right - that is the coasting traffic.

Vessels engaged in such traffic are held to be in the United Kingdom from the commencement to the end of their voyage, and persons on board vessels so engaged are no more entitled to the free consumption of goods than persons on the actual land.

So that even a British ship, if she trades between Fremantle and Sydney, touching at ports, and back again from Sydney to Fremantle, will be under the same obligations as our own Australian-owned ships.

The law will apply equally. That is to say, a French ship trading between English ports, if she chooses to do so, will be subject to the same law as ' the coaster owned by the British merchant ; but they go further in England -

The completion of a foreign voyage to its last port of destination -

It is absurd to say, in the case of a vessel bound, to London and Hull, that her destination is only to London, and that she engages in the coastal trade when she goes to Hull.

The completion of a foreign voyage to its last port of destination, or the commencement of such a voyage by calls at several home ports, is a kind of traffic which is not exactly coasting, nor is it ' foreign voyaging.

That is the trouble - the traffic of foreign going ships between our ports. It is not exactly coasting, and it is not exactly foreign trade.

It is so far coasting that it is confined, to the territorial waters, or nearly so, and that (subject to certain regulations and safeguards for separation and the like) vessels on these kinds of voyages are allowed to

carry coastwise goods as above mentioned.

That is the stores.

It has, however, been long held - This is the point, and sums up all the difficulties and decisions over this vexed question -

It has, however, been long held, first as to foreign vessels, and ultimately as to British vessels, that these beginnings and ends of foreign voyages, provided they genuinely are such, shall, for the purposes of stores, be considered part of the foreign voyage, and stores be allowed accordingly.

I hope that language is plain enough. Perhaps it means the exact opposite of what it says.

Mr McCay

- Does the word " held " mean held by the courts of law, or laid down as a rule of practice by the Customs.

Mr REID

- The fool of a writer does not tell us. He did not think that the honorable and learned member would ask that question.

Mr Kingston

- It must be the Customs authorities.

<page>2788</page>

Mr REID

- Of course it "must," and that settles the matter. The inquirer and the dictator are equally absolute. This is a learned writer - a solicitor - and he does not use the expression " held," I am sure, in reference to some dictum by a Customs officer. He says -

It has been very long held, first as to foreign vessels, and ultimately as to British vessels - and we may be sure that the Customs house was not keen to hold these points - that these beginnings and endings of foreign voyages, provided they genuinely are such, shall, for the purposes of stores, be considered part of the foreign voyage, and the stores be allowed accordingly.

Even if that had never been held, is it not common sense and common justice ?

Mr Watson

- It is not common justice.

Mr REID

- I did not mean in the case of which the honorable member is thinking, but in the case which I am about to state. Supposing that a ship from London takes 50 passengers from Sydney, is not that ship entitled to have stores for the crew and passengers who travel on board between London and Sydney ? That is not an unjust proposal, surely. That is the trade in which the ship is engaged. But the effect of this provision will be that the ship's business will be interfered with, and she will be held to have arrived with her Sydney passengers when she arrives at Fremantle, because within that time they will be considered to be practically within the Commonwealth. The authority, goes on to show how, in England, they met these difficulties in a perfectly fair and reasonable way. He says -

However the arrangement has to be carried out with a careful provision against abuse ; estimated quantities for use while the vessel lies in the first port, are allowed out there only ; and when the vessel leaves that port a further, estimated quantity to last until arrival at the second port, and so on.

Here is a ship which lands her passengers at Fremantle. They go off the requirements of the ship. Then the Customs authorities, knowing how many passengers are going from Fremantle to Adelaide, estimate the quantity of stores which will constitute a sufficient allowance for the passengers and the crew till they reach the next port. They give them their own stores free of duty. If there is any power to put persons travelling on overseas ships under the same rule that would apply to coasters, every one must see the thorough fairness of the proposal. We are all behind the Minister there. If a person gets on board at Fremantle, and if the law is to be that coasters from Fremantle are to pay for their stores taken on board, we are all, absolutely with the Minister in endeavouring to provide that passengers going on board a foreign ship at Fremantle shall be treated on exactly the same terms. Does the Minister admit with reference to passengers who come from London to Sydney, that it would be the duty of the Customs, while sealing up the surplus stores to leave out sufficient for the consumption of such passengers in such overseas ships, whilst they are travelling between Fremantle and then port of destination?

Mr Kingston

- I do not think so.

Mr REID

- We had better know what the Minister wishes to carry out, in order to see whether it can be done. In the first place, I do not think we can cut in upon foreign trade - British or French commerce - so as to deprive passengers between London or Marseilles and Sydney of their rights to these ships' stores. .

Mr Watson

- Does the right honorable and learned member mean that we have not the power ?

Mr REID

- I do not think we have the power.

Mr Watson

- How did Canada have power to restrict the trading between her own ports of foreign vessels?

<page>2789</page>

Mr REID

- This subject is difficult enough without starting other conundrums. If Canada did what the honorable member suggests, it must have been with the sanction of the British authorities. Either they gave power to Canada to frame such laws, or they assented to the Bill which contained such provisions. But the point in my mind is, first of all, " Can we put foreign ships on the same footing as coasters with reference to passengers coming from London to the last port of call " ? I do not think we can. I hope that the Government will, if there is any possibility of trouble, separate that matter from this Bill. It will be a calamity if some infinitesimal thing, compared with the utility of the measure itself, were to hang it up in any way. I do not wish to express any opinion contrary to the Government. If there is any doubt about it, however, would it not be better to separate this thing, which may touch important issues ? But that is a matter for subsequent consideration. What I wish to point out is the practice in the mother country in this respect. There, when a vessel leaves the first port of call on the British coast, a further estimated quantity of stores to last till her arrival at the second port, is given out. Applying that practice, let us suppose that a vessel arrives at Fremantle. There a sufficient allowance of stores is given out to last the vessel until her arrival in Adelaide. At that port the Adelaide passengers go out. The Customs authorities then estimate the quantity of stores that will be required to, last the ship until her arrival at Melbourne, and so on. That is the practice in the. mother country, and according to the language of the book which I have quoted, it has been held that foreign ships are entitled to the same treatment. If a ship is foreign territory - and a British ship is foreign territory in certain respects in connexion even with us, just as is a French ship - and the passengers are on that ship upon the high seas, there seems no power in this Commonwealth to tax the goods consumed by those passengers. But I admit the absolute power of the Customs, with reference to any vessel trading between our ports,' to protect the revenue of the Commonwealth, against ships' stores being consumed within the Commonwealth under circumstances which make them liable to duty. I consider, however, that a man who is in transit from London to Sydney upon a vessel calling at Adelaide, is not in that position. The goods which he consumes have not been imported into the country.

