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1901-07-11

House of Representatives

Mr.

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

PETITION

Mr. PIESSE

presented a petition from citizens of Tasmania against the post-office being used as a means for facilitating gambling.

Petition received.

QUESTIONS

THE "CONSTITUTION" TABLE

Mr G B EDWARDS

- I beg to give notice that, on Friday next, I shall ask the Prime Minister -

Whether he will recognise the great historical value attached to the table upon which Her Majesty, the late Queen Victoria, signed the as- sent to the Commonwealth Constitution, and upon which other historical documents have been signed, by providing more adequate protection than is now given to it in the hall of this Parliament.

Minister for External Affairs

Mr BARTON

- I think I can save my honorable friend the necessity of asking this question to-morrow, if the House will allow me to give the information now. The table, with the articles accompanying it, having been intrusted to me, I thought, sir, that I should consult your wishes and those of the whole Parliament if I gave instructions that a case should be made for the protection of the whole, and this I have done.

TELEGRAPH MESSENGERS

Mr CROUCH

- I would like to know from the Prime Minister if he can answer tomorrow the following question, which I asked on Tuesday: -

Whether, in view of the fact that the honorable the Premier for the State of Victoria, at the instance of the Public Service Board of that State, has consented to the payment at the rate of £90 per annum, from 27th December, 1900, to those officers previously telegraph messengers for ten years prior to 31st December, 1900, who, if they had remained in the department of the Postmaster-General would have been graded as postal assistants and been paid at that rate; will he issue instructions that telegraph messengers who have been transferred to the departments of: Trade and Customs and Defence, who, if they had been transferred to State departments, would have been entitled to concessions referred to, shall receive payment from 27th December, 1900, at £90 per annum.

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Mr BARTON

- The Public Service Board graded all telegraph messengers who had been ten years in the department as postal assistants at a salary of £90 per annum, and also certain other telegraph messengers who had not served the period of ten years, but who were on that date assistant officers performing the work of postal assistants as graded by the Reclassification Board. Two telegraph messengers have been transferred to the Trade and Customs department, who, if they had remained in the Postal department would have been classified as postal assistants at a salary of £90 per annum, provided that they had not accepted promotion to any other position in the Post and Telegraph department.

THE TARIFF

Mr POYNTON

- At the risk of receiving another discourteous reply-

Mr SPEAKER

- Order.

Mr POYNTON

- I wish to ask the Prime Minister if the statement which appears in both the Adelaide daily newspapers that the Tariff is likely to be introduced on the first or second Tuesday in September is correct?

Mr BARTON

- I have not seen the statement referred to in the Adelaide press, but I have seen similar statements. I wish to say that any statement of that kind in the press is wholly without warrant or authority of any sort whatever. In the next place, let me say that nothing was further from my thoughts than to be discourteous to the honorable gentleman opposite, and I think I can challenge the opinion of the whole House as to whether I have on any occasion been discourteous to any honorable member.

THE PACIFIC CABLE

Sir JOHN QUICK

- Some time ago the Prime Minister promised to lay upon the table the papers relating to the Pacific cable and the agreement between the Government of New South Wales and the Eastern Extension Cable Company.

Mr JOSEPH COOK

- I was going to ask the same question.

Sir JOHN QUICK

- I believe a promise was given to the honorable member for Parramatta in reference to these papers. I have made a search, but I have not been able to ascertain whether the papers have been presented. I would like them to be made accessible to honorable members, because the question is one of very great importance.

Mr BARTON

- These papers have not yet reached me; but since the honorable member has drawn my attention to the matter again, I shall expedite their transmission to me, so that I may lay them upon the table.

INTER-STATE PRESS TELEGRAMS

Mr MAHON

- Some time since the Prime Minister, I understand, gave effect to a motion which appeared in my name on the notice paper, and caused a reduction to be made in the rates of press messages relating to the debates in this Parliament. And as he has taken some action since, I think it is light that the House should know what it is.

Mr BARTON

- I had a paper by me - I have not got it in my hand at the moment - which explains the position of this matter. The intention is to allow these press telegrams to go through at a uniform rate to the various States.

Sir Edward Braddon

- Including Tasmania ?

Mr BARTON

- I shall explain about that in a moment. These Inter-State telegrams will go through at the existing rate in Victoria of 1s. 6d. per 100 words,, together with an extra charge of 6d. per 50 words afterwards. The exception in the case of Tasmania arises from the fact that the cable connecting that State with the mainland is not in any sense under the control of the Federal Government, and to make the rate uniform in its case would involve the Government in paying the cable rates for the benefit of the press.

Mr JOSEPH COOK

- Why not resume it?

Mr BARTON

- That is a matter of debate.

Mr MAHON

- May I ask the Prime Minister to state whether that rate extends back to the time of the opening of this Parliament? He has acted very generously and fairly towards the Inter-State press, and he might also let us know whether the rate is to be retrospective.

Mr BARTON

- That has not, so far, been the decision, but I shall have the question considered.

LEAVE OF ABSENCE

Resolved

(on motion by

Mr. Watson)

-

That leave of absence for one fortnight be granted to the honorable member for Perth (Mr. Fowler), on the ground of ill-health.

EXCISE ON BEER BILL

Resolved

(on motion by
Mr. Kingston)

-

That leave be given to bring in a Bill relating to excise on beer.

CUSTOMS BILL

In committee

(consideration resumed from 10th July,
vide

page 2343) :

Clause 33 -

The Customs shall not be liable for any loss or damage occasioned to any goods subject to the control of the Customs except by the wilful neglect or wanton act of some officer.

Amendment (by Mr. Kingston), agreed to.

That the word "wilful" be omitted.

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Minister for Customs

Mr KINGSTON

. - I propose to substitute for the word "wanton" the word "wilful." I am dealing with the clause on the lines of legislation in Western Australia and India. I move -

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

Mr CONROY

- I would suggest to the Minister that he should put in a provision somewhat similar to that in sub-clause (5) of clause 5 of the Public Service Bill. There, of course, the department is not responsible for any mere nonfeasance or misfeasance. It would only be liable for malfeasance. It is really more a matter of drafting than anything else, and if the Minister takes it in that way, it may stand here perhaps.

Mr.KINGSTON. - I shall take a note of it.

Amendment agreed to.

Clause, as amended, agreed to.

Clauses 34 to 36 agreed to.

Clause 37 (Collector to pass entries).

Mr. CONROY

(Werriwa).- The penalty in this clause is one of £100. The penalties are very stiff all through the Bill.

Mr KINGSTON

- There will be a general discussion on the subject of penalties upon a later clause.

Clause agreed to.

Clauses 38 to 40 agreed to.

Clause 41 -

When security is required for any particular purpose security may by the authority of the comptroller be accepted to cover all transactions for such time, and for such amount as the comptroller may approve.

Sir MALCOLM MCEACHARN

- I wish to ask the Minister if the word "controller" there is correct, because it would appear to clash somewhat with clause 43, which provides that the collector may require fresh security, whereas the matter seems by clause 41 to be in the hands of the controller.

Mr KINGSTON

- I think it ought to be as it is here. It is rather a large matter, in which the consent of the higher authority should be obtained. Instead of giving the one bond in respect to a particular matter, a man would give it for a period of time and for a number of transactions.

Sir MALCOLM

MCEACHARN (Melbourne). - I am not raising any objection, but it appears to me that it might be inconvenient to those in Queensland to have to send down to the comptroller. The Minister has authority to delegate even larger powers to any one he may appoint, and he might consider whether this provision is advisable in its present form.

Mr KINGSTON

- The comptroller can do the same, and I would rather reserve this power of amalgamating securities as it were, to the higher authority, and exercise if necessary a power of delegation.

Clause agreed to.

Clauses 42 and 43 agreed to.

Clause 44 -

The form of Customs security in Schedule I. hereto shall suffice for all the purposes of a bond or guarantee under this Act, and without sealing shall bind its subscribers as if sealed, and unless otherwise provided therein jointly and severally and for the full amount.

Mr PIESSE

- Will the Minister take some steps to protect the revenue of the States in regard to stamp duties by refusing to accept securities unless stamped in accordance with the laws of the States?

Mr KINGSTON

- I have not considered that question, which is not one which very necessarily arises, but if the honorable member desires an answer I will look into the matter further, and, when in a position to do so, I will give him a reply.

Mr. PIESSE

(Tasmania). - I think it is a proper position for the Minister to take to protect the revenue of the States by refusing, unless stamped, documents which require stamping. He should require documents to be stamped in. order to help the States revenue.

Mr KINGSTON

- It is the duty of the department to see that the laws affecting the securities are properly complied with, and if those laws do attach to all Commonwealth securities they will be complied with. But if the laws do not attach to the securities I will not promise that any steps will be taken.

Mr REID

- I question very much whether documents required for Commonwealth purposes will be liable to stamp duties under the State law. They will be documents relating to matters outside the jurisdiction of the State altogether.

Mr Kingston

- I am not sure about the point.

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Mr REID

- I am not sure either.

Clause agreed to.

Clause 45 -

Whenever any such Customs security is put in suit by the collector the production thereof without further proof shall entitle the collector to

Judgment for their stated liability against the persons appearing to have executed the same unless the defendants shall prove compliance with the condition or that the security was not executed by them.

Mr REID

- What is the precise nature of the transactions involving Customs security ?

Mr Kingston

- It is what is done every day. The clause puts the bond in a simpler form.

Mr REID

- To secure the performance of what ?

Mr Kingston

- The due exportation of bonded goods or the exportation of goods under drawback.

Mr REID

- Does it relieve the person who gives the bond from the necessity of doing something?

Mr Kingston

- No ; it takes additional security for the Customs.

Mr REID

- If it is not in the way of relief and convenience to the person, then I think it is rather harsh that the liability should be deemed to attach without proof. It is rather a summary way of making a person liable under a bond that the Customs authorities should simply put the bond forward, and that the person liable under the bond should have to prove that he has not forfeited.

Mr Kingston

- That would be the effect of any bond in regard to money in which a person is indebted.

Mr REID

- But the person who wishes to enforce a bond has to prove that the condition of the bond has been broken. In this case it will be the Customs endeavouring to punish some one for doing something which he has entered into a bond not to do, or it will be something happening which the bond is intended to provide against. There surely should be some additional evidence, because merely putting the bond in suit is no proof. If it is in the nature of mere indebtedness it is another matter ; but this is in the nature of a penalty, and it amounts to notice of something to be forfeited for some breach which has been committed. If it is a bond in the nature of a penalty, and is only to attach if the person who enters into it has broken it, then I do not like the provision.

Mr KINGSTON

- The right honorable and learned member will see that all we are doing here is substituting a simpler form for the thousand-and-one more complex securities which are daily taken by the Customs department for the security of the revenue. I am sorry I have not provided for a number of them.

Mr Reid

- Is it simply to enable a person to dispense with the usual payment ?

Mr KINGSTON

- No, it is not. It is security that a person will do as he ought. For instance, it might be security in regard to the exportation of goods under drawback that those goods would not be returned, or it might be in regard to the exportation of bonded goods that they should be duly exported. The clause simply provides that the bond is put in suit, and that the indebtedness is admitted. The defendant, who knows all about the circumstances, is to discharge himself by proving compliance with the conditions.

Mr Reid

- But the bond is only liable to be put in suit in a certain event.

Mr KINGSTON

- Yes.

Mr Reid

- Surely the evidence that that event has happened should be given in connexion with the putting of the bond in suits.

Mr KINGSTON

- The principle on which we proceed for the enforcement of customs security is that the acknowledgment of indebtedness suffices unless the defendant establishes compliance with the conditions. The right honorable and learned member will remember how the form of all these bonds runs. It is a declaration of indebtedness.

Mr Reid

- To be attached in a certain event ?

Mr KINGSTON

- No, it is not. It is a declaration of indebtedness with a defeasance condition attached.

Mr Reid

- I did not see that. That is another matter altogether. I thought it was some bond of a special kind.

Mr CONROY

- Is the Minister quite certain that this course ought to be followed? It means that there is no further proof whatever. The bond is taken as it stands without proof that the conditions have not been executed by the party. It is not like an ordinary bond in a court. It appears to me that the ordinary formalities required in an ordinary case of a bond are dispensed with. ' A deed executed by a man has usually to be proved in the

proper way, but here the bond is merely produced, and is taken as proof of everything contained in it.

Mr Kingston

- That is the usual proof.

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Mr CONROY

- Is it the usual thing in the Customs department? It is not usual in the ordinary course of law.

Clause agreed to.

Clause 46 agreed to.

Clause 47 -

No prohibited imports shall be imported. Penalty : One hundred pounds.

Mr CONROY

- Do the remarks as to the penalty in clause 45 apply to this clause also?

Mr Kingston

- It is the same point, and my answer is the same.

Clause agreed to.

Clause 48 -

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

Penalty : One hundred pounds.

Mr REID

- There is an expression in this clause which I do not think is usual, namely, "lawfully registered in the country to which she belongs."

Mr Kingston

- I think it is usual.

Mr REID

- I should think a vessel would "belong" to the owner, as shown by the register, and not to the country. A certain incident may happen if the registration is in the country; but I suppose this is merely a colloquial expression.

Mr Kingston

- I do not know that any better expression could be adopted.

Clause agreed to.

Clause 49 -

The following are prohibited imports : -

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

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

Blasphemous, indecent, or obscene works or articles.

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

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

Oleomargarine, butterine, or any similar substitute for butter.

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

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

Mr. THOMSON

(North Sydney). In regard to sub-clause (J), I would like to say that if we accept the permission granted by the British Government to mint silver, there might be a return of money minted in the Commonwealth if it were not of the proper weight. Surely it is not intended to exclude that. If of course British coin is regarded as foreign, it would be proper to weigh it, and there might be reason to declare it prohibited. But the coin

minted in our own mints would be prohibited from re-entering the Commonwealth under this provision. A certain amount of our coin always finds its way abroad, and might possibly be returned to the source where it was minted. Will the Minister make provision to meet that position ?

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Mr CROUCH

- I would like the Minister to give a reason why the Commonwealth should take on itself the protection of private interests as provided in subclause (a). I am aware there is a similar provision in the Victorian Act, but that Act was used against a Victorian citizen in order to prohibit the importation of Bibles. The real reason for this was, that the Universities of Cambridge and Oxford claimed some copyright in Bibles, which copyright is not recognised by the Scotch Bible Society. The Bibles in question were American Bibles, and a threat was made to the Victorian who imported them, that unless he exported them they would be burnt.. This appears to me a very severe clause. The infringement of copyright is a question of private rights and not one which at this stage of the world's history has become a matter of State. Although this provision is in some of the State Acts, we ought to consider whether the Customs should continue to do the work which private individuals should take on themselves for their own protection. I ask the Minister whether he can see any reason why the clause should remain in the Bill 1

Mr. HIGGINS

(Northern Melbourne).As to sub-clause (c), I would like to ask who is to decide what books are blasphemous, or what works or books are indecent or obscene ? There have been acts done in the Victorian Customs department - I do not know how it is with other Customs departments - of the grossest stupidity with regard to this matter. I have known a work stopped by a Customs officer as being indecent which afterwards was treated as a classic of the English language, and regarded as one of the best works of modern times. As to blasphemy - I speak subject to the correction of those who are more familiar with blasphemy - the question raised is one of the most difficult in the world. The public ought to be safeguarded against any reckless prohibition by an irresponsible officer. One officer may think a work is blasphemous, while another officer may regard it as very religious. There ought to be some sort of responsibility taken by some person or some body of persons able to be sane, .sound, and competent judges of these works. The only suggestion I make is that if a work or an article is prohibited as blasphemous or indecent, it must of course be prohibited when reported. We cannot wait for a proclamation, because the work is here, and must be stopped. But I think that after it has been stopped there ought to be an advertisement in the

Government Gazette

signed by the Minister in the ordinary way, taking the responsibility for the stopping of this work. I have known books stopped, and as soon as the Minister was questioned about them in Parliament, he has said - " Oh, it was done by an. officer ; it was a mistake, and will not happen again." The result is, that often for months or years a work which it is desirable to have in Victoria is stopped from circulation, and it is not every one who will take action to test the legality of the prohibition. If a new book is written and imported, and the officer of Customs who happens to be acting thinks it is a blasphemous work, the man who' has imported it is liable to a penalty of

£1

00, and no doubt his name will appear in the newspapers as having imported a blasphemous work. It is very hard indeed, and I think that people should know at least that the Minister has taken the responsibility of deciding in matters of that sort. It requires some skill to decide whether a publication is blasphemous or indecent. It requires some good balance in a man to enable him to say whether a thing exceeds certain limits or not, and I am quite sure that the Minister for Trade and Customs would be the last man in the world to prohibit books which may in a reverent way deal with certain subjects. The only suggestion which I have to make is that as soon as the responsibility has been taken by the Customs of stopping the importation of a book or of an article, that responsibility should be notified- in the Government Gazette.

I recollect seeing some knuckle dusters - I apprehend that the Minister is not acquainted with knuckle dusters -

Mr Kingston

- I know that they are very cruel things.

Mr HIGGINS

- Of course a " knuckle- ' duster " is an article which is not blasphemous, but one can hardly conceive of it being imported for any but a dishonest purpose. It is a cruel instrument which covers the knuckles and has spikes upon it, and if one gets a blow from it of course it is a "settler." Although it is not a blasphemous article, it would come under subclause (g). In the case of " knuckle-dusters " I think that there should be power to prohibit their importation by proclamation beforehand.

Mr Thomson

- They will be protected and manufactured here.

Mr. BIGGINS.-- However it may be in New South Wales, there are no people in Victoria so wicked as to manufacture " knuckledusters." I suggest that there might be something inserted in sub-clause (o) in the way of restriction, so that the Minister shall not be able to throw the responsibility upon some officer of Customs who has been told off on a certain day for duty at the particular port where the goods are transhipped.

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Mr SALMON

- I quite agree with the provisions of sub-clause (d), which sets out that goods manufactured or produced wholly or in part by prison labour shall not be admitted. But I would point out that there will be great difficulty in this connexion unless some stringent regulation is adopted to prevent these importations, because the question of identification is so very difficult that it will be found almost impossible to discriminate between goods manufactured wholly or partly by prison labour and those which are manufactured in the ordinary way. The honorable and learned member for Northern Melbourne has drawn attention to the necessity which exists for those who are likely to import any articles that would come under the .operation of this clause, to be given notice that such importations will be objected to. That, however, could be provided for under sub-clause (g). I would ask the Minister in charge of . this Bill if he does not consider it necessary to have the words " by the Governor-General " added to that sub-clause 1

Mr Kingston

- "Proclamation" is defined in the interpretation clause.

Mr SALMON

- I feel sure that the Minister will consider the question raised by the honorable and learned member for Northern Melbourne as to the necessity which undoubtedly exists for giving persons who are likely to import this class of articles notice that they will not be admitted.

Mr PAGE

- The honorable member for North Sydney, in directing attention to sub-clause (6), said that that provision might react upon us in the matter of getting our own gold back.

Mr Thomson

- No; I referred to silver coinage.

Mr PAGE

- I do not know if the honorable member has heard in the old country of sweating sovereigns as well as labour. But if he received light sovereigns from abroad, took them to a bank, and could not get them changed, I do not know what he would say. Probably he would exclaim, " Why did not the Customs authorities protect me from receiving these imported light sovereigns 1 " For that reason alone I think that this subclause should stand in its present form.

Mr THOMSON

- Perhaps I failed to make my meaning clear in connexion with this sub-clause. The position is this : we have been granted permission to coin silver in the Commonwealth, and there is a very considerable natural wear of silver coinage in circulation. That coinage has to be retired at intervals when it has reached a weight that cannot be accepted. . Surely we are not going to prohibit the importation of any of that coinage which has gone beyond the Commonwealth, when it was minted by ourselves, and was being brought .back for the purpose of being .retired from circulation. I do not desire the omission of sub-clause (6), because it is necessary for other purposes. As the whole clause is under discussion, I will point out first of all that, as regards the objection raised by the honorable and learned member for Northern Melbourne, possibly the same question of State rights arises here as may arise in connexion

with . another Bill which may seek to stop gambling in a certain State - that is, if the same argument would apply. If it is argued that that is an interference with State rights, then it is equally an interference with State rights for the Customhouse to prevent the circulation of blasphemous or indecent works if any State should wish to have them. I do not know that any State would desire to have them,, but still the question of State rights is raised at that point. Sub-clause (e), I notice, prohibits the importation of - Exhausted tea and tea adulterated with spurious leaf, or with exhausted leaves, or being unfit for human use or unwholesome.

I ask the Minister whether that provision should not go further and apply to any goods intended for, but which are unfit for, human use, and not merely to tea ?

Mr Kirwan

- Sub-clause (</) would cover that.

Mr THOMSON

- Yes, I notice that it would, "but I had not noticed it before. Then there is a provision in sub-clause (/) for prohibiting the importation of oleomargarine, butterine, or any similar substitute for butter. In this connexion I would point out that the manufacture of these articles is in existence in one or more of the States at the present time. Butterine has. been manufactured in New South Wales, and I believe is still being manufactured there. Is it intended that we shall refuse to admit what is being manufactured already within the Commonwealth ?

Mr Kingston

- Who is producing oleomargarine 1

Mr THOMSON

- Butterine has been_ produced in New South Wales ?

Mr Kingston

- Not as a staple article of diet.

Mr THOMSON

- It is distributed as an article of diet. I do not know that there is any law in any of the States prohibiting the manufacture of butterine, and are we going to prohibit the importation of an. article the manufacture of which is allowable within the Commonwealth?

Mr A McLEAN

- Oleomargarine is a splendid food for cows.

Mr THOMSON

- Is the Commonwealth, going to prohibit the manufacture and sale of an article which the State laws allow to be manufactured and sold within the States ?

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Sir MALCOLM McEACHARN

- I would like the Minister to consider sub-clause ((/)). I would point out that circumstances may arise under which a regulation may come into force prohibiting the importation of certain articles which are really upon the water at the time that the regulation becomes operative. A regulation will become operative the moment it appears in the and the parties interested might be fined £100 on the arrival of the goods, -when they were not aware at the time those goods were shipped that their admission was prohibited. People, I think, in such cases deserve some protection.

Mr REID

- There seems to be no machinery in connexion with all the matters contained in this clause by which any person may be enabled to contest the opinion of the Customs authorities. I think that the Minister would do well before we complete the Bill to consider whether it would not be wise to do what is done both in New South Wales and Victoria, namely - establish a tribunal called a Board of Commissioners, to which persons who are aggrieved in certain cases may take their appeals, instead of to a court of law. I admit that these boards have not been used very much, but the mere fact that they have been in existence has had a very wholesome influence upon the administration of the Customs, and it is a very inexpensive way of deciding matters in dispute. The commissioners are appointed by the Government, which is a guarantee that "they will be fit and proper persons. Subclause (a), I wish to point out, goes much further than the other sub-clauses. It says -

Any work which is or appears to be an infringement of any copyright, &o.

I suppose that the words " appears to be " are to be found in other Customs Acts, and if that is a sufficient reason for their inclusion here, there is no more to be said. But at least the same liability should attach to the Customs authorities in that case as attaches to them in the case of blasphemous, indecent, or obscene works. There is a want of uniformity in this matter, and I know that the Minister is very strong upon uniformity. This first subclause does not seem to interfere in the interests of the public or of the revenue ; but appears to interfere to protect the private individuals in their property to an invention and persons in other countries. We have copyright laws, I think in all the States, which cover such matters and under which, if an importation is made which infringes the copyright, steps can be taken under the copyright laws. It seems to me that the object of this sub-clause is not a public one at all, but a private one - and that object is to make the Customhouse a cheap agent for patentees. Of course no one wants to see the introduction of articles which are copyrighted and pirated. Still I do not know that we need go so far as to make even the appearance of piracy the ground for prohibiting an importation. It will be a very strong step to absolutely prohibit the importation of an article upon the mere appearance of an infringement of a private right in property.

Sir JOHN QUICK

- In. reference to the point just taken by the right honorable and learned member, I think paragraph (a), which is framed in the interests of copyright holders, is one which ought to appear in this Bill. It is a clause that has found a place, in most of the copyright legislation in British communities, and is one that has .been supported by British legislation for the promotion and. protection of literature. As a rule literary men" are not in a position to enforce their legal rights against literary pirates in various, parts of the world, and inasmuch as they very frequently work hard, and get vary little pay, it is thought that the least the State can do, in view of the benefit it derives, from their literary productions, is to give them a little security and protection through the. Customs. It is in the interests of literary honesty that this provision, is made. I support the principle of the clause very heartily, knowing its value in the interests of literature - Australian literature perhaps, British literature, and the world's literature. The provision is one which finds a place in all reciprocal legislation dealing with the principle of copyright, and I recognise the clause as an endeavour to give encouragement to literary men who are not able to> protect themselves.

Mr Reid

- They are lucky to have the Government to act for them.

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Sir JOHN QUICK

- With reference to the question as to who is to decide what is an infringement of copyright, I think the' point mentioned by the honorable and learned member for North Melbourne is worthy of being taken into consideration, not only in reference to paragraph (c), but in reference to most of the prohibited articles, referred to in clause 49. It would be advisable to have some authority defined by the-. Act as specially authorized to deal with, decisions arising under clause 49. We should! specify who is to decide whether there is an. infringement of copyright, or whether a. thing is false money, or whether any works, or articles are blasphemous, indecent, or.- obscene. I do not know whether it is intended that the Minister should deal with these matters, or whether they are to be left to any particular officer of the Customs, but it is highly desirable that .we should have some constituted authority to act in cases which may in some instances involve judicial consideration. There should be some responsible officer to hear and determine questions arising under this clause and give decisions, which would be binding in law, as to whether certain articles are prohibited and come within the description of the forfeited goods referred to in the ' .Bill.

Mr ISAACS

- I would like the Minister to satisfy me on one point, as perhaps his answer may prove an index to a good deal that appears in the Bill. In this clause 49 there is, so to speak, a schedule of goods that are named as prohibited imports, together with a drag-net clause, which enables the Government of the day to proclaim any goods they like as prohibited. I would like the Minister to explain what is " exhausted tea," which is mentioned as prohibited under paragraph (e). I want to know who is to decide what is exhausted tea. The reason I ask is this, that a difficulty on that point was felt in Great Britain .and in Victoria, and legislation was passed in Victoria which, I believe, is similar to .that in force in England. The Victorian legislation on this subject is found in the 55th section of the Victorian Customs Act 1S90. That section

provides -

That in this Act tea to which the term exhausted is applied shall mean and include any tea which, in the opinion of the analytical chemist, has been deprived of its proper quality and virtue by steaming, infusion, decoction, or other means; an analytical chemist shall mean the Government analytical chemist or any other analytical chemist who may be appointed by the Governor in Council to make examinations of tea for the purpose of this Act. There are many other sections bearing on this point which enable the Commissioner of Customs to guard the public against the introduction of tea which answers this description of exhausted. These sections enable the teas to be examined, and if upon examination the samples appear, in the opinion of the analytical chemist, to be unfit for human food, the commissioner has power to authorize proceedings to be taken for the forfeiture of the tea from which such samples were taken, and such tea may be forfeited and destroyed, or otherwise disposed of. That does not leave the matter to the course of litigation where a person may go to court and struggle with infinite delay and multiplicity of costs to justify his position, or to embark upon a protracted action. Now, is there power under this Bill to deal with the matter as is provided for in England or in Victoria? I have not been able to trace any similar provisions in this Bill, and it seems to me that unless we have some such power given under this measure we shall have to depend upon the proof of the fact that the tea is exhausted, whatever exhausted may mean here. It does not mean deteriorated, or very seriously injured tea, but it means absolutely exhausted tea, and I think that for the sake of all parties it is inadvisable to depart from legislation which has been found essential in the old country for a quarter of a century, and in Victoria for a great number of years. This is one of the difficulties I see, and unless the Minister can point to some provision in the Bill which will allow him to deal with the matter, irrespective of litigation which is always of an oppressive nature, the matter ought to be further considered.

Mr Reid

- Could proceedings be brought, even if the Minister arrived at a wrong decision as to a shipment of tea under this clause, prohibiting its importation, on the ground that it was not exhausted tea?

Mr ISAACS

- It would depend on whether the tea were exhausted or not.

Mr Reid

- What remedy would there be against the Government if they made a mistake? There can be no claims against the Government acting under the Commonwealth Act?

Mr ISAACS

- I do not know whether it is intended that even though a shipment of tea is not "exhausted," merchants are to be subjected to harassment unless by express provision of the Legislature, giving discretion to the Minister if it should not be "exhausted" tea. If the article is not prohibited, what warrant is there for any individual to interfere with its importation?

Mr Thomson

- One chemist might say that the tea was exhausted, and another might give an opinion to the contrary.

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Mr ISAACS

- In England it has been found necessary to define what is meant by "exhausted," and I am merely putting this before the committee to show that, although we are taking a right course in cutting down everything in the way of verbiage in the clauses, it does not follow that we should be justified in cutting down useful provisions that are necessary to guard against injustice on either side. The fact that this legislation does exist as between the Crown and the mercantile community in Victoria, and in the mother country, shows at all events that it has been very useful, if not essential. It might be very important in this way. Under the Victorian Act the Government has not only the authority to forfeit the tea if it should be prohibited tea but to otherwise dispose of it, as the commissioner may direct, and I am not quite sure but that the owner, in the event of the tea being handed over to some one else by the Customs, could not follow the tea up and demand it, whether it be purchased or not. It does not follow that because you have no action against the Crown for the forfeiture of the tea that you cannot follow up your property, and reclaim it, I think the Minister should take care that everything is done in a proper form so that his action may be justified in a court of law, no matter in what form it may be impeached.

Mr G B EDWARDS

- (South Sydney). - No one has referred to the fact that there is £100 penalty provided for any one who may have prohibited tea in his possession. In a great number of cases a man may be quite innocent as to the nature of the goods that he has imported. For instance, a case of tea may be imported by a merchant who was never aware of the fact that it is exhausted, and yet the clause imposes a penalty of £100. Similarly a bookseller might import a book quite unaware of the fact that it might be construed as blasphemous, and yet he might be fined. A great deal of difficulty surrounds the whole question of the definition of exhausted tea or blasphemous literature. I think it will be almost impossible to put in the interpretation clause a provision as to what shall be meant by these terms, and the difficulty would be quite as great in one case as in the other. I will guarantee that we could get equally good men who would give absolutely opposite opinions, either as to tea being exhausted or books being blasphemous. "When we consider the difficulty which has arisen at various times, such as when a classic statue was called indecent, or when books that were recognised as classic works were termed blasphemous, I think we shall see that some alteration is necessary, and I would suggest that we should alter the wording of paragraph (c) so as to make it read - " works which in the opinion of the Minister are blasphemous, indecent, or obscene."

Mr Kingston

- To what a state of mind would the Minister be reduced after perusing these works ?

Mr G B EDWARDS

- We have a right to look to some one in some responsible position to exercise this very delicate authority.

Mr Deakin

- Would it not be a great advantage to have a man already familiar with that class of literature?

Mr G B EDWARDS

- Such a man might be quite up to date, and still a new work might come out which would put him in a difficulty. As the honorable and learned member for Northern Melbourne has said, we must be protected from the stupidity of some underling in the department imposing his veto on some work imported here. The suggestion that the Minister should insert a notice in the Government Gazette, giving his stamp of approval to the decision of the officer, does not quite meet the case, and I think it would be better to adopt my suggestion. It would be within the power of the Minister then to enlist the assistance of experts if he did not choose to rely upon his own judgment. Perhaps the honorable and learned member for Northern Melbourne might be able to assist him.

Mr Higgins

- I do not profess to be an authority on blasphemy.

Mr G B EDWARDS

- We should guard against imposing a fine of £100 upon people who may quite innocently commit a breach of the Customs laws.

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Mr WINTER COOKE

- I may inform the committee that in Victoria we have an Act called the Margarine Act, and under the term margarine is included oleomargarine and other substitutes for butter. It was passed to protect the butter-makers, because margarine was being sold as butter; but the Legislature did not go to the extent of protecting the margarine manufacturer in Victoria. The proposal in this clause seems to be that the Commonwealth manufacturer of oleomargarine is to be protected from foreign importations. It is a very indirect way of getting protection imposed upon us, without having it submitted in the Tariff proposals. I think we should not protect margarine in this way. It is a very good article of diet. It is only fair to those who make butter that margarine, when it is sold, should be branded as margarine, and that is what we have done in this State. Margarine, is so good that, when the Bill I referred to was before the Legislature, two samples were sent up to the Legislative Council, and during the dinner hour we were asked to decide for ourselves which was butter and which was margarine. We put our penknives into the two samples and formed our opinions. - The late Honorable James Service pronounced very distinctly that one was butter and the other margarine. Yet it was proved that there was a hoax on the part of the Legislative Assembly, and that both samples were margarine. I only mention the incident to show that margarine seems to be a very good substitute for butter. All we want to insure in the Commonwealth is that when an article is sold it shall be sold for what it professes to be, and that margarine shall not be sold for butter. I am quite

prepared to move that sub-clause (/) be omitted. ' Mr. CONROY (Werriwa). - I think the first part of sub-clause (a) ought to come out - I mean the reference to anything which " appears to be an infringement." Who is to be the judge of an infringement? I do not think the Customs department, is going to set itself up as a judge in this case. I do not think it has a proper tribunal constituted which would be able to judge of such things. With regard to sub-clause (6) it might, but in the case of sub-clause (u) what officers are even capable of dealing with those matters ? The plays of Beaumont and Fletcher, Marlowe and Massinger, all the great Elizabethan dramatists, might be classed by some of them as " obscene " ; though that of course is not the verdict elsewhere. If we are to have this delegated authority by the Minister - and it appears that he can delegate it, by a previous clause, to any one - we may have a man, who of course will be able to read and write, appointed to judge whether certain works should come in or not. Surely, that cannot be intended by the Minister. Yet he is claiming the power, unless, of course he is going to appoint a literary board, and obtain a little patronage for himself in that way - and I do not suppose he is claiming that-

Mr. Kingston. - I have not thought of it from that point of view yet.

Mr CONROY

- Sub-clause (e) appears to me to belong more to an adulteration Act. There is no proper board constituted to deal with these various matters, which surely ought not to come under a Customs Act. Under the Constitution Act, the Parliament has no power to deal with adulteration, and there might be a little difficulty in that way, but clearly the Government will have no board to administer such a provision as this. Taking sub-clauses (e), (/), and (</), it is very clear that they ought to come under the Health departments - and many of the States have their own Adulteration Acts.. In fact, they are the only bodies who could deal with such matters properly and efficiently. There is no machinery here, for the Customs department to deal with: them. I think sub-clauses (e) and (/) ought to come out. Sub-clause (f) gives to the Minister a power which I do not think he ought to possess, and, therefore, I would suggest that it should also be omitted.

Mr WATSON

- I trust that the Minister will make an amendment in sub-clause (c), which reads -
Blasphemous, indecent, or obscene works or articles.

It is preposterous to place the decision of what is a blasphemous, indecent, or obscene work or article in the hands of subordinate officials. It casts on every tide-waiter the duty of throwing into outer darkness any book or article which he may think is obscene, indecent, or blasphemous.

Mr CONROY

- Perhaps Reynolds' Newspaper, which has a million readers a week.

Mr WATSON

- I have heard that some extremely proper young man in the Customs service here has actually stopped the admission of Reynolds' Newspaper.

Mr Salmon

- The post-office authorities, under an Act prohibiting the transmission of newspapers containing indecent advertisements.