Mr HARPER

- Is he not within the jurisdiction of the Commonwealth 1

Mr REID

- He is within the jurisdiction of the Commonwealth for a number of purposes. For instance, if he commits murder or theft, he may be tried within the Commonwealth ; but I am not speaking so much of the presence in port of a ship. The moment a ship gets away on the high seas, our jurisdiction would not follow it, except under special enactment. Of course, we know that certain persons who commit crimes on the high seas, can be tried at our local courts. But that is under special enactment. I do not wish to discourage the Minister's idea to put coasters and foreign vessels upon an equality. It is not to be forgotten that there is a method of simplifying this difficulty, and of making the conditions absolutely equal.

Mr Barton

- At what cost?

<page>2790</page>

Mr REID

- That is another matter to be considered, but we must not forget that it is so. It is possible to put the coasters on a footing of absolute equality with foreign going ships by allowing them to have their stores" duty free. If the revenue requires that we shall make this charge in reference to coasting traffic, I have not

one word to say in antagonism to the Minister's idea to put both coastal and foreign-going ships upon an equality. My only doubt is as to whether the Customs would have power to, deprive the class of passengers to whom I have referred of the use of ships' stores whilst continuing the voyage between Fremantle and Sydney. It may be perfectly right to say that we want to safeguard the revenue by giving them an allowance sufficient for all purposes ; and to add " as you are approaching other ports where the ship's goods may be smuggled ashore, we, for the protection of the revenue, put our seal upon your stores." That brings the matter down to a mere figment. In that case it would be mere talk about words. But the Minister wants to go further and to say - " I want to give you out an allowance on the inward voyage, but the moment you touch our ports everything consumed by the London passengers, and by the crew going to Sydney, shall pay duty to the Commonwealth." That is a substantial matter, about which it is worth while talking. I question very much whether we have the power to go so far. I admit the right of the Customs to take every precaution to prevent these goods from being landed and consumed; but, as long as they are genuinely applied to the purposes for which they were put on board, I very much question the power of the Government to enforce such a provision as is proposed. I might point out that by the very intention of this clause the Government recognise that a ship may bring a ship's stores from abroad into the Commonwealth, and bring enough to last her on the home voyage. Therefore, the main point as to the right of a ship to have dutiable goods on board - so as they are not landed and consumed in the Commonwealth - is not at all in question." "What I have said would undoubtedly follow. Even if the Government ' were able to apply this provision to all dutiable goods consumed between Fremantle and Sydney, we must be prepared for a great sacrifice of Australian trade, because assuredly, instead of buying their goods in Australia for the home voyage, ships would lay in a sufficient quantity at the other end to last them that return voyage. " Ships' stores " is a much wider term than is commonly supposed. It comprises all sorts of things necessary to the working of a ship which come under the head of ship chandlery. There is a large Australian trade done in these things with oversea ships. Of course, if the ship chandlery is free of duty, as in the New South Wales ports, there is no trouble. But if we impose a Tariff similar to the Victorian Tariff, where I suppose almost every article of this kind is, to some extent, liable to duty, we must seriously consider whether, in the case of a vessel which has come from over the seas, what we may gain in duties on the consumption by passengers between Fremantle and Sydney would warrant us in destroying what I am informed is a very valuable trade - the supplying of oversea ships with stores. I am sorry that the Minister, who has had a calculation made as to the amount of the duties that the Customs authorities might lose, has not also had a calculation made as to the amount of the Australian trade that may be lost in supplying these ships with stores. There are two sides to the question, and I hope that the Government will take it into consideration.

Mr. ISAACS

(Indi). - I think we all agree with the Minister that we must see that the Australian coasting vessels are not placed at any disadvantage in competing with oversea vessels which engage in coastal trade. But it seems to me that one or two of the observations which have fallen from the leader of the Opposition contain a large amount of justice, and I do not think that the cases he put are provided for. If a vessel bringing passengers from London for Fremantle, and various other Australian ports round to Sydney, carries no Australian passengers from port to port it seems to me that she does not enter into competition with the coasting vessels, and therefore I fail to see why she should pay duty upon the stores she has brought from London, and which are consumed by her passengers and crew between Fremantle and Sydney. But if she takes Australian passengers between ports, and thus comes into competition with the coasting trade, she must take the consequences, inasmuch as we could not discriminate between the quantity of stores consumed by her through passengers, and the quantity of stores consumed by the passengers travelling from port to port.

Mr HARPER

- As a matter of fact, all the English steamers pick up passengers from port to port.

Mr ISAACS

-If they do that, I agree with the proposal of the Minister to make them pay duties. I should like to point out, however, that, as was pointed out by the honorable and learned member for Corinella, a rather inconsistent state of things will exist under the Bill as it stands. The London vessel which has called at Australian ports, and completed its voyage at Sydney, enters there outwards for London, viti Australian



ports, and takes on board the prescribed allowance of stores. The- Minister interjected that those stores would be sealed up, but it seems to me that under the Bill they could not be sealed up. The vessel is to obtain a prescribed allowance of stores "for the use of the passengers , and crew, and for the service of the ship."

Mr Kingston

- After the last port of departure is left.