Mr WATSON

-In that case I have no comment to offer. It should be only on the decision of a responsible officer that any work should be prohibited from entering a port in the Commonwealth. I would like the Minister to make clear who is to have the power of decision, for it does not seem to be clear. It would be preposterous to depend upon possibly an ignorant man to decide a matter of this description.

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Mr MAHON

- The honorable and learned member for Bendigo seemed very anxious to retain sub-clause ' protect the unfortunate author of some particular work, but we know very well that the object is not to protect the author, but to protect the publisher, who generally secures the copyright of the work. This talk about protecting the poor and obscure author is mere bunkum. The object, of course, is to protect the publisher of the work, who invariably represents a rich firm, and here we are handing over to a person who may be utterly illiterate, who knows nothing about literature, or what would be - or might be - an infringement of a copyright, this discretionary power. Of course every sub-clause might be objected to on the ground that it

would require a very high expert to determine really what comes under it. But I think the point raised by the honorable and learned member for Northern Melbourne is one which the Minister ought to take into account, and in doing so I would like him to give a definition of the word " works " in sub-clause (c). In the interpretation clause we have no definition of what constitutes " a work." Would a volume of the South Australian Hansard be considered "a work" under this sub-clause 1 If so, I believe a conscientious tide-waiter might possibly reject some volumes of that Hansard published three or four years ago, and also possibly some of the election speeches which have been delivered from time to time in that State.

Sir M'alcolm MCEACHARN

- This refers to importations.

Mr MAHON

- I am imagining a state of affairs in which each State has its separate Tariff, and its Custom-houses. The Minister ought to tell us whether the word "works" would include statuary and pictures. There may be some good young men in the Customs, who, if they went into the National Gallery, would consider some of" the pictures obscene or indecent. Of course the Minister, who has had such a large experience of the world, might not take that view of the pictures. But supposing that in the Customs service there were some Sunday-school teachers or people of a highly religious turn of mind, they might consider certain pictures obscene or indecent. I think that the Minister ought to define a " work " in the interpretation clause, and to give heed to the representations in regard to constituting a board or a responsible authority to decide these matters instead of casting this important duty upon some illiterate person in his department.

Mr KINGSTON

- Such a number of criticisms have been levelled against some of the provisions in the clause that it is rather difficult to reply to them all at once. One's mind is somewhat diverted by the remarks of the last speaker, who foresees that the South Australian Hansard might run some risk of coming within the list of classified works. I do not think there is the slightest possibility of that occurring. I do not know but that we might find newspapers from the west which would be exposed to the prohibition under circumstances such as are referred to. I have heard of a " Sun " which shines in the west - and luckily we have not got it here - which would necessarily be prohibited.

Mr Mahon

- The right honorable gentleman may feel its rays presently.

Mr KINGSTON

- As regards the objection that there is no definition of the word " works," it seems to me that we have already adopted a good many definitions, but really in regard to a monosyllable, the meaning of which is generally known, and .which is used in its largest possible sense, I think it is highly undesirable to encumber the Bill with a definition. If the honorable member applies common sense to a consideration of that sort, he will have no trouble, and the matter will be attended with no difficulty. Sub-clause (a) has been spoken of somewhat lightly, and it has been suggested that the Government are taking too much care of the interests of publishers, and infringements of copyrights were spoken of as if they were things almost to be commended. The Government take a very different view. . What we are inclined to think is that, the term "pirating" is fitly applied to the act of a person who infringes a copyright. To translate that a little more clearly, I call the copyright pirate nothing more than a thief. It is just as criminal to steal the value of the produce of the brains and intelligence of a man as to steal his money.

Mr Reid

- Or " appear " to steal.

Mr KINGSTON

- We should be falling very far short of our duty in this respect, and far short of modern legislation in this direction, if we failed to put in the four corners of the Bill what, I am happy to say, is found in similar provisions of Customs Bills in nearly all civilized countries, namely, a prohibition of the importation of pirated works.

Mr Isaacs

- Why limit the clause to the King's dominions on those broad lines ?

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Mr KINGSTON

- I think that is good enough for us at the present time.

Mr Reid

- Considering the high moral ground taken by the Minister, the clause had better not be limited to the King's dominions.

Mr KINGSTON

- The view we take is that we know the King's dominions and the empire, and that there are similar provisions in the Acts of countries which extend similar treatment to us. In regard to other countries, we take power by proclamation to do what is necessary under the circumstances, that is, to establish reciprocity, and I venture to think that is a highly desirable thing. It is not to be supposed that we would deny the advantage of legislation to all, but we do think there is a means of securing justice to our own people, and that it is just as well to provide for extension by proclamation, instead of providing for it in the first portion of the clause, as we do in reference to cases where protection is fully accorded to us. It has been asked why the word " appears " is used in sub-clause («), and why that word is not used in the other paragraphs of the clause. But I venture to consider that this clause is hedged round by other precautions. We do not act on our mere initiative. It is not until after notice has been given to the Customs authorities by the persons entitled to the copyright to the effect that they are the owners - and of course matters of this' sort can be easily checked - that we can take any action whatever. It is not a difficult thing, when possessed of such notice, to say whether a thing is or is not, or appears to be, an infringement of a copyright. We cannot act until we have notice, and we then have the work before us, together with the claims by the party whom we believe to be properly entitled to the copyright. " I venture to think that under circumstances such as that, we are entitled to a little more latitude of action and of decision, without risk of wrong-doing or mistake, than would attach to the other sub-clauses.

Mr Crouch

- What happens if a claim is made and the work prohibited, and it afterwards turns out that there was no copyright 1

Mr KINGSTON

- The person should have avoided the appearance of evil, as well as evil itself; he should not have run so close to the law. It is very difficult to imagine that notice would be given to the Customs authorities by a man claiming to be the owner, and that, circumstances would arise that would not justify action here.

Mr Reid

- It is very arbitrary.

Mr KINGSTON

- As regards the other sub-clauses, the general rule is that we cannot act unless justified by facts. It is not a question of the opinion of this tide-waiter or the other tide-waiter, but a question of whether or not the import comes within the description. As to the exercise of the powers contained in the Bill, honorable members, I am sure, will not feel justified in suggesting that the administration of the department would be so utterly foolish that grave issues of this sort would be held to be within the duties of a minor officer. Nothing of the sort will happen. These are matters which will occupy the attention of the highest officials, from whom an. appeal will lie to the Minister. I say further that it is a salutary rule - and it would be so held, I venture to consider, by any Minister having the administration of an Act with a clause of this sort - not to act unless the. necessity for action be clearly established, not to seek for opportunities of exercising arbitrary authority, but to exercise the powers conferred on him for the protection of the public only when a clear case arises.

Mr Higgins

- I recollect that ' the works of Tolstoi were prohibited by the Victorian Customs.

Mr KINGSTON

- If they were I do not know anything at all about the matter.

Mr Watson

- The admirable precepts of the Minister are not always adhered to.

Mr KINGSTON

- Then we have come here for the purpose of improving conditions.

Mr Watson

- Then improve the phraseology of the clause.

Mr KINGSTON

- As to " false money and counterfeit sterling," no honorable member would desire that to be put in circulation. Then with regard to " blasphemous, indecent, or obscene works or articles," surely it is better that these should be kept from circulating amongst us.

Mr Conroy

- The common law is quite sufficient.

Mr KINGSTON

- But it is infinitely better to prevent these things.

Mr Conroy

- We can prevent it under the common law.

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Mr KINGSTON

- It is infinitely preferable to prevent the introduction of literature of that description, than to take steps against the person responsible who ' may be far away. By preventing the introduction of this class of literature, we ' shall be discharging a duty, and shall nip. the evil in the bud. As to exhausted tea, the honorable and learned member for Indi has called attention to the fact that there are elaborate provisions in some Acts on this subject. During the short time which has elapsed since the Commonwealth was established I have had my attention drawn to this matter, and I feel that it is very desirable there should be a uniform practice on the subject at the earliest possible moment. If it be the case that tea which is rejected in one State will be accepted in another, there is an altogether undesirable state of affairs.

Mr Isaacs

- - -That does not affect what I was saying.

Mr KINGSTON

- Yes, it does.

Mr Isaacs

- Not a bit.

Mr KINGSTON

- Here we provide that exhausted tea shall not come in,' and exhausted tea is tea which has been deprived of its ordinary qualities.

Mr Isaacs

- Where does the Minister get that?

Mr KINGSTON

- Where do I get that ? I am putting the case plainly as the result of my reading on the subject.

Mr Isaacs

- That is no guarantee that the courts will say so.

Mr KINGSTON

- No, the courts will vary as experts vary, unless we are careful. But we put here the general rule ; and the idea of the Government is that under the power for making regulations to be prescribed to give effect to the Act or for the conduct of any business relating to the Customs, we have undoubted power to deal with the subject.

Mr Isaacs

- Surely the Minister does not mean to say that the Government can legislate by regulations 1

Mr KINGSTON

- I mean to say we can prescribe a standard for tea. At present there is no uniformly recognised standard in regard to what constitutes exhausted tea, and the result is that the experts differ "in the various States.

Mr Isaacs

- The Government are trusting a great deal to their power under the regulations.

Mr KINGSTON

- We are; and properly so.

Mr Isaacs

- .I hope the Government are justified in that.

Mr KINGSTON

- Does the honorable and learned member not think that provision ought to be made in the way

suggested ?

Mr Isaacs

- I think provision ought to be made in the Bill.

Mr KINGSTON

- I am sure the honorable and learned member will see that to do that would be loading the Bill with an amount of detail which would render it most cumbersome, and altogether unworkable. The clause enabling us to make regulations can, if necessary be strengthened, but I venture to consider that at the present moment full and ample power is already provided for.

Mr Thomson

- Will the Minister explain why only exhausted tea is dealt with, and not other goods which are not fit for human consumption.

Mr KINGSTON

- Because exhausted tea has been generally recognised for years past as a proper subject for special legislation within the four corners of a Customs Act. Honorable members know that there are many people - not in this country I am happy to say - who devote a considerable amount of their time which could otherwise be better employed, in preparing exhausted tea for market. This tea in many cases has been previously used, but that fact is concealed by artificial aid, and the tea is subsequently foisted on people in other countries as tea in the ordinary sense of the term. Various Customs Acts have dealt with this matter, and it is a proper and special matter to be dealt with. As to the other goods which might be similarly dealt with, but in connexion with which the evil is not so clearly known we take power under sub-clause (g) to prohibit their importation if necessary. We simply propose at the present moment to deal with evils which we know and which Governments have been accustomed to deal with in similar legislation. One honorable member asked why the Bill did not define "proclamation"; but the meaning of that word is defined by the Acts Interpretation Act to mean - " proclamation by the GovernorGeneral." Another honorable member found fault with the provisions in regard to the forfeiture of goods by proclamation.

Sir Malcolm MCEACHARN

- It was not finding fault, but a suggestion.

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Mr KINGSTON

- I am using the word in its mild sense, and I am obliged for all suggestions. An honorable member took exception to the provision in regard to the forfeiture of goods prohibited by proclamation, because it might happen that at the time of the shipment the terms of the proclamation were not known. I would say, in reply, that clause 215, providing for the forfeiture of goods, declares, in sub-clause (6) - All goods imported which are prohibited imports excepting only goods the importation of which is prohibited by proclamation, and which shall have been shipped to be imported without knowledge of the proclamation by the shipper and before the expiration of a reasonable time for the acquisition of knowledge thereof at the port of shipment.

Sir Malcolm McEacharn

- That meets the case.

Mr KINGSTON

- Yes ; I think that meets the case. I trust that under all the circumstances honorable members will be disposed to let the clause pass as proposed. I admit the powers are large, but they are usual.

Mr Thomson

- What about margarine?

Mr KINGSTON

- That also has been repeatedly the subject of special legislation. I think such legislation is to be found-- An Honorable Member. - Not in New South Wales. Mr. KINGSTON.- I do not know that it exists in New South Wales.

Mr Thomson

- I may tell the Minister that it is not the subject of legislation in any Customs Act in any country in which the manufacture of margarine is allowed.

Sir Malcolm McEacharn

- Is there no law in England prohibiting the importation of margarine there ?

Mr KINGSTON

- I know there is such a law in Canada.

Mr Thomson

- Then the manufacture is prohibited there ?

Mr KINGSTON

-In what State is margarine manufactured 1 I did not know it was manufactured at all.

Mr Watson

- In New South Wales.

Mr Thomson

- Yes, and in Queensland ; and in Victoria there is an Act allowing the manufacture.

Mr KINGSTON

- Is there? All I can say is that that legislation seems to be a mistake. But we cannot legislate on the lines of Victoria or any particular State. Our desire is to do what we think is best, and the general rule in regard to all States has been to prohibit this thing.

Honorable Members. - No !

Mr KINGSTON

- To prohibit its introduction.

Mr Thomson

- What State does prohibit it?

Mr KINGSTON

- South Australia.

Mr Thomson

- South Australia prohibits the introduction ?

Mr KINGSTON

- I think so.

Mr Thomson

- And the manufacture ?

Mr KINGSTON

- It is not manufactured in South Australia, I know.

Mr Thomson

- Is the manufacture of margarine prohibited in South Australia?

Mr KINGSTON

- I would not be sure that we deal with it in the South Australian Customs Act, but I know margarine is not manufactured in that State.

Mr Thomson

- No, but it is not prohibited. The mischief of it, so far as I can see, is that it is a substitute for butter which is sold as butter, and it is a fraud.

Mr Reid

- It is not a fraud if it is sold as oleomargarine or butterine.

Mr KINGSTON

- But it is not sold as oleomargarine or butterine. It is intended to be put off on the public as the genuine article, which it is not. We prohibit its importation for two reasons - first, that it defrauds the buyer, who does not get what he believes he is buying ; and secondly, that it cheats our producer out of the market for the proper article, which he would otherwise possess.

Mr Thomson

- Will the right honorable gentleman prohibit the manufacture of it in the Commonwealth?

Mr KINGSTON

- The Government policy on this subject has not been fully matured. But I believe that I should be faithfully interpreting the views of the Government if I said cheerfully " Yes." I believe so. Of course, I am speaking offhand, because the question has not been considered. Under all the circumstances, we ask for the retention of the clause as it stands, admitting the extent of the powers which it contains, but claiming that they are usual.

Mr Reid

- They are without appeal, are they not ?

Mr KINGSTON

- It turns on the question of fact. . If we make mistakes as regards these other questions of course we are . responsible.

Mr Reid

- In what way?

Mr KINGSTON

- We have to give them up.

Mr Reid

- Who can compel you ?

Mr KINGSTON

- The court would compel us.

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Mr Reid

- Could it ?

Mr KINGSTON

- Undoubtedly.

Mr Conroy

- Under what power ?

Mr KINGSTON

- When the law gives us certain powers to deal with certain goods if those goods are of a certain character, do honorable members seriously suggest that there is no court which could prevent our dealing with goods which did not come within the category in the prescribed way?

Mr Reid

- I see difficulties in bringing actions against the Crown.

Mr KINGSTON

- Of course there are difficulties, but there are powers to legislate for the purpose of conferring rights.

Mr Reid

- The right honorable gentleman does not give the right now.

Mr KINGSTON

- It is not a right thing to provide here for any special form of remedy against the Crown. It is a question to be dealt with in one Bill affecting the whole subject. The principle here is as clear as it can be. No attempt will be made to use the powers conferred unless the facts justify it.

Mr Isaacs

- Clause 209 contemplates that officers may be liable for seizures for which they have no reasonable cause.

Mr Reid

- That is a personal action against the officer, who may not have sixpence.

Mr KINGSTON

- That is so, but if they have reasonable cause they ought not to be liable. Under all the circumstances, I ask honorable members to give us the clause as it stands.

Mr THOMSON

- I quite admire the Minister for sticking to his Bill under every condition. But I do not think that the committee is bound to follow him when he advances such poor arguments in support of the clause as it is in the Bill. In the first place, he spoke very lightly about the objection to the admission of exhausted tea and tea adulterated with spurious leaf. Nobody has questioned the wisdom of prohibiting the importation of exhausted tea. The only question which I raised was, " Why specially name that article and not also say that any other article unfit for human use shall be excluded ? " Surely the Minister cannot claim that he is protecting the public when he neglects to protect them in nine cases out of ten, and protects them in the tenth case only.

Mr Salmon

- The honorable member would want 20 or 30 more pages in the Bill to provide for what he suggests.

Mr THOMSON

- It would need only about half-a-dozen words. Why not insert the words " any other article of food unfit for human use " ?

Mr Salmon

- That point is covered by sub-clause (g).

Mr THOMSON

- Another honorable member drew my attention to that subclause, and I thought at first that it did cover the point which I have raised, but now I am doubtful of it. But if it is provided for in sub-clause (g), so also is adulterated and spurious tea. Then where is the occasion for that article appearing in another clause?

Mr Salmon

- These are typical cases.

Mr THOMSON

- What is tea typical of?

Mr Salmon

- It is typical of an attempt to swindle the public.

Mr. THOMSON.

- Why not then provide for all attempts at swindling the public?

Mr Salmon

- Because it would take about 40 more pages to do so.

Mr THOMSON

- Can the honorable member say that the words "any other article unfit for human use " would occupy 40 pages?

Mr Salmon

- But we should want a list of all the goods to be prohibited.

Mr THOMSON

- We need no list at all. But if, on the other hand, sub-clause (g) covers this matter, why is the one item of tea taken out of many items that may be unfit for human food and placed in a special sub-clause ? I do not think that sub-clause (g) is intended to cover that sort of thing upon looking more closely at it. I think it is rather intended to cover goods which may be prohibited, such as oleomargarine and butterine. If a shipment of good tea - which is an article of general consumption and a wholesome article if it is good - arrives here, other shipments may arrive which are injurious, spurious, and unwholesome, and therefore the sub-clause specifically names tea. We could proclaim tea as an article which is not to be imported ; but we do not wish to do so, because as a general rule it would be admitted.

Mr Watson

- It does not need a proclamation to prevent the importation of tea.

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Mr McCay

- Does not the honorable member see that he wants to hand over legislation to the Governor-General in Council instead of retaining it in Parliament ?

Mr THOMSON

- Sub-clause (g) does that, then.

Mr McCay

- We legislate as far as we can.

Mr THOMSON

- If the honorable and learned member objects to that course, then he simply has to move the omission of subclause (gr). I say that this question has simply not been considered, and the Minister is rightly or wrongly standing by his Bill.

Mr Kingston

- Has it not been considered ?

Mr THOMSON

- This relationship cannot have been considered. Then there is the prohibition of oleomargarine, butterine or other similar substitutes for butter. I am not objecting to the prohibition of the use or manufacture of that article. It may be considered a wholesome article, but if there are good reasons why it should not be

manufactured or imported, by all means let it be prevented. But I do ask, " Are the committee going to place themselves in the absurd position, that not having the power to prevent the manufacture and sale of this article within the States - further than that, having passed Acts as members of State Parliaments to permit of its manufacture - are they going to say that whilst we cannot prohibit its manufacture and sale in Australia, they will prohibit its importation? There can be no sense in that, and I for one will not agree ' to recognise a clause which contains such an absurdity without an effort to alter it. I do not intend to move an amendment in regard to the prohibition of the importation of exhausted tea and other goods unfit for human use, but I shall certainly move in the direction that I have indicated.

Sir Malcolm MCEACHARN

- How would the honorable member deal with fish which has been imported and which has turned out bad ? Would the honorable member fine the importer £100? : Mr. THOMSON. - It is not necessary to fine him £100.

Sir Malcolm MCEACHARN

- Assume that he bought the fish in another country, and imported them from Canada, from which regular shipments are received ?

Mr THOMSON

- Under those circumstances, as the honorable member knows, I am against having the minimum penalty as high as is provided for in the Bill.. But if there were no wrong-doing on the part of ' the importer-- ' Sir Malcolm. McEacharn. - But the honorable member does not provide for that in the alteration which he proposes. It is a-, very sweeping alteration!.

Mr THOMSON

- There- might be no fine imposed at all ; that Customs authorities would simply say that: the fish were not to be sold.

Mr Salmon

- Then the honorable member must make an exception in his clause.

Mr THOMSON

- Not at all. It is precisely on the same footing upon which exhausted tea is placed. If a man does not know that the tea has been exhausted he has to suffer by the prohibition of the importation. The heavy loss to the importer in such cases is the exclusion of his goods. But in ' other cases it would be quite right to impose a heavy fine. A man might buy fish which are unfit for human consumption in New Zealand, and bring it here, in which: case it would be proper to impose a fine. I shall not move in that direction ; but I shall certainly move in the direction of excluding butterine from the list of prohibited, imports.

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Mr SALMON

- I have no doubt that the Minister had very great reason for adopting the system which he has adopted, and to which the honorable member for North Sydney so strongly objects. I take it that it has been considered necessary to have in clause 49; typical examples of goods which may be brought under the operation of sub-clause- . (r/) at any time in order that we -may give an indication to those who are engaged in commercial transactions that in certain circumstances certain goods will not be admitted into the Commonwealth. Those prohibited goods begin to be specified in sub-clause (d), which refers to goods manufactured in prisons. Sub-clause (e) refers to articles which are adulterated, and from, which the active principle has been extracted. The term " exhausted tea " is-, applied to tea which is not up to standard,, and which in some cases has been previously treated for the purpose of extracting the active principle, and which is therefore utterly useless for the purpose for which it is imported. Then in sub-clause (/) we come to oleomargarine, butterine, and any other similar substitute for butter. This is an indication that articles which are not what; they profess to be will not be admitted into> the Commonwealth. Then we have the drag-net clause, which will give the Minister power to prohibit the importation of any goods by proclamation.

Mr.F. E. McLean. - That sub-clause does not give him that power. Does the honorable and learned member regard it as giving the Minister power to prohibit the importation of anything the prohibition of which may be agreed to by the Executive ?

Mr SALMON

- I do. In Part 1 6 regarding regulations, honorable members will find that the Minister may make

regulations prescribing all matters which by the Act are required or permitted to be prescribed, or such as may be necessary or convenient for giving effect to the Act, or for the conduct of any business relating to the Customs. He will also have power to issue proclamations - calling them the Governor-General's proclamations - which will prohibit the importation of any goods into the Commonwealth. Personally, I think the clause as it stands is an admirable one. It will be useful as an indication to the commercial community, and also useful to those officers who will have the administration of the Act, and I feel perfectly satisfied that it could not be drafted in a better way than it has been.

Mr H WILLIS

- The honorable and learned member who has just resumed his seat has expressed himself in favour of paragraph (f), because he believes the Minister has some good reason for inserting it. The Minister when he was referring to the exclusion of oleomargarine, butterine, or any other similar substitute for butter, said, I think, that the importation of these things was prohibited in all the States, and when the leader of the Opposition interjected - "No, not in South Australia," the Minister said that it was prohibited in South Australia. In South Australia the population is very small as compared with the populations of the larger States, and the importation of oleomargarine is prohibited there.

Mr Kingston

- It is either prohibited, or else the duty upon it is prohibitive.

Mr HENRY WILLIS

- In South Australia they do not manufacture margarine, because there is no demand for it, on account of the population not being very large ; but we are told that in New South Wales and Victoria there is a very large demand for margarine, and it is not excluded from importation, especially in the State of New South Wales, for the very reason that if they excluded the importation of margarine they would be giving protection to the manufacturers of that article within the State. So that I contend' that by passing the Bill in its present form we should be giving an immense amount of protection to the manufacturers of that commodity within the Commonwealth, because we should be prohibiting the importation of the article with which they would! have to compete. If the Minister wishes to be consistent, he must prohibit the manufacture of margarine within the Commonwealth, and if he could and would do that, I should be in favour of paragraph (f). I do not think, however, that he has any power to introduce such legislation, as it would be an invasion of State rights, and therefore I hold that paragraph (f) should be struck out. .

Mr E SOLOMON

- I would like to ask the Minister in charge of" the Bill whether this clause goes far enough. There are such things as hams, bacon, and cheese which are unfit for human consumption, and I have frequently known these articles to be condemned and not allowed to be landed. It does not appear to me that the Customs officials are sufficiently protected under this clause, or that they will be able to exercise the necessary authority for the exclusion of such goods as I have mentioned unless there is a definite proclamation published on the subject. As regards butterine we have had a good deal of it imported into Western Australia, but there has always been a rule that it shall be entered as butterine.

An Honorable Member. - Is it sold as: "butterine"?

Mr E SOLOMON

- Besides the Customs regulations, there are local Acts which should deal with the adulteration of food as it is retailed. At the same time it is better, as the Minister has said, to nip anything of.' this kind in the bud, and to prevent it from: being retailed as good food. No doubt a good deal of disease is disseminated in this way.

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Mr HUGHES

- There is a little matter about which I would like to ask the Minister a question. In paragraph. (h) of clause 49, it is proposed to prohibit the importation of -

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

I would like to know whether that would cover any adulteration or any departure from any statement on the label, when it is put up by a person other than the public officer, Government, or country.

Mr Kingston

- That is intended to prevent misrepresentation of official guarantees for quality by a public officer,

Government, or country.

Mr HUGHES

- If the right honorable gentleman will insert after the word country" the words "or person," the power given under the clause would be extended over all goods that are not as they are stated to be on the label. That would be a general power, whereas if the honorable member relies on the previous paragraph providing for prohibition by proclamation, that will involve a certain amount of differentiating between one particular brand of goods and another, which is undesirable, and will be very much less effective than a statement here clearly setting forth that no goods can be imported unless they are as represented on the label.

Mr Kingston

- That would be too great a responsibility to undertake.

Mr HUGHES

- Then I would ask the Minister whether he has any objection to insert another paragraph prohibiting the importation of all goods upon the face of which there is not clearly stated the place of their origin and manufacture. The British Parliament passed a law some three or four years ago - I do not remember quite how long ago - which provided that no goods should be imported into Great Britain without clearly stating the place from which they came. I do not see how a similar provision here could have any possible ill effect.

Mr Deakin

- The honorable member is referring to the Merchandise Marks Act 1

Mr HUGHES

- Yes. A provision of that kind would give any one who wished to patronize local industry and articles made by white labour an opportunity of doing so. I would like to know whether the Minister will accept such an amendment if I move it, as I do not want to delay the Committee

Mr Kingston

- I would rather not.

Mr HUGHES

- It is not beyond the scope of the Bill, surely 1

Mr Kingston

- But I think it would be introducing a very difficult and troublesome question.

Mr HUGHES

- I would like to know what objection there is to the provision.

Mr KINGSTON

- I am inclined to think it would be much more desirable to have such powers as we propose, than to introduce by a short turn, legislation with regard to merchandise marks. Merchandise marks have formed the subject of the most elaborate legislation, and it would be difficult to deal with the matter in the summary and cursory way now proposed. Talking about oleomargarine, I think, on reflection, that the qualified view I expressed, that we do not keep it out by direct prohibition from South Australia, is the correct one. Our Act was passed in 1864, which was before the question of the importation of oleomargarine became a live question; but I recollect the matter being dealt with in our Tariff in such a way as to secure prohibition. A duty was placed on it that was intended to be prohibitive, and there is no local manufacture of the article. The South Australian authority is somewhat aged; and it does not support the proposal against which the honorable member for North Sydney contends.

Mr WATSON

- I do not think that the Minister, in his reply to the criticisms on paragraph (a), met the case at all. He treated us to a statement of the principles that should guide the Customs department in the administration of an Act such as this would be, if passed, and no one wishes to dissent from those principles. We know that the Customs officials should be guided by a large view of the case; but the objection expressed to the paragraph has been, not that there is anything intrinsically wrong with it, as far as the principle is concerned, but that it does not set the responsibility on responsible shoulders.

Mr Kingston

- The Minister would be responsible for the administration of the Act.

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Mr WATSON

- I say the Minister should be the responsible person, but I do not admit that under this clause he will be the responsible person, unless it is in respect to a big case, in which the people interested are sufficiently powerful and influential to bring it before the public and Parliament and secure some recognition from the Minister. I think, therefore, that the paragraph should be amended, so as to make it imperative that the Minister shall take the responsibility of declaring that a work is blasphemous. Of course the Minister would not thus decide until after he had read the reports from his officers. Without going into any further arguments, I desire to move -

That the words "works or articles which in the opinion of the Minister are" be inserted at the beginning of paragraph (c).

also have in view the omission of the words "works or articles" at the end of the sub-clause.

Mr Deakin

- The Minister is always a court of appeal.

Mr Kingston

- He is responsible to Parliament for the administration of the Act.

Mr WATSON

- That maybe; but the honorable and learned member for Northern Melbourne mentioned a case which occurred in this State, in which some work by Tolstoi was rejected.

Mr Deakin

- "The Kreutzer Sonata."

Mr WATSON

- In the opinion of a great number of people, Tolstoi is a thoroughly religious man, although he is unorthodox, and has been excommunicated by the Greek Church.

Mr Deakin

- His book was not stopped on this occasion on account of the religious belief of the writer.

Mr WATSON

- What grates on some people's minds as being quite unorthodox is in the eyes of others truly religious. What I desire is that we should be protected from any interference with the introduction of "works of a scientific or educational character, on the prohibitive edict of some officer in the Customs who is not specially selected to deal with that class of matter, but who perhaps occupies a position of small responsibility in the service. In regard to these matters trenching on the educational, I think they are important enough to justify us in asking that the Minister only should decide, after getting reports from officers who have gone through the matter objected to. I move -

That before the word "blasphemous," in subclause (c), the words "works or articles which in the opinion of the Minister are" be inserted.

Mr RONALD

- I think it would serve the purpose, as an alternative meaning the same thing, if we inserted these words :
-

Provided- that in the case of any work or articles being treated as blasphemous, indecent, or obscene, the facts shall be stated and the work or works specified in the next issue of the Government Gazette. That would bring the matter under the cognizance of the Minister. It would give us a court authorized to decide what was blasphemous, indecent, or obscene. I certainly would object very strongly to sub-clause (c) going without such an addendum, for the simple reason that we put there a canon which may exclude the Bible itself. It altogether depends upon who is to judge as to what is blasphemous, indecent, or obscene. But if attention were called to a book prohibited in the Gazette that would serve as an index expurgatorius and would prevent the work from getting scattered broadcast over the country, bring it under the notice of the Minister, and in that way secure a court to decide and a criterion of what was blasphemous, indecent, or obscene. It is simply a relative term. What would be blasphemous here is not so where, the Koran, for example, is used as the standard of ethics. That is deemed a highly blasphemous book by Christians. Many persons condemn it as such, and would prohibit its use. If we insert this provision it will serve the purpose of calling attention to any books which are under suspicion, and bring them under the notice of the Minister.

Mr A McLEAN

- Would not that insure a bigger demand for the work ?

Mr RONALD

- It cannot be supplied, because it is prohibited. There is power to prohibit as well as to prosecute.

Mr Deakin

- It would certainly popularize the Gazette.

Mr. H.

WILLIS (Robertson).- I think the suggested amendment is a decided improvement on the amendment proposed by the honorable member for Bland, inasmuch as his words appear to be surplusage. We have it from the Minister that he is responsible for the administration of the Act, and that all matters in dispute will be referred to him. If the suggested amendment is carried, we shall have the advantage of the proposition which has been moved by the honorable member for Bland, with the addition that what was excluded by the Minister would be published in the Gazette.

Honorable members would then have the advantage of knowing really what was excluded.

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Mr PIESSE

- All that the last speaker would gain, is gained by what now happens. Any one who feels himself aggrieved by the restriction of any desired importation brings it before the highest authority, and that is the Minister in charge of the Customs-house. There would be very great objection to the publication of a list of these articles, or any description of them. It would only be making worse the evil which the clause is rightly aimed at preventing. There are, no doubt, difficulties in administering such a law, but we must trust the administration, and leave it to the man aggrieved to resent any wrong under which he thinks he suffers. I think this part of the clause may well stand as it is.

Mr F E McLEAN

- I feel inclined to vote for the clause as it stands. The whole object which the honorable member for Bland seeks to attain, is attained now by reason of the fact that the department is administered by a Minister who is responsible to Parliament and who can be brought to book for any wrongful act of his officials. It is absolutely absurd to suppose that any Customs official in himself will become a kind of censor in these matters. No doubt in regard to all other matters, such as exhausted tea, adulterated articles, and articles unfit for human consumption he will simply act on the advice of the health authorities and experts, but in a matter of this kind I should imagine that no Customs official will act without the sanction of the Minister. There is always a great deal of difficulty in dealing with what is called blasphemous literature. In these days when probably we are more advanced than our forefathers were, a matter of this kind will require to be handled with very great discretion, and it is only by holding the Minister himself responsible for the exercise of the power that Parliament can really protect the public interest.

Mr Watson

- Is it not likely that if a subordinate officer has the idea that an article should be prohibited the Minister will be more likely to stand by him than if he first gave his decision 1

Mr F E McLEAN

- I do not think, in practice, any mere Customs official would take upon himself the responsibility of deciding what was blasphemous or indecent literature.

Mr Kingston

- The Minister himself would be very loth to exercise the power.

Mr F E McLEAN

- And the Minister himself would exercise the power with very great discretion. I always feel a considerable amount of hesitation about giving these very large powers to anybody, but if we are to give them at all - and I suppose, in the interests of decency, . we must give these powers to prevent the introduction of indecent works and articles - let it be to the

Minister, who is responsible to Parliament and who can be brought to book for his wrongful acts. I think the honorable member's object will be attained if the clause stands as it is. On all the other sub-clauses . I am also inclined to vote with the Minister. I have heard some very good arguments adduced by the honorable member for North Sydney and others as to the unfairness of prohibiting the importation of

certain articles, while their manufacture within _ the Commonwealth . or within the States is not prohibited. But, . after all, we can deal only with those matters with which we have the power to deal. In a Customs Regulation Bill we have the opportunity of dealing effectively with the importation of these undesirable articles, and if we exercise our power we are doing all we possibly can to prevent their introduction. The other powers I presume can be exercised only by the State Parliaments and the State Governments, and no doubt they will be exercised for the protection of the public health. But this Parliament is responsible for Customs legislation, and in this Bill we - have the opportunity of preventing the introduction ' of a number of objectionable - articles.

Mr Thomson

- This clause deals with* only one.

Mr Deakin

- Sub-clause (g) is pretty wide.

Mr F E McLEAN

- I understood the . Minister to interpret sub-clause (g) as giving him practically the power of prohibiting the importation of anything which the Government deem to be objectionable or dangerous. If that general power is given - and I accept his interpretation in that respect - we are practically empowering him to protect the public health.

Mr Thomson

- Then the other sub-clauses . are not needed.

Mr F E McLEAN

- The honorable member might possibly introduce his amend- - ment in connexion with -sub-clause (g), giving some kind of direction to the Executive as to the class of articles to be prohibited by proclamation. But, I take it that the goods mentioned - goods manufactured in prisons, exhausted tea, adulterated tea, margarine, butterine - are those which have been the subject of prohibitive legislation within the States from time to> time.

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Mr Thomson

- Not margarine.

Mr F E McLEAN

- We have been told that they have been in South Australia.

Mr Thomson

- No.

Mr Deakin

- There is a prohibitive duty.

Mr F E McLEAN

- I cannot draw any "kind of distinction between absolute prohibition of an article and the imposition of a duty intended to be prohibitive.

Mr Thomson

- There is nothing to prevent them from being manufactured there.

Mr F E McLEAN

- It is not a protective duty in any sense. It is absolutely a prohibitive duty.

Mr Thomson

- Nonsense.