Mr ISAACS

- I do not think that that is the construction which can be placed upon the clause. The two conditions are that the stores shall be used only by the passengers and crew, or for the service of the ship, and that they shall not be unshipped except with the permission of the collector." If those conditions are complied with, the ship must be allowed to use the stores from the moment she takes them on board.

Mr Kingston

- We can make the matter clear by amending the clause.

<page>2791</page>

Mr ISAACS

- Of course we can, and I am pointing out that it will be necessary to amend the clause. I want to emphasize the fact that the honorable and learned member for Corinella is perfectly right, and that as the Bill stands we deal in one way with ships' stores between Fremantle and Sydney, and in another way between Sydney and Fremantle. With regard to the doubt expressed by the leader of the Opposition with respect to the power of this Parliament to enforce regulations, it is quite true that a Messageries Maritimes vessel leaving an Australian port with her stores sealed might go 10 miles to sea and break the seals and use the goods, and not be liable for any penalty under the Commonwealth laws for what she did whilst at sea : but it is also true that if that vessel came again within the Commonwealth jurisdiction without a seal which had been placed on her stores at a previous port, or with that seal broken, the Commonwealth might inflict a penalty upon her for coming into port in that condition. I think there is no question as to the fact that we can make any laws we like for the regulation of the InterState and foreign commerce of the Commonwealth. Our power is certainly not( so shortened that we are prevented from safeguarding our revenue, and enforcing our laws, merely where a ship has gone outside our territorial jurisdiction to break them. In my opinion, it is quite competent for us to enact that if a foreign merchant vessel leaves one Australian port- with her stores sealed up, and arrives at another Australian port with the seals broken, the captain, officers, or owner shall be liable to a penalty.

Mr Reid

- I do not think that will help the case much.

Mr ISAACS

- Directly the vessel comes within our jurisdiction she must be subject to our laws. If she never came again within our jurisdiction we could not punish her for something she did beyond 3 miles from our coast; but if she came again within our jurisdiction she would be subject to our laws.

Mr Reid

- For something done outside our jurisdiction ?

Mr ISAACS

- The offence would be that of coming into a port with broken seals.

Mr Reid

- If that argument meets the case, Ave could deal with any offence committed on the high seas.

Mr ISAACS

- So Ave could, unless it were committed on a foreign ship of war.

Mr Kingston

- We make a ship answerable for her cargo, even though something that has taken place in regard to it happened outside our jurisdiction.

Mr Reid

- That is because the cargo is to be landed on our shores. These stores are not to be landed at all.

Mr ISAACS

- If the right honorable and learned member had not expressed a doubt,. I should not have thought that there

As was one in the matter. Personally, I do not entertain a doubt that Ave can make and enforce any law of the kind. If that is so, it will meet the position.

Mr Reid

- But even such a law must recognise the light of a ship to keep her stores on board.

Mr. CONROY

(Werriwa).- Section 5 of the Constitution Act clearly gives us power to deal with the stores of vessels whose first port of clearance and port of destination are within the Commonwealth. I think that the members of the committee are agreed that Ave have power to legislate with respect to such vessels, even though they may go beyond the 3-mile limit. The real point at issue seems to be whether we have power to deal with ships arriving from over the seas, whose port of destination is within the Commonwealth, because they happen to touch at some port within the Commonwealth, before arriving at that port of destination. That is to say, if a vessel from over the seas calls at Fremantle on her way to Sydney, have Ave power to charge her duty on the stores she consumes between Fremantle and Sydney? I think that Ave should be very careful before trying to exercise such a power. Take the case instanced by the leader of the Opposition, that of a French ship whose stores are sealed at Albany. Does the Minister for Trade and Customs think that if the seals were broken while the vessel was outside the jurisdiction of the Commonwealth the French Government would sit quietly by and allow us to exercise rights over what they would consider French territory?

Mr Reid

- Suppose that the Customs department, instead of sealing up the goods, sent an officer on board to take charge of them, and that 20 miles off the coast the captain put him on one side and took the stores out of the store-room. What offence would be committed against Commonwealth laws?

<page>2792</page>

Mr CONROY

- That seems to me a case that Ave should take notice of. We have passed beyond the time when Ave legislated, as individual States. If in the State Parliaments Ave had tried to assert an authority such as Ave are trying to assert now, our remarks would have merely provoked contempt and ridicule. Now Ave are legislating as a Commonwealth. Our actions here- not the utterances of members - but the actions of the Parliament itself, and of the Executive of the Commonwealth will be a very much more serious, and Ave shall be held responsible for them. If Ave are to be held responsible for these actions, and it is intended to attempt to exercise authority over German or French ships, it seems to me our first duty will be to provide ourselves with a very large navy, because we shall certainly come into conflict with those nations. Honorable members must remember that some of the most bitter struggles that took place at the beginning of the last century were due to the right of search claimed by British ships over foreign ships, in many cases for the purpose of trying to prevent smuggling. England gave up that right. One of the chief objectors to her exercise of the right was America, and the War of 1814 was brought about by the difficulties arising over this very question. As a Commonwealth Parliament Ave are bound to take matters of this kind into consideration, when it is proposed that we shall exercise control over these foreign boats. It has been stated that a penalty may be claimed for an act committed on board one of these foreign ships, when they are entirely outside our jurisdiction, but I do not think that the Minister of Customs ought to raise such a contentious point in a Bill like this. If the Minister desires to get the Bill through, would it not be advisable to see that we are clearly within our rights under the Constitution, and that the powers we propose to exercise come within the definition of covering section 5 of the Constitution Act. If it is desired to reach these foreign ships, some separate provisions might be made after this Act is assented to by the Governor-General, or the matter might be dealt with in a separate Bill. If we intend to have our Customs Regulation Act brought into force before the uniform Tariff comes into operation, and I suppose we do, it does not seem desirable that we should risk the delay that would occur in the case of the Governor-General having to reserve the Bill for the Royal assent. I was a little struck by hearing one or two strong protectionist members make an admission that the collection of these duties on ships' stores would increase the price of the articles.