Mr F E McLEAN

- I feel inclined to vote for the clause as it stands. If the honorable member should introduce an amendment in connexion with sub-clause (</) which would give a general direction as to the class of articles to be prohibited by proclamation, I would then be inclined to vote with him. But, on the whole, I think the clause is one which should be in the Bill. We are responsible, at any rate, in legislation of this kind, for the protection of the public against spurious and adulterated articles which come from other countries. 'The State Governments and the State Parliaments are responsible for the protection of the public health within their jurisdiction, and I am inclined to support the Government, so far as this clause is concerned.

Mr HIGGINS

- I think the argument of the last speaker is well worthy of attention in regard to the proposed amendment. He says that at present the responsibility of the Minister is in the Bill. I admit there is a great deal in that, but at the same time I do not think it covers the whole ground. If there is one thing of importance it is that we should try to let the people know as soon as possible by every means in our power what is prohibited and what is allowed. I believe that there is in our Customs-houses a system by which the Minister's rulings, as they are called, are collected and tabulated, and that importers know pretty well how they are to act. All that is wanted, as I understand, by the honorable member for Southern Melbourne, as well as the honorable member for Bland is on the one hand to make sure that the Minister has to bring his mind to bear and take the responsibility of the matter. But, on the other hand, it is of far more importance that any ruling which has been given shall be announced in a public manner. If there be any suggestion which will better meet the case I shall be very glad to adopt it. The suggestion of the honorable member for Southern Melbourne is, that as soon as there has been a ruling that an article is prohibited, say the " Kreutzer Sonata," it shall appear in the next issue of the Gazette - " Kreutzer Sonata, by Leo Tolstoi," for example - and then an importer will avoid bringing it in.

Mr Mauger

- Would the honorable and learned member have all prohibited indecent articles advertised in the same way?

Mr HIGGINS

- No. The honorable member is, perhaps, not aware that the other things are prohibited by proclamation, and that there is a publicity given to them. I mean, that we have publicity given to all the articles in sub-clause (f.) The only question is, ought we to give publicity to the articles in sub-clause (e) ?

Mr Mauger

- Publicity is given in the press at the present time.

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Mr HIGGINS

- There was no publicity given in the press to several books which we prohibited - and very stupidly prohibited - in the Victorian Customs. Of course these books are not of much pecuniary value, and no man would go to law with regard to a matter of the sort, but still he has his legal rights stopped at the arbitrary will of a Minister. There are two means of punishing - one, that of suing for a penalty, and the other that of seizure. Under clause 215, sub-clause (2), any of these alleged blasphemous, indecent, or obscene works or articles can be seized, and that is final. A work of the character that may come from Europe is seized, and unless the man to whom it is consigned chooses to run the risk of litigation, he is not able to get that work out of the Customs. It is seized, and it is lost, and I think that it would take some of the objections out of the man's mouth if he were told - "Well, this article has been imported before and prohibited, and advertised in the Government Gazette, and you ought not to have imported a prohibited article." I know it may be said that such a procedure means an advertisement for the objectionable work or article ; but in the position an advertisement would do no good. If the article is prohibited, and the Government exercise their policy consistently, the article, although advertised, cannot be imported.

Mr PIESSE

- It may be imported surreptitiously.

Mr HIGGINS

- That may be ; but I apprehend that the arm of the Government is not so short, weak, or infirm, that it cannot stop the importation. Of the two amendments, I prefer that of the member for Southern Melbourne, and if it goes to a division, I shall vote for it.

Mr KINGSTON

- I would point out that the Minister is responsible, and that there would be the protection of the consideration he would give to all cases of this sort. No man would dream of lightly dealing with matters of this description, but to insert the words proposed and suggest that the question should be immediately referred to the Minister would be to leave it entirely to the discretion of the Minister. But Ministerial opinions may of course vary with the occupants of the office, and there might be one decision one day and another decision on another day. It would be better to let the clause remain as it is.

Mr. WATSON

(Bland).- The Minister is opening up quite a new vista to the committee. On the one hand he tells us that

the Minister will be responsible, and, on the other hand, he urges that we should paSS the clause as it is, so as not to have the varying decisions of Ministers. What a nonsensical argument that is to expect the committee to accept - that we can under this clause insure that the Minister will be consulted on each and every occasion, and yet not have the decision of the Minister given effect to at all.

Mr Deakin

- The honorable member has missed the point.

Mr Kingston

- The honorable member is far away from the point.

Mr WATSON

- It seems to me that under the clause as it now stands, a book or work, that is in the opinion of a subordinate officer blasphemous, can be rejected or prohibited without appeal to the- Minister at all.

Mr Higgins

- There is a clause that allows the Minister to depute any of his power to any of his officers.

Mr WATSON

- Just so, but-the trouble seems to me that we want to insure that the Minister shall be firstly responsible - that is, that nothing can be done in this respect without his consent. Under the clause as it now stands any officer may prohibit the introduction of, or may seize, any works which it is sought to introduce. I admit that the

Minister will have to take the final responsibility before Parliament, but that is quite a different tiling from his giving assent to the prohibition in the first instance. I want to put this responsibility on the Minister's shoulders, and I cannot understand the argument of the right honorable gentleman a few moments ago, which appeared to be that we desire to get rid of the varying decisions of different Ministers by allowing a subordinate official to run the Customs department. That is what the right honorable gentleman's argument amounts to, or greatly misunderstand him.

Mr KINGSTON

- I regret to say the honorable member for Bland has misunderstood me. What I said was that the Minister would be responsible for the administration of the Act - that doubtless matters of this sort would be referred to him, and he would have to give his opinion. But if the clause be amended in the way the honorable member proposes, not only would that be possible, but, although the work may not be a blasphemous or indecent work, it may be declared so in the opinion of the' Minister, and the party importing it is shut out from all redress.

Mr Higgins

- He is bound by the Minister's opinion.

Amendment negatived.

Mr. RONALD

(Southern Melbourne).I desire to submit the new sub-clause of which I have given notice, and which I think will meet all that is wanted. I need not repeat myself, but will simply move -

That after the word "articles," sub-clause (c), the following words be inserted, "provided that in case of any works or articles being forfeited as blasphemous, indecent, or obscene, the fact shall be stated and the work or articles specified in the next issue of the Government Gazette."

Mr. MAUGER

(Melbourne Ports).Would the honorable member for Southern Melbourne not really defeat the end he has in view by advertising in a way he does not wish a lot of objectionable articles which it has become the duty of the Minister to prohibit

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Mr Reid

- The honorable member for Melbourne Ports misses the point in the amendment, which will do the very opposite, namely, bury the list of articles in the Government Gazette.

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Mr MAUGER

- I have not missed the point by any means. The Government Gazette is read by some people, and it has been suggested, when the leader of the Opposition was not present, that these advertisements would be the means of making the Gazette more

popular. It is the leader of the Opposition who has missed the point, and not I. The less said about these articles, and the less they are advertised, the better. The honorable member for Laanecoorie, who has been Minister for Customs, could bring us quite a strange exhibition of articles.

Mr Salmon

- I assure the honorable member I could not.

Mr MAUGER

- If those prohibited articles had been advertised, the Government Gazette would have been the finest reading that could be conceived from some points of view. The clause had better be left as it is, as past experience has shown there would be no trouble in regard to it.

Amendment negatived.

Mr. THOMSON

(North Sydney). - I move -

That sub-clause (f) be omitted.

In reply to the member for Lang, I will only say that, as the Minister has admitted, that butterine and similar compounds are not admitted into South Australia-

Mr Kingston

- It is not prohibited in this way.

Mr THOMSON

- They are not prohibited by the Customs Act. I cannot see these articles mentioned in the South Australian Tariff though I have not had time to examine the Tariff fully. If margarine be prohibited in South Australia it must be by a duty, so that on the admission of the Minister that is the best way to prohibit it. The Minister will have an opportunity of bringing in his Tariff Bill, and he will then be able to prohibit this and a number of other articles by the same means.

Mr Kingston

- That is the way to do it.

Mr THOMSON

- The Minister says that is the way to do it. In addition, the Minister has power under sub-clause (g) to prohibit the importation of butterine. I am quite willing to give him that power for the reason that it is quite possible the States may see fit to prohibit the manufacture. I would not object to such a prohibition, because I am not defending the manufacture of butterine. If the States did at any time decide that butterine should not be manufactured, then the Minister has power to bring the Commonwealth law into line with the States law under sub-clause (g), by prohibiting the importation. Surely that is a sufficient power, but the Minister is asking the committee to pass an enactment which has never been passed, I venture to say, in any British community of recent years at any rate, though I will not say that such legislation may not have been sanctioned in the far past. The enactment is that a certain thing shall not be imported, and shall be kept from the use of the Commonwealth so far as importation is concerned, while, however, the article is allowed to be manufactured, sold, and used within the Commonwealth. I think we are asked to give assent to an absurdity. The time will come when, perhaps, under sub-clause (g) the Minister will do perfectly right to prohibit the importation of butterine, because by that time the States may have prohibited its manufacture. So long as the Minister retains that power, even if subclause (f) be omitted, he can bring the Commonwealth into line with the States at any time the States chose to prohibit its manufacture.

Mr Mauger

- Would it not be better the other way about?

Mr THOMSON

- What an absurdity it is to say that an article should not be imported and sold. Why? Either because it is deleterious - I am not advocating butterine, but only showing the absurdity of: the position - or if it be not deleterious, because it is a fraud and an imitation of something else. Yet within the Commonwealth we allow our own people to manufacture and sell this article, although it is deleterious, as a fraud or imitation. It is almost beyond belief that such a proposal could ever be made to a sensible committee. I venture to say the Minister will not exercise the power after the Bill is passed, if we do not do it for him, until the States have prohibited the manufacture of butterine.

Mr. SALMON

(Laanecoorie). - I trust the honorable member for North Sydney will not press his amendment. He has said that if butterine is found to be deleterious or to be a fraud, it can be prohibited in one of two ways - either by imposing a prohibitive duty, or by issuing a proclamation. I would point out that the article is deleterious and is a fraud.

Mr Watson

- It is allowed in England, under its own name, and there the authorities are very careful about adulteration.

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Mr SALMON

- I know the authorities are very careful, and in England the article has to be produced under special supervision. We cannot now legislate against the whole of the world, and exclude England. If the butterine to be imported were only to be imported from England, and from places where it is manufactured under supervision, I should have no objection to it. But it is imported from the Continent.

Mr Ewing

- It is not claimed that it is deleterious, but it is said not to be an article of food.

Mr SALMON

- I can assure the honourable member that if he were to see the process of manufacture-

Mr Ewing

- I know all about it.

Mr SALMON

- If the honorable member could see the process of manufacture in some places on the continent of Europe, he would be one of the first to altogether oppose its introduction into this country.

Mr Thomson

- It is manufactured in this country.

Mr SALMON

- I would like the honorable member to tell me where it is manufactured in this country.

Mr Thomson

- In New South Wales.

Mr SALMON

- In what part of New South Wales ?

Mr Thomson

- In Sydney; and there is an Act permitting its manufacture in Victoria.

Mr SALMON

- An honorable member, I understand, has said that there is a great demand for this article in Victoria, but I would like to know where he got his information on this subject. I have never heard of such a demand. The article was manufactured in Victoria for a brief period, but the restrictions placed upon its manufacture were sufficient to blot it out of existence, and I hope that it will not be resuscitated. I believe that the Government intend to introduce a protective policy, and the prohibition of the importation of articles like this is one of the very few means whereby the farmers and producers of the country can be protected. I can understand the honorable member's opposition to the provision on that score.

Mr Reid

- Is the honorable member for Laanecoorie putting his support of the provision on fiscal grounds ? If so, that is a very underhand thing to do, because the Bill is not supposed to "introduce fiscal issues. If it is intended to deal with matters of fiscal policy, honorable members had better let us know, and they will get plenty of fighting upon it from us.

Mr SALMON

- . - I am trying to give some reasonable grounds for the opposition of the honorable member for North Sydney to the provision. I can understand that he should object to it on fiscal grounds, and I could understand the leader of the Opposition doing the same thing.

Mr Thomson

- I have given my reasons for objecting to the provision ; the honorable member need not invent any.

Mr SALMON

- I do not understand the honorable member's reasons. I do not think that they have sufficient foundation,

and I have therefore endeavoured to find stronger reasons for him. I thought that I had discovered a reasonable ground for the objection of the honorable member to the prohibition of the importation of the particular article or class of article which we are discussing. I am quite prepared to allow him, and those who think with him, to leave the fiscal aspect of this question entirely out of the discussion, although I believe that I am perfectly entitled to draw attention to the fact that the producers of the country would be penalized to a certain extent if the wholesale introduction of these articles were permitted. I have no doubt, however, that the Government will legislate in regard to them when they bring down their Tariff proposals. The article which has been named is deleterious and is a fraud. It is sold in various parts of the world as a substitute for a natural product, but it is an ineffectual substitute.

Mr Thomson

- Why should we let it be manufactured if we would not allow it to be imported?

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Mr SALMON

- Although the honorable member has been in a position where he had great influence in his own State, one so young and inexperienced as I am could not have had the same opportunities. I have not yet filled the position of dictator in this State. If I had, I should have dealt summarily with this and kindred industries. The consumer of the article gets something which purports to be what it is not. Oleomargarine and butterine are sold as butter, but they are not butter. They are derived from substances which are not wholesome, and which have passed through experiences which would not commend them to those who use them, if they were aware of them. In the second place, these articles displace an article of purity and a natural product, and impose upon those who purchase them believing them to be true butter. Under these circumstances, I think it is wise that, at the very outset, we should not only prohibit the introduction of adulterated articles, but also prohibit the introduction of articles which would displace pure articles, more especially if those pure articles are articles manufactured or produced by our own people. Under the circumstances I think that the honorable member might well allow this paragraph to pass. If it is passed, it will be an intimation to those who have had commercial relations with us that we are determined, not only that they shall not send us adulterated articles, but that they shall not send us, with reasonable hope of disposing of them, articles which may be used to swindle the public, and are therefore a fraud.

Mr REID

- I think that the honorable member for Laanecoorie pursued a very unfortunate course in endeavouring to introduce into this discussion questions which we shall have to consider later on in connexion with the Tariff. It was a very unfair representation of the remarks of the honorable member for North Sydney to say that his objection to the provision was caused by his views as to the fiscal policy.

Mr Salmon

- It was only my desire to give a reasonable excuse for his action.

Mr REID

- Like many of the attempts which have been made in this part of the world to give a reasonable complexion to the arguments of the free-traders, it was a lamentable failure - though quite up to the level of the age. I regard the clause as a well-meant and proper attempt to prevent the Custom-house from being used to facilitate the introduction into our markets of articles which will tend to injure the community or to assist fraud. I am sure that free-traders and protectionists are equally anxious to put down everything in the nature of fraud in the operations of our commerce. It is not that the honorable member for North Sydney has the slightest desire to pick out these particular articles for his support. He repudiated that desire, and it seems to me he has given very good reasons, drawn from the existing legislation of the States, for the position which he has taken up. While I can follow these reasons, I have not arrived at the same conclusion as he has. ' It is quite true that if we make the amendment which he suggests, the Minister might the day after the Act was passed place the articles referred to in a proclamation. As I am prepared to give the Minister the power to do that, I am willing that the article shall be named in the Bill itself. I regard these articles, whether they are manufactured within the Commonwealth or imported into it, as calculated to deceive and defraud the people of the Commonwealth, whatever their fiscal views may be ; and therefore I shall not support the amendment. It is no answer to those who desire to retain the paragraph to say that other injurious articles are permitted to be manufactured in the States. We must hope that, if the States have not yet reached a proper

standard of legislation in these matters, they will do so later on. On the broad ground that these articles are brought into existence simply to deceive the public as to what they buy, I regard the prohibition of their importation as a proper and beneficent operation of the power of our Customs laws.

Mr Thomson

- There are a great many articles which will be omitted from that operation.

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Mr REID

- That is true. But my honorable friend must see that it is a very hard thing to ask a man to encourage by his vote the introduction of a fraudulent commodity because some other similar commodity is not dealt with. I prefer to discourage this fraud in the shortest way I can - by voting for the paragraph as it stands. We can be sure that the moment the measure comes into operation the people outside the Commonwealth will not defraud the people inside the Commonwealth in the matter of butter. The next step I hope will be to take pains to see that traders and producers within the Commonwealth shall not work frauds upon Commonwealth consumers. To further objects like that, I think both the great fiscal parties could work amicably together. I suppose there is no protectionist who has such a limited range of vision that he will not be equally willing to discourage the imposition upon the public of Victoria or New South Wales of butterine. I, therefore, entirely separate this question from the fiscal question. My great objection to the clause is that any person who may be treated under its provisions in a tyrannical and unjust way has absolutely no redress. It is of no use to say that the Government can redress any injury which has been inflicted. How can the Government redress the casting of a slur upon a man who, by the action of the department, has been treated as a person convicted of introducing filthy and blasphemous literature into the Commonwealth ? If the

Minister or an officer of the department makes a mistake, who can relieve the victim of it from the odium to which he will be exposed throughout the community ? It is ruin enough for a man to have to appeal to the courts- for redress, but in the absence of special legislation I do not see how a person who is aggrieved by a decision of the Minister for Trade and Customs, or one of his officers, can even avail himself of that remedy, and bring the Government into court. There is no Commonwealth legislation which will enable that to be done, though I hope we shall soon have an Act which will give Commonwealth subjects the same facilities for obtaining redress against the Commonwealth Government in the Commonwealth courts as the citizens of some of the States have for obtaining redress against the State Governments in the State courts. That is the policy of the legislation of New South Wales, and I think of some of the other States. Whilst I feel that the Minister should have these arbitrary powers, because he must act, and act decisively, without delay, there might be machinery introduced into the Bill which would enable a person aggrieved by such fiction to show that what had been done by the Minister was wrong.

Mr Higgins

- Is there not a provision of this kind in every Customs Act ?