Mr Harper

- I suppose tobacco is dearer owing to the duty.

Mr Reid

- Does the honorable member admit that?

Mr Harper

- Yes.

Mr Reid

- Then is not starch dearer owing to the duty ?

Mr Harper

- No.

Mr CONROY

- Then we shall see that no injustice is done to the honorable member for Mernda, and take care to leave the duty off starch. Certain honorable members who call themselves protectionists have based their argument on this question upon the fact that the duties will considerably affect the prices of the goods.

Mr McCay

-Many duties do ; sometimes they reduce the prices of goods.

Mr CONROY

- When they do, they ought to be removed.

Mr Reid

- With a duty of 100 per cent. goods could be had for nothing.

Mr CONROY

- The honorable member for Corinella was one of those who argued that the increased price of the stores consumed by local traders would allow of foreign ships entering into unfair competition with them, unless stores used on all vessels trading on our coasts were equally taxed.

Mr McCay

- I said nothing of the kind ; I said that the two parties must be on the same footing, but I did not say how they would be affected by any course of action that might be taken.

Mr Reid

- Then the honorable member's policy would be wrong, because the foreigner would not be on the same footing as the others.

Mr CONROY

- In view of the very serious international difficulties that might arise in connexion with this question, I would ask the Minister whether it would not be wise to deal with the question in two divisions, dealing in one case with the ships over which we know we have full jurisdiction, and in the other case with foreign ships, regarding which our jurisdiction is doubtful, even according to the views expressed by some of the Ministers themselves. It seems to me that the proposal to tax these ships' stores all round will probably have another effect which it behoves the representatives of Western Australia and Queensland to consider. Supposing that we are able to establish our jurisdiction over the oversea, ships in the way that is contemplated, I would like honorable members to consider what the probable effect will be upon our outlying ports. We know how difficult it is to get these large ocean steamers to call at outlying ports where it is especially desired that they shall call, in order to develop trade. These steamers have sometimes as many as 700 or 800 souls on board, and if the cost of ships' stores, whilst these vessels are travelling along our coast, is increased to any appreciable extent by the imposition of duties, the effect may be to prevent ships from calling at the outlying ports.

Mr Mauger

- How does the honorable and learned member know that ?

Mr CONROY

- The whole argument in favour of the Government proposal has proceeded on the basis that the cost of these stores will be so much greater when the duties are imposed as contemplated.

Mr McCay

- The honorable member is quite right; revenue Tariffs do raise prices.

Mr Reid

- We all admit that, but the protectionists humbug the otherway.

<page>2793</page>

Mr CONROY

- We have been told that the prices of stores will be raised by these duties, and supposing that we are

successful in taxing the stores used on these boats, and there is no international difficulty, is there not a danger of our preventing these great steamers from calling at such ports as Albany in Western Australia, and Cairns and Townsville, in Queensland, and thus to a very large extent destroying the trade of those places. It may be that if we carry things with too high a hand the whole of our outlying trade will ultimately be carried by tramp steamers coming direct from one place to another, whilst the big ships will call only at Melbourne and Sydney, without touching anywhere else. Take the case of one of the boats such as came out only a few days ago with over 1,000 souls on board. The difference in the cost of the stores duty free, and subject to duty, would be probably quite £1,000, and that would be a very important consideration. I think the Minister for Customs might well consider the propriety of adopting the suggestion I have thrown out.

Mr. REID

(East Sydney). - I want to put only one point in reference to the view expressed by the honorable and learned member for Indi. It only shows how different two sets of circumstances must be if, as has been contended, there is an authority which protects the Customs seal over property on a French ship on the high seas. Let us suppose that a Customs officer has been put on board a French ship in Sydney - that a seal has been put upon the stores of that ship, and that the officer has been placed on board to see that the stores are not used between Sydney and Melbourne. The captain may use physical force to remove the officer and take the stores, and in the course of the struggle - perhaps not intentionally but actually - the Customs officer may be killed. In such a case, could that captain be tried by the Commonwealth law, on arrival at Melbourne, for the murder of the Customs officer? The captain would be under the French flag on a French ship, and would be a Frenchman himself. The law is carried so far in that case that the court here would have no jurisdiction to try the captain for the murder of the Customs officer.

Mr McCay

- Unless the law were to forbid French ships from coming into port with a dead Customs officer on board.

Mr REID

- That is a reply worthy of the honorable member, and the corpse, and the argument - I do not make any distinction between the three. As matters stand now, let us suppose that on a British ship trading between New Zealand and Sydney a murder was committed. We could only try the supposed murderer for the offence in Sydney under an Imperial statute that gives us power to do it, and the basis of our right to proceed is that it must be proved that the ship on which the alleged murder occurred was a British-owned ship sailing under the British flag. I say that the matter is one of great difficulty. I do not wish to say that the honorable and learned member for Indi is wrong--

Mr Isaacs

- What the right honorable gentleman has stated is not necessary to what I have said.

Mr REID

- Perhaps not, but it shows the integrity of a French ship as French territory on the high seas, and if that integrity is strong enough to prevent a French captain being tried for the murder of a Customs officer engaged in protecting Commonwealth interests, according to the law of the Commonwealth, it throws some doubt upon the question whether he could be punished for breaking a Customs seal.

Mr Isaacs

- The right honorable member might apply the same difficulty to British law.

Mr REID

- Yes ; the position is exactly the same. I only mentioned the case to show that there is a great deal more difficulty surrounding the matter than seems to occur to some of my learned friends opposite.

<page>2794</page>

Mr WATSON

- I would like to know what attitude the Minister is going to take up in regard to this question. If there is anything in the position taken by the leader of the Opposition we are presented the alternative of exempting from duty all stores on our coasting vessels, or declaring that no foreign vessels shall carry colonial goods or passengers between Commonwealth ports. That is the attitude that I believe has been taken up by Canada. I know it has been taken up by the United States, and I think Canada did the same thing by way of retaliation. I hope it is not contemplated to allow a distinction to be made between Commonwealth-owned boats and those that come from abroad. That would be manifestly unfair, and

even if the consequences be, as the honorable and learned member for Werriwa has stated, it would not be proper to allow that unfair competition with our steam-ship owners.