Mr REID

- I believe that there is, and I am supporting the "provision, because I consider it a proper one, whether it has been in other Customs legislation or not. I regret, however, that, having given the Minister arbitrary powers, some method is not provided whereby, when the decisions of the Minister work grievous wrong to an individual, he may have redress. The Minister for Trade and Customs has laid great stress upon the experience and legislation of the States in this matter, and he must know that in the New South Wales Act there is a small piece of machinery which enables an aggrieved person to appeal, not to an expensive court, but to a board of commissioners. These commissioners are not paid high salaries. They receive only a small amount each, and meet perhaps two or three times a year. A person who is aggrieved can go before them and clear his character, because it is very often a question of character that is affected.

Mr Higgins

- If an article is wrongly seized by the Minister, what remedy has the owner ?

Mr REID

- At the present time he would have none, but if he had a right of appeal to a board of commissioners, such as exists in Melbourne and Sydney, he could take his case before them, and if they were satisfied that the seizure was a wrongful one, he would have an opportunity to recover the articles seized.

Mr Higgins

- But is the right honorable gentleman quite clear that there is no remedy at present 1

Mr REID

- The Bill provides no remedy beyond litigation, but, unfortunately, litigation is not open to any man in an action against the Commonwealth Government, in the absence of special legislation.

Mr Higgins

- But supposing he sues the officer1!

Mr REID

- But how can he do that, when it is the Minister who decides that a certain thing is to be prohibited, as coming within the operation of the clause ? It is not the officer who prohibits the introduction of the goods. The person aggrieved has no cause of action against the officer, who simply submits the matter for the consideration of the Minister.

Mr Crouch

- The action must be against the officer.

Mr REID

- At present it must; but that means that there can be an action against no one. The Minister of Trade and Customs is not an officer ; and, as the Minister' has said, he will have to decide these matters, and no subordinate will have anything to do with them. If an' action is brought against the officer, the officer's answer will be - " I did not do it ; I submitted the matter for the consideration of my superiors, and the Government decided that this article should be seized." The person aggrieved has no right of action against the person who did not seize the article.

Mr Higgins

- Whether there is a right of action or not, there ought to be some tribunal to deal with these cases.

Mr REID

- If this were a mere original suggestion on my part, I would not ask the committee to accept it without the most careful consideration. But inasmuch as we have had such tribunals working in the States for so many years, and as they have done nobody any harm-

Mr Kingston

- What good have they done ?

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Mr REID

- They have done some good and I can say from my own experience that the mere fact that there is a tribunal to which a man can appeal has a very whole-same effect in the administration of this department. We all know - it is a matter of common experience - that arbitrary powers are very closely followed sometimes by an arbitrary spirit in the exercise of those powers. That is a matter of the commonest experience. There is, however, a shadow behind the arbitrary power when the high-handed decisions of the Minister or the Government can be reviewed, and it has a wholesome effect upon persons who exercise power that there is some authority, I will not say above them, but easy of access before whom a man can be heard. Of course Customs officers do not like these boards, just as the Minister does not like them. The object of the Customs officers is to get as much power as they possibly can, and I admit that, for a large number of purposes, it is right that they should have a large reserve of power, and that they could not carry out their work unless they were clothed with such powers. I do not know what the legislation in Victoria is on this subject, but I have been told by one of the leading merchants here that there is such a board as I have indicated.

Mr Kingston

- He is mistaken.

Mr REID

- Then he has misled me, but I thought he WOuk have known. I have no doubt whatever about the board in Sydney, because it was under the department over which I had control for several years.

Mr Kingston

- What has it done ?

Mr REID

- As I said before, there were not many cases before it, but it has proved to be a good thing to have, even if it is not often appealed to. . The fact that it is not often appealed to is in itself a guarantee that the

administration of the Customs is good, and that every one is working smoothly with it. The board acts as a sort of safety valve; it does the Customs no harm; and is in every way a very desirable thing to have. I am quite sure that if my right honorable friend were not the Minister for Customs, and that instead of going into consultation with a dozen or half-a-dozen Collectors of Customs, he had been an independent member on the floor of this House, and some other member had introduced the Bill, we should have had some very high and powerful denunciations from him of the arbitrary features of this Bill. Now, however, he is in the official network, and he is carrying out official directions. With arbitrary power conferred upon anybody there ought to be some sort of protection for those who may fall victims to it, and we should do nothing that would deprive persons of the right of appeal against the decision of the Minister, so long as it is not in matters affecting the revenue or affecting the evasion of duty, and is confined to questions as to whether particular articles should be prohibited or not.

Mr Harper

- Do the board referred to in Sydney settle questions as to whether goods come within certain descriptions or not?

Mr REID

- At any rate, they would be more competent men to deal with such questions than a Minister, who had never been in a business of the sort.

Mr- HARPER

- Can they deal with technical questions, and settle them ?

Mr REID

- Their range of inquiry and decision is not limited to that, but all disputes are referred to them - I do not remember the precise words of the New South Wales Act ; but I know that disputes between the collector and importers have been referred to that board.

Mr Kingston

- The department calls in experts now and again.

Mr REID

- No; I can assure the honorable member that it is a standing board of three persons.

Mr Crouch

- Would the board have the right to decide whether certain literature was blasphemous ?

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Mr REID

- Does not the honorable member for Corio think that three persons forming an independent tribunal of appeal would be just as competent) as a Minister of the Crown to arrive at a correct judgment? Why should this taint rest upon a man's character - because that is what it is - why should it be fixed on him without the slightest chance being given to him to clear his character by appealing from a decision which convicts him of being a party to the introduction of blasphemous literature? We must for the moment forget the Minister, and think of the man. The officials do not do that ; they get into an official groove, and in their minds the presumption is all against the man and in favour of the authorities. I do hope that, before this Bill is finished with, the Minister will be able to work out some method, short of litigation, under which there will be some authority of the kind to which I refer, to which, for his own satisfaction, he may refer matters for settlement when he is not prepared to exercise his own opinion.

Mr Kingston

- The Minister can always get advice.

Mr REID

- Of course he can - he can do that without any Act, but we are making the law pretty tight as against these individuals, and I am desirous of doing something for their protection.

Mr KINGSTON

- I am glad the right honorable gentleman, the leader of the Opposition, has taken up the attitude he has with regard to this clause. I would like to draw attention to the fact that since the evils connected with oleomargarine and butterine have become known to Australians generally we have had various Customs Acts, and the most recent of these, in Western Australia and Tasmania, have a precisely similar provision to that which is contained in the Bill now before us. The Tasmanian Act of 1897 prohibits the importation of " oleomargarine, butterine, or other similar substitutes for butter." And the same words are contained in

the Western Australian Act of 1892. I am only rising for the purpose of referring to the observations of the right honorable member, in connexion with the appointment of the board to which he has alluded. I know of no board which is contemplated by any existing Australian Customs legislation which would at all affect the question of the construction or the enforcement of the provisions which we now have under consideration.

Mr Reid

- I do not want to commit myself to the exact wording of the section in the New South Wales Act, because I have not looked at it for many years.

Mr KINGSTON

- I know how easy it is in dealing with a number of Customs Acts, with some of which we are more or less familiar, to make a mistake ; but I am very confident that it will be utterly impossible to cite any precedent for the establishment of a board authorized to exercise power in such a matter as this. With regard to customs law and administration, it is not a question of a private party on one side and a private party on the other, each seeking to get the better of one another; but there is a great public department presided over by a Minister, responsible to Parliament, which is capable of reviewing his every act, and who is doing his best for the purpose of protecting the revenue and enforcing the provisions of the Act. Under these circumstances you must give large power - you must give power almost without control, except that which is provided for by our Constitution.

Mr. REID. - Hear, hear ! I admit that.

Mr KINGSTON

- If you allow the department to be harassed unnecessarily by the review of irresponsible outsiders I think you will be making a great mistake. We have heard a great deal said about boards here and there and everywhere. But if you have a board which controls the action of the Minister himself, what becomes of Ministerial responsibility? It becomes a farce. Ministerial responsibility means the power of Parliament, and particularly the power of this House--

Mr Reid

- Flattery ! ' flattery !

Mr KINGSTON

- So that just as you tie the hands of the Minister and prevent him from acting as he wishes, so far will you prevent the executive servant of the Parliament from doing what is necessary in the public interest, and deprive yourselves of the control which you ought to possess. I trust that honorable members will do nothing of the sort.

Mr Mahon

- Would not the board be responsible to Parliament ?

Mr KINGSTON

- What have they to lose ?

Mr Mahon

- They would be salaried officers.

Mr KINGSTON

- To what extent could the board be made responsible to Parliament? Besides, are we to have a department within a department ? There could be no end to that sort of thing Here we have Ministers, controlling certain officers who are doing certain work, and -it is proposed to confuse the whole of that arrangement by putting a board in a position to interfere with the direct responsibility of the Minister to Parliament.

Mr Reid

- Would the learned gentleman object to a man having the right to go before a jury?

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Mr KINGSTON

- In connexion with the provisions in this clause we do not ask - although it was suggested we should have it - irresponsible power. The power will be exercised only when the facts justify it, and it is only when the circumstances are within the four corners of the Act that the Minister can act, and not otherwise. There are other cases in which an appeal to the court is provided for. I deprecate unnecessary litigation, but power to insure justice is prescribed by various provisions in the Bill, and I do trust that we shall not

add any unnecessary circumlocutory processes before matters can be finally disposed of. You must trust the administration ; you must give them power, and if they exercise it properly, well and good ; if they do not, punish them accordingly, but do not make them responsible to those over whom you have no control. Amendment negatived.

Clause agreed to.

Mr. HUGHES

(West Sydney).- I did not know that you had put the clause, sir. I wished to move an amendment.

The CHAIRMAN

- Perhaps, under the circumstances, the committee will allow the clause to be put again.

Honorable Members. - Hear, hear.

Mr HUGHES

- I move-

That after the word "any," line 2, paragraph (h), the following word he inserted: - "persons."

I have already partly explained to the committee my reasons for desiring this amendment. They appear to me to be very good ones, and I have not yet heard from the Minister any sufficient reason why he should not accept the amendment. This is a provision aimed at the prevention of the importation of adulterated or other goods which do not come up to the statement on the label. But, while it is a very good thing indeed to prevent the public from being victimized by any statement by a public official or by any Government guarantee, still it does seem to me that this provision leaves a very wide loop hole indeed for adulteration by the manufacturer. Why should Australia be the dumping ground for adulterated goods that would not be tolerated in any other place? People who fail utterly to get their goods on any other market manage to get them upon the Australian market. Are we to do nothing at all, now that we have the opportunity to stop that? I shall take the sense of the committee upon this question.

Mr KINGSTON

- The Government cannot consent to the introduction of the word proposed, because they would make the provision somewhat too comprehensive. As these matters arise we can deal with them if necessary by proclamation, and I venture to think that the general question of false representation can be better dealt with under merchandise marks legislation, and other legislation of a similar character. The sub-clause provides that if any goods have on them a false suggestion that they are guaranteed by a Government or country, this provision will operate and their importation can be stopped. What is aimed at is to prevent the false representation that goods are of a certain quality, and that guarantee is given by those persons who are referred to at the latter end of the sub-clause. It is not intended here to deal with the general question of the guarantees of private persons. That would be opening up by far too large an area for Customs action at the present moment ; and, while we can deal with the greater and simpler question, I ask the honorable member for West Sydney not to encumber the provisions of the Bill with the amendment he suggests.

Mr. HUGHES

(West Sydney).- The right honorable gentleman does not seem to have replied to the proposal which I have submitted at all. He says that it is far too large a power to insert in this Bill. Surely that is not a sufficient answer, especially when we know that in the preceding subclause there is power given to the Minister to prohibit the importation of all goods. The Minister says that to prohibit some goods, which he admits ought to be prohibited, would be to incorporate in this Bill too large a power. I utterly fail to see anything like a sufficient reason in the Minister's reply. In the Victorian Customs Act of 1890 I see nothing of these extensive powers with which it is proposed to endow the Government of the Commonwealth. In this very clause there is a provision dealing with the products of prison labour. Is not that an extensive power ? Why, in other countries, it has been the theme of a separate Act.

Mr Kingston

- It is the subject of English legislation.

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Mr HUGHES

- I say that the powers conveyed in clause 49 are so extensive that anything which is subject to importation can hardly be said to make them more extensive. What I wish to do is to make them more definite. I do not feel at all satisfied with the explanation of the Minister, and I propose to ask the

committee to divide upon the amendment.

Mr. REID

(East Sydney).- I think that we ought all to sympathize with the object which the honorable member for West Sydney has in view. The scope of this sub-clause as it stands is that the importation of any goods which have any false character given to them on the goods themselves, shall be prohibited. I do not know how efficacious that provision would be, but I think we must all aim strongly at the object which the honorable member has in view. We want to put down a fraud which abuses the name of a government or of a country - such as "made in Germany," when the goods were made in France - and surely it is a more vital matter that a man with a name unknown to trade should not be allowed to bring in his manufactures under perhaps the label of a firm with a worldwide reputation.

Mr MAUGER

- Surely that - is such a comprehensive matter that it should be dealt with in another Bill.

Mr REID

- That is the sort of remark that strikes me with amazement. We have here a number of sub-clauses which exhaust a large portion of the alphabet, many of which deal with matters of infinitely less concern. The question of butterine, upon which I was thoroughly with the Minister - thinking that fraud might be perpetrated - is a mere grain of sand on the ocean beach compared with the universal frauds which are attempted to be practised on the public by representing an article to be that of a firm of high reputation, when in fact it is a forgery and a fraud. Surely a Minister who is keen enough to follow a fraud which is perpetrated by putting the name of a country, or of an official personage, upon a label will endeavour to follow a fraud which put, perhaps, the name of Crosse and Blackwell upon a manufacture which was made in some slum by some fraudulent person.

Mr Kingston

- It would land us in immense difficulty.

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Mr REID

- The power is really one that the Minister himself puts a limit on. It is not, as it were, a power at large. The Minister has the power of dealing with the matter in a common-sense way, and he is not compelled by the wording of the clause to arrive at a conclusion he is not clear about. If the word proposed were inserted it would enable the Minister to deal with a case of this kind: There might be a medical preparation or drug used by the mass of the people, and it might be a vital matter that it should be the drug represented.

Some person, in the case of a drug of universal consumption, might sell packages bearing the representation that the drug had been manufactured by the genuine authority. Yet it might be an absolute fraud, and the drug might be a most deleterious thing, which even my friend the honorable member for Melbourne Ports could not swallow. Are we to have no protection against possible danger to his valuable life? I would like very much to strengthen the hands of the Minister and Government in putting down these frauds, because it is a great fraud on the people to pass off some inferior article as a first class article by means of a false label. That is fraud to which the public are peculiarly exposed, and they look to the Government for protection from it. By this clause the Government are enabled to protect the morals of the community by preventing, say, a piece of statuary from being introduced if it be not sufficiently clothed - I mean has not the appearance of sufficient clothing - and surely the delicate morality that brings all the powers of the State to bear on a matter of that kind, might also take some care of the health of the community, and of the morals of the community in matters of trade, and prevent thousands of people from being defrauded by paying a high price for a superior article when what they receive is some wretched imitation by some unscrupulous person. Surely these are matters the Government might concern themselves with. It would seem, according to the clause, that it is beneath the dignity of the Government to take notice of any fraud which is not perpetrated against the name of some other Government or some other country. That, of course, is a very dignified attitude to take up, but in administering the Customs, regard must be paid to the main object of a clause like this. We have a Minister of "short cuts," and with his name and reputation for dealing summarily with matters of equity and justice, the mere fact that he had the power to put his hand on fraudulent labels in connexion with articles of commerce, would exercise a most beneficial influence on the trade of the world with Australia. Why should the Minister confine his

powers of usefulness to cases in which it is represented that an article has been made in Germany, when, perhaps, it was made in some other country. In such a case there may be no fraud at all. Indeed, the article may be better than if it had really been made in the country from which it is represented to come. Yet such articles are prohibited, and the power of the State is invoked to prevent the customer really getting a better article, while in a case of absolute fraud, where a false name is put on material deleterious in the last degree, perhaps, to the person who buys it as genuine, we are told that this is too comprehensive a matter to be dealt with in this Bill. The Minister has shown a comprehensiveness which I thought had no bounds; but this amendment appears too much for him. He has taken on a large contract in connexion with this Bill, and I believe that if he will accept this amendment he, or any successor in his high office, might do an enormous amount of good in suppressing fraud. I would earnestly recommend to the Minister the wisdom of considering the acceptance of this amendment.

Mr. G.

B. EDWARDS (South Sydney). I do not think the honorable gentleman quite understands the scope of the clause, which does not deal with the question of false labels. Such firms as those which have been referred to do not want any assistance in looking after their own interests, and they would probably take more stringent measures than a collector of Customs would do in the matter of false labels. The object is to deal, not with false labels, but with false warrants and guarantees, purporting to come from other countries and from Government officials.

Mr REID

- Would not a label, say one belonging to Crosse and Blackwell, be a warranty, to any one who bought the article, that it was manufactured by that firm? Mr. G. B. E. EDWARDS. - The clause deals with a different thing altogether.

Mr REID

- That is what we are complaining of.

Mr G B EDWARDS

- I am in sympathy with the object of the amendment, but that object must be attained in another way. We could not have such a thing as a false suggestion or warranty given by the man himself who made the article. It might be an unsound guarantee, but it could not be a false suggestion by any public official, Government, or country. What the honorable member wants to get at are cases where a man might say, "This stuff is advocated by the Lancet," or that a certain thing had received, certain chemical analysis, both of which statements were false. But the purport of the sub-clause, as it now stands, is to deal expressly, entirely, and solely with false suggestions by public officials or Governments. What the honorable member, with his amendment, has endeavoured to get at is quite a different thing, and ought to be done in a separate sub-clause; but I believe he is quite right in his endeavour. While we are, as the leader of the Opposition has said, protecting people in so many other ways, here is a hydra-headed evil, which crops up in thousands of instances, and from which our local manufacturers have to suffer. But these imitations of labels which the leader of the Opposition spoke of-

Mr Reid

- Only as illustrations.