Mr Reid

- Not unfair so far as London passengers to Sydney are concerned ?

Mr WATSON

- There is no complaint on that score, but it is as to goods taken between ports. I think the Minister might give us some indication as to the Government's position.

Mr KINGSTON

- The position is that we propose to treat all alike to the extent that we will charge all for stores within the Commonwealth.

Mr Reid

- Not stores they bring from beyond seas ?

Mr KINGSTON

-I mean that the stores they bring from beyond seas shall be sealed down or paid duty on them. If they pay duty, well and good ; if they are sealed down and kept sealed, well and good. But we take every precaution in order to get duty on goods of this nature, if they practically enter into Australian consumption by being consumed between Australian ports.

Mr Reid

- That position is easily understood ; there is no complexity about that.

Mr KINGSTON

- There is no complexity whatever about that. An attempt has been made to cast some doubt on the position contended for, namely, that we have a right to see that the seals which are put on stores in Australian ports shall be respected, and to punish the vessel if she makes an appearance in another port with those seals broken. I confess I really cannot recognise the force of any contention to the contrary. Wherever the goods may come from - whether they be cargo or stores - we require a proper accounting for them in accordance with our law. As to the vessel when she first appears, if she does not account for her cargo, she is subject to penalty, and similarly as regards her stores; and what we can do on her first appearance we can do afterwards.

Mr Reid

- Would it not be accounting for them to say that they had been consumed on the ship ?

Mr KINGSTON

- It might or it might not ; it depends on circumstances. Some honorable members seem to express surprise at the idea of a position of this sort being contended for. But it has not only been contended for, but time and again there has been legislation on these lines in the Australian States. I will refer to one of the most recent Acts affecting the Australian trade, namely, the Western Australian Customs Act, wherein it is provided -

If any officer of Customs shall place any lock, mark, or seal upon any goods on board any vessel entered outwards, and such lock, mark, or seal be wilfully opened, altered, or broken-

Mr Reid

- That is before the vessel goes out of the State's jurisdiction. We all admit that while a vessel is in the port she is subject to the Customs for the protection of the revenue.

Mr KINGSTON

- The leader of the Opposition points out that this clause only applies when the vessel is in port.

Mr Reid

- For the protection of the revenue against those things being landed.

Mr KINGSTON

- There is a great advantage in hearing a section read before proceeding to dissect it.

Mr Reid

- I beg the Minister's pardon ; I thought he had finished the section.

Mr KINGSTON

- I had no chance to finish it, but I will finish it if the leader of the Opposition will allow me, and show that it provides entirely to the contrary of what he contends - - or, if any stores be secretly conveyed away, either while the ship or vessel remains at her first port of departure, or at any other port or place in

Western Australia, or on her passage from one such port or place to another before the final departure of such ship or vessel on her foreign voyage, the master shall forfeit a certain sum.

Mr Reid

- That is a coastal ship.

Mr KINGSTON

- It deals with a vessel in one port, or in another port, or on the voyage between. What Western Australia can do as regards her ports, the Commonwealth can do as regards Commonwealth ports. And not only Western Australia, but Queensland has passed similar legislation.

Mr Conroy

- That is a very different thing. Western Australia and Queensland are States, whereas we are a nation.

Mr KINGSTON

- And we have the same powers, and more.

Mr Reid

- Except for section 5 of the Constitution Act.

<page>2795</page>

Mr KINGSTON

- Do honorable members seriously believe that section 5 of the Constitution Act was intended to be a limitation on the powers which would be possessed by the Commonwealth as an aggregation of States, and was intended to deny to the Commonwealth what each State held by itself?

Nothing of the sort. Here is the Queensland section -

If the proper officer of Customs shall place any lock, mark, or seal upon any stores on board any ship arriving in Queensland, or upon any package whatever at any time, and such lock, mark, or seal be wilfully, and without the permission of the proper officer opened, altered, or broken, or if any such stores be secretly conveyed away, either while the ship remains in the port at which she shall have so arrived, or before she shall have arrived, at any port in Queensland, to which she may then be about to proceed - then penalties attach.

Mr V L SOLOMON

- That only refers to surplus stores. She is allowed sufficient stores between ports.

Mr KINGSTON

- The question of the allowance of stores is a matter for legislation. We are not bound to allow a prescribed quantity. This is a question, not of allowances, but of our jurisdiction, our power, and our legislative authority. What I say is, that from the nature of things, and from precedent, it is not seriously disputed that we have the power. The position is clear beyond dispute, and I ask honorable members to allow the power to be exercised in the direction which the Government have indicated, and which, I trust, I have made clear.

Sir JOHN QUICK

- When this subject was debated on the second reading speech I entertained considerable doubt as to whether the Commonwealth had jurisdiction over ships coming from overseas, say Orient liners from London, while they were on the seas travelling between Australian ports. I was inclined to agree with the right honorable member for East Sydney at the time, but on reflection I am now disposed to think that the attitude of the Minister is correct, and that the Federal Parliament has complete and full jurisdiction over, at any rate, British ships coming from the old country and travelling between Australian ports. My authority for that view is the Imperial Merchant Shipping Act, 57 and 58 Vict., chap. 60, section 736, where it is provided -

The Legislature of a British possession may, by any Act or ordinance, regulate the coasting trade of that British possession, subject in every case to the following conditions : -

The Act or ordinance shall contain a suspending clause providing that the Act or ordinance shall not come into operation until Her Majesty's pleasure thereon has been publicly signified in the British possession in which it has been passed.

The Act or ordinance shall treat all British ships (including the ships of any other British possession) in exactly the same manner as ships of the British possession in which it is made.

That is the Imperial Statute. Power is conferred on the Parliament of the Commonwealth to deal with all British ships engaged in the coastal trade. Here we have authority to exercise the same power that the

Imperial Parliament itself can exercise over shipping within the British dominions. So far as statutory authority is concerned, I think we have ample power to deal with British ships. It has recently been suggested in England that the power conferred in this Act is not limited within territorial waters, but follows a ship anywhere along its course between port and port, beyond the 3 miles limit.

Mr Reid

- That is clear from the wording of the statute.

Sir JOHN QUICK

- According to the definition, "coasting trade" within the meaning of that Act, is not limited to vessels travelling within territorial waters. So it seems to me that the Minister is right in the contention that he has power to legislate - and it ought to be done by legislation and not by regulation - for British ships in the direction suggested. The power ought to be founded on express legislation within the four corners of the proposed Bill, and should not be dealt with by regulation.

Mr Kingston

- This Bill is a customs law rather than a law for the regulation of shipping.

Sir JOHN QUICK

- If it is intended to enforce the Commonwealth legislation fiscally

Mr Reid

- Is the section read by the honorable and learned member for Bendigo only for the purposes of the Merchant Shipping Act?

<page>2796</page>

Sir JOHN QUICK

- Yes ; any regulations under that Act must be by the Legislature of the British dominions itself, and if this Federal Legislature wishes to pass a law in the direction suggested I have no doubt it can be done, but it must be done expressly by the Legislature and not by delegated authority. The question still remains in regard to foreign ships, and by foreign ships I mean alien ships from alien countries. The difficulty remains to be dealt with as to how far we can, consistently with international law, effectively deal with French and German ships.

That difficulty remains to be considered and to be solved.

Mr W H GROOM

- And also as to Japanese ships ?

Sir JOHN QUICK

- Also Japanese ships, or any ships not carrying the British flag. Undoubtedly serious difficulties and complications may be anticipated, and these will have to be dealt with - with a considerable amount of caution, judgment, and discrimination. But as regards British ships, such as the Orient and Peninsular and Oriental ships, and others coming from British possessions, I entertain not the slightest doubt that legislation in the direction proposed by the Minister will be not only just and reasonable, but absolutely constitutional and consistent with the principles of international law.

Sir MALCOLM

McEACHARN (Melbourne). - I am very pleased indeed to observe the tone of the debate, and the disposition on the part of the committee to do that which is fair and just to the steamers owned on the coast. That has been my main point right through the consideration of this Bill. I have endeavoured to fight any questions where I thought any hardship was involved to those at a distance, and have tried to improve the Bill. Where ship-owners are interested from a monetary point of view, we have no desire to shirk the responsibility to pay what is due to the Customs, so long as we are put on a perfectly fair footing with those who compete with us on the coast. The difficulty I have felt up to to-day is that under section 5 of the Constitution Act there might be no possibility whatever of dealing with foreign trading vessels. That difficulty, however, appears to be wiped away to-day, and therefore we have to see how we can amend this Bill or make some arrangement by which both classes of shipping shall be fairly dealt with and put on an equal footing. I would like the Minister to consider whether that would not be better done by & a separate Bill. If, however, he is desirous that it should be done under the present Bill, he should frame a clause that will meet the matter. So far as coastal steamers are concerned, there will be no difficulty whatever. There will be no necessity for seals or anything of the kind, because the steamers will take their goods on board, having paid the duty, and, therefore, they will be free of the Customs, because it will

be known they cannot gain any advantage by landing duty paid goods. But there will be greater difficulty where steamers from abroad are concerned. The case in London has been very well put by the leader of the Opposition. A steamer or a sailing vessel arrives there - it does not matter whether it is a foreign vessel or not - and as soon as she arrives her dutiable goods are put under seal, a certain quantity being left out free for the use of the crew - not passengers - because there are seldom passengers. When the vessel arrives they are landed. But the officer will come down at the end of three days, and will allow other goods out only for two or three days at a time. That would be very inconvenient here, so far as steamers trading on the coast are concerned. It might very well be done with timber vessels, which carry only small crews on board, but even in that case it is doubtful, whether it would be wise to allow them that privilege. The Minister has given figures showing that it will cost the coastal steamers about £45,000 a year.

Mr Piesse

- They are paying that amount already.

Sir MALCOLM McEACHARN

- I understood the Minister to say that the imposition of these duties would mean a gain to the revenue of £60,000.

Mr Kingston

- The prevention of a loss any way.

Sir MALCOLM McEACHARN

- The prevention of a loss will be gain to the Customs. You do not get the duty, and it means a difference of £60,000 to the Customs if the duty be imposed.. We have lost that amount in the past.

Mr Kingston

- We have not lost it as regards the State coasters.

Sir MALCOLM McEACHARN

- That represents very little indeed. In the case of Victoria, for example, it is only the trade of Geelong and Warrnambool.

Mr Watson

- It would mean a good deal in New South Wales.

<page>2797</page>

Sir MALCOLM McEACHARN

- Yes, on the New South Wales rivers ; but £4,000, or £5,000, or even £10,000 is not a great deal.

Assuming that the amount represented £10,000, that would mean £35,000 altogether, apart from the £15,000 of which the Minister has spoken. I do not think it would be as much as that. The estimate which I gave was £21,000. That estimate was arrived at in a rough and ready way by taking a steamer of a certain, size, and calculating what the duty would be upon the goods consumed on board, and by allowing so much additional for the larger steamers.

Mr Kingston

- Does the honorable member think that the Inter-State steamers ought to have their stores free ?

Sir MALCOLM McEACHARN

- I am not contending at all that we should be free from duty. But I desire to see that the arrangement is such that we are placed on a perfectly fair footing. I would suggest to the Minister that he should abolish the present clauses, and substitute the following three clauses in lieu thereof : -

No stores under bond shall be issued to or carried by any vessel wholly engaged in the coastal trade.

Any vessel which, being in the foreign trade, does not carry passengers or cargo shipped in any port in Australia or to any other port therein, shall be allowed stores according to the usual scale for vessels engaged in the overseas trade.