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Mr G B EDWARDS

- These labels come from within the bounds of the Commonwealth more than from outside sources.

Mr. HUGHES

(West Sydney). - I cannot let this amendment be put to the committee without saying, in reply to the honorable member for South Sydney, that I see no reason to defer this amendment to another place or another time. Time here below, especially parliamentary time, is

fleeting, and although the Minister speaks about a Merchandise Marks Act, he knows very well there is more chance of our being all translated to Paradise to-night than there is of such an Act being introduced in the Federal Parliament for the next two years. We shall do very well if we get through one-half of what the Minister and his colleagues have put in the fore-front of their banner. All that time the people are to go on being poisoned with "pure" coffee, or with pickled onions, which are inserted in diluted copperas, and so on, while we are to do nothing. It has been said that a person may come with a warranty that an article

has been made in a certain country, and that while it may have been made in another country, the article may be a better one. In such a case the article would be prohibited ; but if a man puts a notorious fraud on the market, under the guise of a good and reliable name, nothing is to be done. People are to be poisoned or defrauded, and nothing is to be done except to say that this is not the time to insert this amendment. I am bound to say that that seems a lamentable explanation. It may be an excuse, and as an excuse it must be accepted, but as an explanation it seems to me to fall somewhat short. I do not see in the Bill any place better or more fitted for such an amendment, and I certainly do not propose to allow this opportunity to pass and to rely, on another opportunity to introduce a special Bill. I have the best of reasons for proposing this amendment. Already the powers under the Bill are extensive, more extensive, as the Minister knows very well, than are those he has been in the habit of exercising in South Australia.

Mr Kingston

- How ?

Mr HUGHES

- The powers are certainly very much more extensive than are those which are exercised in the State of Victoria. The Minister has now the power of prohibiting anything that purports to be butter, but which is not butter. What is that but the prohibition of something which purports to be something which it is not ? Although the honorable member for South Sydney seems to think that " suggestion " or "warranty" would not cover a false label, I say that these words would. You may either suggest that a thing is other than it is, or you may say it is or imply it is : and all these circumstances are covered by suggestion, warranty, or guarantee. I admit that people may be poisoned without there being anything wrong on a label, but if you defraud people you must make some suggestion that a thing is other than it purports to be. It is that we wish to stop, and it is the stopping of it I ask the Minister to agree to. The Minister himself will be responsible for the whole thing. He has power in the previous sub-clause to prohibit all or any of these goods - the right honorable gentleman cannot deny that he can prohibit anything. He proposes to take that power and exercise it at any time he may be moved to do so from special outcries on the part of the people, or from information the department may receive. He can prohibit the importation of any goods that are brought to the country.

Mr Reid

- Cannot the honorable member make it clear to the Minister that what he is aiming at is the protection of the farmer ? Take the butter matter.

Mr HUGHES

- Are we not to consider somebody else than the farmer ? I had an idea - though of course I can now see that it is erroneous - that this was a Ministry specially deputed by Providence to encourage native industries and manufactories on the continent of Australia. On the first opportunity given to the Government to encourage native manufactures, by prohibiting the shoals of fraudulent imitations of good articles that deluge this unhappy market, the Minister says that this is no fitting time to do so. All I can say is that it appears to be a fitting time to me, who am prepared to accept* the same freedom of trade we have had in New South Wales. I do not really see why the Minister cannot agree to the amendment.

Mr. THOMSON

(North Sydney).- I am at a loss to understand how the Minister, with his stern morality in regard to butterine can refuse to insert the words which the honorable member for West Sydney desires to have inserted. If it is to be a fraud for a public official to be concerned in the production of a false article, surely it is equally a fraud for another man who is not a public official, but who may be much better known than a public official, and whose guarantee or manufacture would, be a much greater advertisement than that of the public official - surely it is equally fraudulent to say in that case that the person had guaranteed or was concerned in the manufacture. I admit that there may be some question as to whether the subclause should be in the Bill at all, but as it has been put into the Bill, and refers to certain offences, but does not cover the worst offences of the kind, why should there be any objection to extending it to cover those offences ? (In the case to which the amendment which was defeated applied, there is no fraud at all, because the article is named what it is. I hold that it is an encouragement to fraud to prohibit the importation of that article, and thus to encourage its local manufacture. In this case, however, there are State laws against the offence which would be prohibited by the amendment of the honorable member. If we pass the amendment, our own people will have no encouragement to continue the fraud, and to take

advantage of the opportunity which the prohibition of importation would otherwise give them. I do not see why, if we retain the sub-clause, we should not prevent the public from being deceived by a well-known firm, or person. '

Mr. KINGSTON.-

There seems to be no pleasing the honorable member for North Sydney. Like the man on the triangles, flog high or flog low, he does not like it. One moment he is trying to reduce the powers given by

the clause, and the next he is trying to give more powers.

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Mr Thomson

- I did not complain that too much power was given.

Mr KINGSTON

- The honorable member strove to limit the powers that are given. That is the logical conclusion to be arrived at from his speech and vote. We are trying to prevent false representations as to the Government responsibility for the quality or the manufacture of the goods introduced. Where it is simply Governments who are concerned, and private interests are not clearly affected, there is not that close scrutiny which we find when private interests are concerned. The honorable member is a gentleman of the widest and highest commercial experience, and strongly favours what is known as free-trade.

Mr Thomson

- That is not a fraud.

Mr KINGSTON

- My view is that if the amendment were carried, the result would be great expense and trouble to the department, and huge embarrassment to merchants. Is it wanted ? Is it not a fact, as has been pointed out by the honorable member for South Sydney, that in the case of infringement of trades marks and proprietary rights, where private interests are concerned, individuals look after the matter pretty closely ? Are we to transfer the duty of looking after these matters to the Customs authorities ? If the amendment is agreed to, it will mean that in nearly every case there will be the right to challenge the trade marks, and to put the importer and everybody else to needless trouble. Who has asked for this provision ? Do the merchants ask for it ? Has the honorable member ever heard it suggested that it is wanted ?

Mr Hughes

- The public want it.

Mr KINGSTON

- The honorable member for North Sydney is at the present time in deep mourning for the little amendment which the committee have negatived.

Mr Thomson

- No.

Mr KINGSTON

- He is therefore giving expression to sentiments in connexion with a business matter, which, under other circumstances, he would be loth to express. Does he seriously suggest that the trade marks of all goods imported into the Commonwealth should be overhauled by the Customs authorities ?

Mr Thomson

- No; that is not necessary.

Mr KINGSTON

- If we have to examine and consider every article, with a view to coming to a conclusion as to whether a trade mark is or is not properly employed, the officers of the department will be launched upon investigations without end.

Mr Thomson

- The right honorable gentleman proposes that in the clause.

Mr KINGSTON

- I propose it with regard to notorious matters with which they could easily deal. But to hold that the Customs officers are to be required to go into all the minute questions affecting the infringement of private rights, and to take the mass of evidence which must be considered, is to throw upon them a duty and responsibility which does not properly attach to their offices. We have the power-

Mr Hughes

- But the right honorable and learned member does not propose to use it.

Mr KINGSTON

- We have the power to deal with a matter of this sort hereafter in a fuller and more effectual way.

Mr Reid

- How?

Mr KINGSTON

- My belief is, and it will be shared by honorable members generally, that the proper way of dealing with matters affecting merchandise marks is by a Bill of general application, and not by the introduction of a minor provision in a measure of this description. The sooner that can be done the better.

Mr Thomson

- Why not deal with the importation of butterine in that way ?

Mr KINGSTON

- Because the evil is known, and established ; and there are special reasons for dealing with it.

Mr Reid

- A large class of people are quite in earnest about it.

Mr KINGSTON

- That explains it. I could not discover why the leader of the Opposition came over to the Ministerial side of the chamber just now, but now I know. He thought that, if he did not, fault would be found with him by a large majority of his constituents.

Mr SYDNEY SMITH

- There are no butter producers among the right honorable member's constituents.

Mr Reid

- No. Representing a city constituency, I probably represent the margarine people.

Mr KINGSTON

- The right honorable and learned member knows that his present constituency has gone from him for ever. East Sydney is lost.

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Mr Reid

- Well, I have not gone before. Mr. KINGSTON.- The right honorable and learned member looks to a much larger constituency for support in the arena which he now adorns. Observations such as those in which he has indulged ought to be avoided, and I draw his attention to the fact for his warning, and with a view to his future improvement. Let us not deal with a question of this sort other than with a view to securing the best interests of all : and we can deal with it much more effectually in the way I have suggested than by the amendment. Private interests are already under the careful guardianship of private citizens, and to attempt to thrust this responsibility upon the Customs department is, to my mind, a mistake, which I trust the committee will not make.

Mr. REID

(East Sydney).-I deeply regret that the Minister, at a time when we are anxious to push on with public business, should indulge in these inflammatory observations. I must ask my right honorable friend, if he wishes the transaction of public business to proceed smoothly, to abstain from these personal attacks.

Mr Harper

- Satan reproving sin !

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Mr REID

- The right honorable member's remarks show his great versatility. At one moment he is the stern and fearless champion of commercial morality, down to the last farthing, even if he has to go all round the globe to get it ; and the next moment he tells us - " I am quite sure that the merchants are not complaining." Of course they are 'not ; because they are the men who import these articles. " I have-' received no urgent demand from any large class of persons to prove to me that this is a matter which is worthy of my consideration." But, as has been pointed out, this is not a case of the farmers and the butter industry, or the merchants and their invoices and labels : it is the case of the great mass of the consumers of Australia, who are victimized by these frauds. My right honorable friend, who has administered the

Customs department of a State, must know how audacious and widespread these frauds are. He is prepared to undertake the responsibility of deciding whether the label " made in Germany " on a box of merchandise contains a true statement ; he is prepared to make an investigation as to whether it has been honestly put upon the box, and to determine whether it applies only to the box or to its contents. .All these investigations he undertakes with a light heart. In matters affecting a label or a placard he is a past master. Rut this is not a mere question of labels : it is of much more vital concern, affecting the consumption of inferior articles, which are falsely imported under brands and under circumstances which represent them to be of the purest and best quality. If the Government can accept the responsibility of deciding as to the precise position which a piece of statuary should occupy in the scheme of human morality, surely they are competent to discover - or if the matter is brought under their notice, to take notice of - false representations. The honorable member who moved the amendment does not ask the Minister to do anything so absurd as to test every package to see whether it is properly branded. The object of the amendment is to provide that when some person engaged in trade, who knows that a systematic fraud is being perpetrated, goes to the authorities and gives them information about it, they may take action. Suppose that some article of large consumption is being imported with' false warranties, and some highly reputable person brings the matter under the notice of the Customs authorities, they will be able, under the clause, to take an opportunity to ascertain the correctness of the information before moving in the matter. They would not move until they felt perfectly sure that a fraud worthy of their attention was being committed. Would not the Minister be in a vain position if he could put his hand upon an innocent fraud - a misrepresentation as to the country in which an article had been made - and not be able to put his hand upon a guilty fraud - the palming off upon the people of an article-not worth half the money that was charged for it ? My right honorable friend does not view the amendment fairly. I would like to point out to the Minister that if he thinks he can subsequently deal with a case of that sort when it arises, by a proclamation under paragraph (r/), I think it is scarcely doubtful that he could not do so. The proclamations which he may advise the Governor-General to make are not proclamations of a detailed character as to a particular shipment or as to a particular kind of goods, but the proclamation under the words of this clause must be general in its character. This power would not, for instance, enable my right honorable friend . to prohibit the importation of a certain drug, in connexion with which some fraud was being perpetrated, by attaching a certain manufacturer's name to a spurious imitation of his goods. The Minister could not, under paragraph (g), prohibit the importation of that particular drug because the drug would purport to be the right drug.

Mr Kingston

- Could we nob prohibit the introduction of any goods whatever to which a trade mark is falsely applied, or the name of a manufacturer is falsely attached?

Mr REID

- The Minister thinks he could do that - does he ?

Mr Kingston

- Yes.

Mr REID

- Then these comprehensive investigations could be undertaken by the Minister, according to my right honorable friend. He has given his position completely away. If you only make the Minister think that you question his power you can easily get an admission from him as to what he thinks is the full extent of his authority. I only questioned the far-reaching power of the Minister in order to get him to make an admission of his versatility. He is prepared to undertake this comprehensive work of overhauling things, but he must do it in his own way. This may very well be called a Bill of short cuts. The Minister, apparently, wishes things to be done in his own particular way, and I do not think that he received the useful suggestion made by the honorable member for West Sydney in the way that he should have done.It is of no use for the honorable member for West Sydney to press his amendment, however wise it may be, whilst my right honorable friend the Minister is in his present mood : so perhaps the Minister might hold out the hope that he will take this matter into consideration when the Merchandise Marks Bill is being prepared.

Mr Kingston

- Everything will be taken into consideration then.

Mr REID

- I hope that will satisfy my friend the honorable member for West Sydney, because that is all we shall get out of the Minister now.

Mr.. HUGHES

(West Sydney). - I do not think that the right honorable gentleman in charge of the Bill has given the matter the consideration it seems to deserve, and the very fact that he abstained from replying to the leader of the Opposition, because the right honorable member proposed to again reply to him, is to the last degree unsatisfactory to those who wish the matter to be fairly and fully debated.

Mr Kingston

- When is the matter to end?

Mr HUGHES

- The Minister first stated as a reason why this amendment should not be accepted that it could be introduced more fittingly in a Merchandise Marks Bill.

Now he says that there has been no demand for it, and that it would be an unwarrantable intrusion into the realms of private industry.

Mr Kingston

- I am sure I did not say that. I said that people did not demand the proposed alteration.

Mr HUGHES

- The Minister appealed to a representative commercial man - a member of the House - to bear him out in that statement. Did not the Minister say what I have stated ?

Mr Kingston

- No, certainly not. I said that the public had not demanded this alteration here. I spoke in favour of the Merchandise Marks Act, and stated that in lieu of a Merchandise Marks Act I could act under proclamation.

Mr HUGHES

- I am not saying that the public demanded the provision in this measure because they did not know anything about it, but I am just discussing the question first, whether the proposed amendment would not be a good thing, and secondly whether this is not a fitting place to put it in. Surely that is a debatable point. The Minister told me, as I understood him, that the consideration of the question involved in my amendment should be postponed until the Merchandise Marks Bill was introduced, and yet, if I now understand the right honorable gentleman aright, he says one reason why we should not make any such provision is that there is no necessity for it, because private individuals protect themselves.

Mr Kingston

- I said there was no necessity for the honorable member's amendment.

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Mr HUGHES

- The Minister said that really the merchant himself did all that was required. Very well, if the merchant does all that is required himself, I would like to ask the Minister why the paragraph prohibiting the introduction of butterine is required in the clause ? Why does not the farmer protect himself? Then again, in regard to goods, the introduction of which can be prohibited by proclamation, I would like to know on whose initiative the prohibition is to be made. Is it to be on the initiative of the merchant who suddenly finds out that a particular class of goods is annoying him, or is a proclamation to be issued because a certain class of goods is annoying the people ? The Minister pictured a most devastating state of affairs at the Customs-houses, with the officers engaged in examining the labels as the result of some such provision as I suggest, but that did not produce much impression on my mind, because I say that we have a right in this country to keep out these abominable adulterations, that are at one and the same time defrauding people and injuring their health. The Minister has taken into the Customs-house much extra work that neither this House nor precedent authorized him to do, and now he grumbles at the prospect of a little additional labour being thrown on his shoulders. I would like to point out, however, that if this clause be amended as I desire, there will be no additional work thrown on the Customs-house, because foreign exporters would not send articles out here which did not correspond with the warranty or suggestion attached to them, for the reason that they would know very well that such goods would not be permitted to come into our ports. They will, however, go on sending out these fraudulent goods until the

Minister puts into operation paragraph (<y) in regard to some particular article. I quite agree with the right honorable member for East Sydney that it is very questionable whether under that paragraph any proclamation could be enforced in regard to any particular brand or any particular line of goods.

Supposing that the Minister desired to prohibit a particular brand of pepper or rice, I question very much whether it would be right and proper for him to make a proclamation under paragraph (</). I think it would involve less trouble and would protect the public in a more effective way if my amendment were agreed to, and I do not think the Minister can say that the public have not asked for it. The public have a short memory and are long suffering, but the public do not realize that adulterated goods and frauds are so large by stocking the market. In spite of the statements that private individuals are able to safeguard their interests in connexion with the lines of goods in which they trade, I say there are thousands of lines of goods, and the Minister knows it very well, which are being foisted upon the public, and that fraud is stalking rampant. There are jams and pickles and coffee and pepper, the last-named being especially notorious. Regarding coffee, has is not almost passed into a proverb that it is almost impossible to get good coffee? Does the Minister under these circumstances say that we are to sit down and do nothing at all, and that the people do not want a Merchandise Marks Act ?

Mr Reid

- A Merchandise Marks Act would not cover coffee, and cases of that sort. There would have to be a special Act.

Mr HUGHES

- If the Minister can see his way clear to accept this amendment of mine, I shall feel that there is some safeguard against adulteration, and I am perfectly assured that experience will bear out my words that his department will not find any greater amount of work to be done, because the Bill will prove an embargo against the introduction of fraudulent goods, the risk being such that the exporters will not dare to attempt to land their goods here.

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

Honorable Members. - No division.

The CHAIRMAN

- I understand that the call for a division is withdrawn.

Question resolved in the affirmative.

Mr Reid

- On a point of order, Mr. Chairman, I desire to ask for your ruling upon this matter, so that it may be settled. Do you hold that it is in order, when the committee is in division and the sands are running, for any honorable member to avoid the division by saying to you, in some language or other, that the division is not persisted in by the individual who makes the observation? Do I understand that the movements of the committee in division are to be regulated by one member - possibly an honorable member who did not call for the division - happening to say to you that he withdraws something or other ? The division was called for on this side of the House.