If any vessel engaged in the foreign trade shall carry passengers or cargo from one Australian port to another, such vessel shall, as regards stores, be deemed a vessel engaged in the coastal trade.

The third clause which I suggest would meet the point that was raised by the honorable and learned member for Werriwa. These provisions will not prevent passengers from travelling by overseas steamers. They will call at Albany and carry passengers as usual ; but so soon as they engage in competition on this coast they will be treated as coastal steamers and be liable to the duty.

Mr McCay



- I think that would prevent the sealing up of the stores on those boats.

Sir MALCOLM McEACHARN

- No ; we could make our regulations for sealing up the stores. These steamers when they arrived would have to announce whether they were going to carry passengers from Fremantle. If they were going to carry passengers the seal would be put on the stores, except on a quantity sufficient to allow the captain to provide food and liquor for the passengers as far as Adelaide, and so on, till the next port was reached. It could be dealt with by regulation, and I do not see why the Minister should not accept my proposal as a solution of the difficulty.

Mr Kingston

- I infinitely prefer the clause as it stands.

Sir MALCOLM McEACHARN

- These are the Minister's own clauses, although they are not in the Bill. They are the Minister's own arrangements.

Mr KINGSTON

- They are not my arrangements as proposed to this House. It would not be at all a desirable thing to offer a premium to boats either to refrain from or to engage in the trade. They come here, carry passengers and goods over Australian waters and into Australian ports and during the time they are so engaged, irrespective of whether they take a passenger from here or from there, they undoubtedly compete with trade which would otherwise be enjoyed by the Australian coasters, and I ask honorable members to vote for the clause as we have it. I should like to say to the honorable and learned member for Bendigo that I am glad he is with us upon the point of our having; authority ; but I think it is not necessary to rest our case on the statutory authority to which he particularly referred, for that seems to be aimed more at legislation with respect to shipping. This is a matter of customs laws, and there is some distinction between shipping and customs laws. We enjoy the largest powers as regards the framing of necessary legislation for the protection of our revenue, and I do not think it is. necessary to rest our claim for the exercise of those powers on the statutory authority to which the honorable and learned member has referred.

Mr Watson

- Will the Minister say in regard to the point raised by the honorable and learned member for Indi that there is not a necessity for slightly amending this clause so as to make it clear?

Mr KINGSTON

- I am going to do that immediately I get a chance.

Sir Malcolm McEacharn

- I ask whether the Minister is quite certain that this clause will enable him to do what he proposes.

<page>2798</page>

Mr KINGSTON

- I am going to make it as clear as the noonday sun, with the assistance of the honorable member and the goodwill of this committee.

Mr. CONROY

(Werriwa).- I regret that I cannot agree with the quotation given by the honorable and learned member for Bendigo. I do not think that the Merchant Shipping Act applies. This is a matter that affects interests far beyond those of our nation. We are affecting the rights of others, and I think therefore that the fullest-opportunity should be afforded for discussion, and we should thresh the matter out as far as we possibly can. I disagree with the quotations from the Merchant Shipping Act. I do not think they have any application whatever to the point with which we are dealing. That Act does not provide for circumstances such as confront us. No discussion has taken place as to the right of the Customs to make regulations dealing with any kind of ship - whether British or foreign - while it is within our harbors. We can place our seals upon all the stores and goods of any French or German ship within our harbors, and the consumption of the stores would then be a matter entirely for the Customs, except of course in the case of a ship of war, which is considered for the time being the territory of the particular nation to which it belongs. But as regards merchant ships - French, German, or American - the moment they come within our waters they are within the jurisdiction of our customs laws, and can be dealt with accordingly. I. did not intend to ask the Minister to debate that point. The point with me is as to our position the moment we

get outside those limits. The question is, " What power can we exercise over foreign going ships the moment they have passed outside of the three-mile limit "? That is the point with which we have to deal. The Minister claims that he can exercise control over them. I do not think he can, and I do not think he ought to jeopardize this Bill in that way. I think that possibly he will be delaying the introduction of the Tariff during the current session if this Bill passes in its present form, because it seems to me that the Governor-General, if properly advised, will not give his assent to a Bill which might bring us into collision with other nations. One point which I desire to emphasize is that when we were in State Parliaments we were accustomed to hear honorable members talk in a braggadocio tone about going to war with 40 or 50 millions of people. At that time nobody attached any importance to our utterances.

Mr Mauger

- In what State Parliament

Mr CONROY

- In the Victorian Parliament, when honorable members wanted to have a war with France over the New Hebrides question. If we had not been an insignificant little colony at the time, we might have had a French warship paying us a visit next day.

Mr McCay

- When did that take place ?

Mr CONROY

- Eight years ago. I have not had the pleasure of being brought up in the same colony as the honorable member without knowing something about it. The Minister seems disposed to brush this question aside, but now that we are a nation, we must speak in an entirely different fashion. We cannot have men proposing - as one man did - to annex the whole of the Pacific Islands in a light and airy fashion. When we have the Executive of the Federal Parliament attempting to assume powers, we shall find that we cannot go beyond the law of nations; and at the present time it seems clear that we are attempting, by the Customs Act, to go beyond that law. That is what I am protesting against. The difficulties already in connexion with this matter are great enough without trying to add to them. I feel surprised at the light manner in which the Ministry seem disposed to treat this matter. If we are going to bring in questions: of this sort we shall require not only a large standing army of a million men or more, but we shall also require to create a large navy. I am opposed to both a large navy and a large military force. It seems to me, from the tone adopted by certain honorable members on the Ministerial side of the Chamber, that it may be necessary for us all to submit to conscription, since at the dawn of our nationhood we are preparing to infringe the law of nations by compelling French and American and other foreign vessels to carry our Customs officers on board when outside our territorial limits-

Mr McCay

- Is the honorable and learned member in order in dealing with the right of search while clause 121 is underconsideration?

The CHAIRMAN

- I cannot see that he is out of order, because the whole debate has turned upon that point.

<page>2799</page>

Mr CONROY

- I believe that we are considerably exceeding our powers ; and that being so I have tried to enter as strong a protest as is possible. I guarantee that if we place a Customs officer on board an American vessel the captain will know his rights, and will not care twopence whether we do or do not know ours. Moreover, he will enforce his rights, and then what shall we do Nothing will be able to save us from a well-deserved snub. Possibly the United States Government may be courteous to us because we are a young and small nation; but they would none the less insist on their right to prevent us from putting any body on board their ships outside our territorial limits. They would allow us only the same rights as they can claim themselves with regard to foreign vessels entering their ports. The Minister, because he framed the clause without thoroughly seeing all the difficulties, is disposed to deal lightly with the matter ; and as the committee do not seem to consider it an important matter, I shall not, now that I have entered my protest, take up further time.

Clause agreed to.

Clause 122 -

Ships' stores shall only be used by the passengers and crew, and for the service of the ship.

Motion (by Mr. Kingston) proposed - That the following words be added to the clause : - "After the departure of such ship from her last port of departure in the Commonwealth. "

Mr A McLEAN

- Would not " last port of call " be better.

Mr KINGSTON

- I think that the word more generally used is departure, but I shall look at the matter further, and if, on consideration, I think that the word "call" should be adopted, I shall be glad to adopt it.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 123-

No stores after being shipped shall be unshipped except by permission of the collector. Penalty £50.

Mr CONROY

- Under the English Act the penalty is only £20.

Mr Piesse

- That is not enough if there is anything in the charge.

Mr CONROY

- They have not found a higher penalty necessary in England, and I think that the English penalty is sufficiently high. It must be remembered that there can be no reduction of these penalties.

Mr McCay

- The English Act permits the very thing that we forbid.

Mr CONROY

- I think that £50 is too heavy a penalty, and I move -

That the word " fifty " be omitted with a view to insert the word " twenty."

Amendment negatived.

Clause agreed to.

Clause 181 (Seals, &c. not to be broken). Amendment (by Mr. Kingston) proposed -

That the following words be added to the clause : - " And if any ship shall arrive in any port with any such fastening, lock, mark, or seal, open, altered, broken, or erased, except as aforesaid, the master shall be guilty of an offence against this Act."

Mr Watson

- Will that sufficiently provide for the sealing down of the goods upon arrival at Fremantle ?

Mr KINGSTON

- I think we have undoubtedly the power under clause 177 which gives an officer power to search any ship and to secure any goods on any ship.

Mr V L SOLOMON

- Does "secure" mean " seal up "?

Mr KINGSTON

- I think so. Clause 180 says -

The power of an officer to secure any goods shall extend to fastening down hatch ways and other openings into the hold, and locking up, sealing, marking, or otherwise securing any goods.

Mr. CONROY

(Werriwa). - I simply rise to say that the remarks which were made upon clause 121 also apply to this clause. I do not think that we should pass a clause which appears likely to bring us into collision with foreign powers, because it infringes the law of nations.

Amendment agreed to.

Mr. CONROY

(Werriwa). - I would point out that the penalty under this clause is £50. It might happen, however, that it is absolutely necessary to break a seal in order to obtain stores.

Mr Kingston

- Every discretion will be exercised, consistent with due administration.

Clause agreed to.

Mr WATSON

- Is it intended to insert a new clause in lieu of clause 257, apart from the clause of which notice has been given ?

Mr Kingston

- No.

Progress reported.

ADJOURNMENT

Extraordinary Parliamentary Vacancies.

Motion (by Mr. Barton) proposed -

That this House do now adjourn.

<page>2800</page>

Mr V L SOLOMON

- Has the attention of the Prime Minister been called to that section of the Constitution which provides that an extraordinary vacancy in the Senate shall be filled by the Parliament of the State in which it arises, until the next elections, while if a vacancy occurs in the House of Representatives it can be filled only by an election? The States of South Australia and Tasmania elected their representatives in the House of Representatives as single electorates, and consequently, in the event of a casual vacancy occurring, through death or retirement from ill-health, among the seven representatives of South Australia, the State might have to spend £5,000 or £6,000 upon an election. I would ask the Minister whether it would not be advisable to pass a short measure to prevent such a contingency - a measure which would enable the Parliament of the State to deal with a casual vacancy arising in the House of Representatives in exactly the same manner as it deals with one arising in the Senate.

Mr Fisher

- I hope the Prime Minister will do nothing of the kind.

Mr V L SOLOMON

- I think it is a matter for the consideration of the State itself.

Mr Crouch

- The honorable member means only pending the passing of the Commonwealth Bill?

Mr V L SOLOMON

- Certainly ; so that the State may not be put to the expense of £5,000 or £6,000 in the event of an extraordinary vacancy occurring. I do not press the Prime Minister for an answer to-night, but would ask him, in consultation with his colleagues, to consider the position.

Minister for External Affairs

Mr BARTON

. - In reply I would like to say, in reference to the point that has been raised, that while I am not averse to considering what has been put forward by the honorable member, I would point out to him that if it is necessary for the whole of South Australia to be engaged in the election of a fresh member, in the event of a vacancy occurring, that will be because of the action of South Australia in not dividing the State into a number of different electorates, in the same way as has been done in other States.

Mr V L SOLOMON

- She exercised her discretion.

Mr BARTON

- Yes, she exercised her discretion, and I am not complaining of that, but a doubt is raised in my mind as to whether, in consequence of that, it would be necessary to undertake what amounts to an amendment of the Constitution. Unless the honorable member thinks that section 29 or section 31 gives the opportunity for making the alteration he desires, the probability is that there is no section in the Constitution which affords an opening for making the change, unless we propose an alteration in the Constitution itself, which would require a double referendum as well as an absolute majority in each House. These expressions, like those of the honorable member, are only by-the-way, and I will give that consideration to the matter which it merits.

Question resolved in the affirmative.

<page>2801</page>

22:35:00

House adjourned at 10.35 p.m.