Mr Hughes

- I called for the division.

Mr Reid

- That is almost immaterial, but there is a very important principle at stake.

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Mr Hughes

- I desire to call attention to the fact that when you, sir, put the question whether the word "person " should be inserted in sub-clause (A) of clause 49, you asked those who were in favour to say "Aye," and on the contrary "No." The honorable member for Maranoa and myself at least said "Aye," and some other honorable member called " No." Then, sir, you declared that the " noes " had it. We then said "The 'ayes' have it," and honorable members proceeded - as is the custom - to > different sides of the House. After the lapse of some time - I do not know how long, but the clerks of the House will be able to testify as to the condition of the sand-glass - certainly not much more than, say, ten seconds could have been necessary to complete the two minutes--

An Honorable Member. - They had expired. . Mr. Hughes. - Then, in some way or other which I do not understand, some honorable member proceeded to withdraw some statement which he had made as to

his desire for a division. Under Standing Order 294, which is the only thing that we have to guide us in this matter, it is provided that -

Every member shall vote in accordance with his voice, and his vote shall be so recorded, and a member calling for a division shall not leave the Chamber, and shall vote with those who, in the opinion of the Speaker, were in the minority.

It was not competent for the call for a division which was in process of being taken to be withdrawn. You were just about to proceed to name the tellers when one honorable gentleman said that he wished to withdraw his call and have no division. I submit that it was not competent for any honorable member to withdraw without the consent of the committee, which consent could not have been ascertained without consulting the committee, and the question being put to them. Such question was never put, and consequently there was no earthly authority for the suspension of what is the ordinary procedure of every Parliament so far as I know - certainly of this Parliament and of the State Parliament, with which I have been acquainted for some considerable time. There was no power to authorize such an extraordinary departure from ordinary methods. It was quite clear that you, sir, had decided that the "noes" had it. That is to say, you had decided that I, who called for the division, was in a minority. You could not be in a position to say that those who voted with me were in a minority without having counted. Now, there is only one way in which you are authorized to count, and that is through the medium of the tellers. You can only announce to the committee through their instrumentality whether the "ayes" or the "noes" have a certain question. You did not appoint tellers. You could only have counted the numbers yourself in an unorthodox and unconstitutional way - a course which I presume was adopted by those who were opposed to my amendment - and therefore the proceeding was entirely out of order. I submit that the division must be recorded, that the names of the members voting must be taken, and that the division - whatever the result may be - must be set down in the records of the House. It was not competent for any honorable member to withdraw his call, especially when it was I, in conjunction with the honorable member for Maranoa, who called for a division. You, sir, declared that we were wrong. When we were wrong upon your showing, certainly we could not have given in, because then we should have bowed to your dictum. We did not give in, but it was the other side who were of the same opinion as yourself, namely, that the "noes" were right, who gave in. You declared that they were in a majority, but as soon as they looked round they decided to throw up the sponge. That is not a desirable practice, and although I should be the last to suggest that it would be resorted to on a vital question, still it might be resorted to. Is the position then to be that if the Government happen to see that they are in a majority they will take a division, whereas if they are not in a majority they will cry a "go" (This is a new era in our parliamentary history. This Parliament, which has betrayed a slavish adherence to precedent in many things, seems to be desirous of carving out a path of originality in this respect, and I venture to say that it will not be upheld by Mr. Speaker, if the matter is referred to him, or indeed by yourself. In my opinion, you were in error in supposing that those honorable members who were on the side of the "ayes" were agreeable to such a course as you pursued, and you could not have been in a position to say that without taking the sense of the committee upon it. The sense of the committee was not taken, and therefore the division must be recorded with the names of the honorable members constituting the "noes" and the "ayes," and the division must be declared to go in favour of those gentlemen who had a majority.

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Mr Barton

- It is quite evident that this point is taken too late. If the honorable member wished to take advantage of it he should have taken that advantage before.

Several Honorable Members. - It was taken.

Mr Barton

- Was it taken at the time?

Mr Reid

- Yes, it was just half-past 6 o'clock.

Mr Barton

- Very well; then I will not take up the time of the Chairman upon the point. There is no room for argument at all.

Mr Reid

- It does not seem that there is any rule in the standing orders in reference to this matter. It is therefore a matter of practice which we can settle in a way that is mutually satisfactory. I understand that the practice in the State Parliaments has not been uniform in this respect. In the Victorian Parliament it is expressly provided by the standing orders that the course which you, sir, took upon this occasion could have been taken. There is a standing order which provides that a minority may at any time call "no division," in which case the question is not put. We have no practice in this Parliament, and we have no standing orders relating to the subject. It is very convenient that this matter should have arisen so that some practice may be settled. No injustice will be done to the mover of the amendment by any decision which you, sir, may come to, because, as I understand, you have inserted the word which was proposed to be inserted.

The CHAIRMAN

- This is so.

Mr Reid

- The Chairman has inserted the word which the honorable member for West Sydney proposed to insert. Effect has been given to the fact that the majority supported the honorable member.

Mr Hughes

- Undoubtedly.

Mr Reid

- The word has been put in.

Mr Hughes

- I know that it has.

Mr Reid

- So that there is no question now of any injustice in the matter. It has been settled in the only way in which it could be settled under the circumstances, and, perhaps, it is a matter upon which the Chairman may arrive at some opinion as to the course which he thinks will be satisfactory in the future.

Mr Kingston

- I should like to say a few words with reference to the course which was adopted. There is no doubt about one point, namely that the amendment of the honorable member for West Sydney was carried.

Mr Conroy

- How do we know that ?

Mr Kingston

- Because it is so recorded, and we know that the majority were in favour of it.

Mr Conroy

- How do we know ?

Mr Kingston

- By our own eyesight.

Mr Conroy

- Was that the reason why the right honorable gentleman gave way ?

Mr Hughes

- That is not a desirable practice.

Mr Kingston

- What I wish to say is that having carried the amendment as the honorable member desired, he has no substantial ground for complaint. I merely wish to mention that the practice adopted by the Chairman was the practice sanctioned by precedent in this House time and again. Only this afternoon the very same thing occurred. There was a call for a division. The honorable member for North Sydney moved an amendment-

Mr Fuller

- He asked for leave to withdraw it.

Mr Kingston

- The amendment was not put. There was a call, so far as I recollect, in the same way, and there was no division. It has happened time and again, and there was no novelty - whatever in the action. Under all the circumstances, I think it is a pity that any very strong exception should have been taken to the course which has been pursued. I should like to remind the honorable member who has said so much about it

that if it had not been by the consent of this House, by which the standing orders were really suspended in his favour in connexion with this very amendment, the whole point would not have arisen, and we should not have been troubled with this debate.

Mr Reid

- That is a usual courtesy, . though.

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Mr Kingston

- Really, it was not. I venture to think that I made a mistake. Under special circumstances it is always desirable to exhibit special courtesy, but it is not proper to throw on the Minister in charge of a Bill the responsibility of saying as to whether he objects to an amendment being put when the proper time has passed'. Really, it would be much better for a practice to be decided by the Chairman rather than such matters should be left to the assent or refusal of a Minister. I trust that we shall at a very early date have standing orders dealing with the subject, and laying down in the plainest possible manner what shall be the rule to regulate our proceedings; and then there will be no occasion such as has now arisen for a discussion of this sort. But what is the will of the House has been recorded, and the sooner we pass on to other business the better.

Mr Conroy

The CHAIRMAN

- I do not wish to hear further argument.

Mr. Conroy. - But I insist on saying what I intended to say.

The CHAIRMAN

- Does the honorable member intend to conclude with a motion ?

Mr Conroy

- Yes.

The CHAIRMAN

- I will- hear the honorable member.

Mr Conroy

- At the present time it appears to me that the position is this : You, sir, declared that the "noes" had it. I want to know what authority there is for any alteration being made in the result after you made that statement, without a division being taken, because at the end you said nothing about the "ayes " having it.

Mr Kingston

- Yes, the Chairman undoubtedly did.

Mr Conroy

- He said that the "noes" had it. Then, at the end of the time, he declared that there was no division. I ask by what authority did the Chairman use those words ?

Mr Barton

- The honorable and learned member is quite mistaken.

Mr Conroy

- Upon this point the Chairman will have to- declare again whether the " ayes " or " noes " have it. He will have to correct himself at least in this committee. He said that the " noes " had it. Beyond the fact that there was no division nothing further was said about it.

Mr Kingston

- The honorable and learned member is entirely wrong.

Mr Conroy

- After a division has been called for, it is not competent for the Chairman, until the numbers have been counted, to declare whether the " noes " or the " ayes " have it. What did we find in regard to the sub-clause immediately preceding sub-clause (h), when a couple of honorable members on this side of the House wished a division to be taken? After some little time the mover of the amendment got up and said he withdrew it. But the Chairman then rose and put it to the committee - as he was quite right in doing. He said - " The mover of the amendment wishes to withdraw it. Will the committee allow him to do so " ? The mover of the amendment was then allowed to withdraw it. He was perfectly right in not pressing for a division in that case. In this case the Minister, or somebody else - I do not know who - whispered something to the Chairman, and did not address the House, and the Chairman departed from

the sound practice he had hitherto followed. If the clause has been altered, it has been altered without the authority of this committee, because the committee declared one way, and after the division had been called, the Chairman should not have taken it on himself to say whether the "aves " or " noes," had it.

The CHAIRMAN

- Does the honorable and learned member submit a motion ?

Mr Conroy

- I. might move that the matter be referred to the Speaker, but I do not wish to do that. I admit it may have been one of those mistakes which- may be made by any one ; but if I did submit a motion, there could, of course, be only one result.

The CHAIRMAN

- In my capacity as Chairman of this committee, vested with the same powers and privileges, and bound by the same standing orders and rules as. the Speaker of this House, my decision was. challenged, as any and every member of the House has a perfect right to challenge it. Immediately on that challenge. I instructed the officers at the table to set the bells in motion. During the time the bells were ringing, and during the time the sand was running in the glass, it was. intimated to me by those sitting on my left that they had altered their minds, and that they did not desire a division. That was. intimated, not by one, but by many. Now, the practice has been followed--

Mr Conroy

- I wish honorable members had called out, and allowed us to hear them.

Honorable Members. - Chair !

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The CHAIRMAN

- Will the honorable and learned member permit me. This practice has been followed in the State of New South Wales, in which I have had considerable experience. I was also informed by the officers sitting at the table, that to their knowledge the practice in the State of Victoria and also in the State of Western Australia is at -all times, when members, before a division takes place and during the time the bells are ringing and the sand is running, wish to alter their minds, to allow them to do so. There is no order or rule dealing with a matter of this kind ; but I took what I conceived to be the concurrence of the committee when members on my left, a number of them, intimated that they desired no division, the words being called out repeatedly, " No division, no division." That not being challenged, I accepted it as the wish of the committee that there should be no division; but I recognised, that as one of the honorable members, who called for a division, and who sat on my right' intending to vote in the affirmative, was not yielding his position, while those on my left were yielding their position, that to be just and equitable I had to declare against" my previous declaration that the "noes" had it, and . to say that the " ayes " had it. I did so declare.

Mr BARTON

- Before the doors were locked?

The CHAIRMAN

- Before the doors were locked. The sand was running, and the time had not expired, and there can be no division - either by my order or the order of any one else - until the doors are locked and the sand has run out. I recognise that a mistake has been made, perhaps by a little leniency on my part and on the part of others. The honorable member for West Sydney had the concurrence of this committee - and that proves to me that the concurrence of the committee should not invariably be a guide to the officers of .the House, or to the Chairman - I had declared clause 49 carried, when the honorable member assured me that in consequence of an infirmity, with which he is afflicted, and which we all deplore, he did not hear me put the question that the clause be agreed to. j then asked the assent of the Minister in charge of the Bill to the putting of the clause again. That again was a breach of the usual practice.

Mr Reid

- But a very proper one under the circumstances.

The CHAIRMAN

- Let me now state to the committee what will be my future course. When I have declared a question put from the Chair, either in the affirmative or the negative. I will keep the bells ringing during the time the sand glass is running, and I will not, as I have done on this occasion, alter my decision, unless it is

altered on a division. I think I need say no more. I have followed the practice, as nearly as -I can, of the majority of the States now forming this Commonwealth.

An Honorable Member. - A very bad practice.

The CHAIRMAN

- Until the Standing Orders Committee, with the concurrence of the House, approve of a set of standing orders dealing with the question of the order of proceedings in committee before a division is taken, I shall be guided in the future by the practice I have named - that when I declare my voice in favour of either the affirmative or the negative, no matter how great may afterwards be the desire that there shall be no division, I will not yield from the position I have taken up.

Mr HUGHES

- Will you, sir, allow me to say one word in personal explanation, in reference to your remarks. I quite admit that the clause had gone through, and that it was by the consent of the committee, and with the acquiescence of the Minister in charge of the Bill, that it was called on again, so that I could move an amendment. But, at the same time, I do not agree that that course took away any right that formerly existed.

Mr Kingston

- It could not.

Mr HUGHES

- So that the courtesy extended to me is irrelevant to the question. The standing order ought to be a little clearer on this point, but from the tone of what has been said I gather that the practice followed to-night in regard to divisions will not again be followed, and as the amendment has been agreed to, I have no further cause of complaint.

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Mr ISAACS

- I desire to move a new sub-clause, which I think will be considered as important, and to which I do not think there will be any objection. In the Victorian Customs Act 1890 among the goods enumerated and described as prohibited are some that materially concern the producers of this country. I move -
That the clause be further amended 03' inserting the following new sub-clause to follow sub-clause (A): - "
Infected cattle, sheep, or other animals, and heads, skins, horns, hoofs, or any other parts of cattle and other animals, the importation of which may introduce any infectious or contagious distemper or disease.
"

I am aware that a sub-clause in clause 49 gives power to the Minister of the day to prohibit by proclamation all goods not enumerated in the clause. But as we are now engaged in legislation which to a large extent will take the place of existing legislation, I desire to have it put, beyond question, that animals which are infected with any disease which may decimate our herds and flocks, or the heads, or hides, or any part of such animals which may have that terrible effect, shall be, at all risks and at all hazards, kept out of Australia. I therefore ask the Minister to accept this clause. I think it is an amendment that will be welcomed, and the introduction of which cannot be for a moment resisted. The Minister will be bound to put such a provision into a proclamation in some shape or form - at least, I think he will ; and therefore I ask that this distinct and definite protection, which has been practically taken from the "Victorian Act, shall be inserted in the Bill.

Mr KINGSTON

- It is simply a question whether we should insert this provision in the Bill or allow the matter to be dealt with by proclamation or quarantine regulations. I am afraid that to insert it in the Bill would be to overload the measure.

Mr A McLEAN

- There is nothing more important, and it is following out the principle of the clause.

Mr KINGSTON

- It is important, no doubt; but, at the same time, there is a great deal to be said in favour of paying more attention to it than by inserting a sub-clause of this sort. However, as it is already the law in Victoria--

Mr.Reid. - And in New South Wales, too, in the very words.

Mr KINGSTON

- As it is already the law in Victoria, and as a relaxation of the provision might cause some anxiety, I shall

not resist the amendment.

Mr MANIFOLD

- If a clause of this kind is inserted, will it actually prohibit the importation of stock ? The honorable and learned member for Indi speaks of only infected stock, but under the regulations of Victoria at the present time stock coming in from the Old World are subject to quarantine regulations. The cattle are supposed to undergo these quarantine regulations, because they are suspected of bringing in a certain amount of disease.

Mr KINGSTON

- The provision will undoubtedly prohibit the importation of any stock actually infected. In any case, it will be necessary to take some action in regard to such an important question.

Mr Reid

- I do not quite see how the amendment will work.

Mr KINGSTON

- It has been working for some time, and importance is attached to it. I would suggest to the honorable and learned member for Indi that I would rather the matter were not dealt with at this particular moment, in order that it may have further consideration. I will give him an opportunity of moving in the matter again if we cannot agree otherwise.

Mr SYDNEY SMITH

- I think the amendment a very wise one. I admit that under the laws in the various States an arrangement has been arrived at by which the importation of diseased cattle is prevented; but there is another matter which might also be considered by the Minister. It is just as important to agriculturists that provision should be made to prevent the importation of fruit and fruit trees of various kinds, which might be the means of spreading disease, to the ruin of large numbers of producers of the country. If the Minister is proposing to frame a clause dealing with stock, I hope he will also deal with infected fruit and fruit trees, which are a menace to the farmers and fruit-growers of the various States. It is only fair that the Minister, in view of the suddenness of the amendment, should have an opportunity of considering whether a provision can be put in some other part of the Bill ; but I hope that he will also take into consideration the other matter to which I have referred.

Mr. ISAACS

(Indi). - I should be very glad to meet the Minister's wish, and to afford him an opportunity to consider this important matter ; but I hope that when he is considering it he will see that under no possible circumstances ought infected cattle or sheep to be admitted to Australia.

Mr Kingston

- Would the honorable and learned member propose to destroy them?

Mr ISAACS

- I cannot understand any possible circumstances that could justify the introduction into Australia of any animals, alive or dead, or any portion of dead animals which might have the effect of decimating our herds and flocks.

Mr Kingston

- Would not quarantine obviate the danger ?

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Mr ISAACS

- But we have here a clause that practically repeals similar provisions in the Victorian Act. We are dealing with the prohibition of such things as exhausted tea, butter, and margarine, and surely it is a much more important matter to keep our herds and flocks free from disease. If we are doing one thing I see all the more reason for doing the other, but as there will be full opportunity to move the amendment again, I have no hesitation in withdrawing it now.

Amendment, by leave, withdrawn.

Mr PIESSE

- I wish to draw the attention of the Minister to another subject, which is somewhat cognate to that with which the honorable and learned member for Indi has dealt - the importation of kerosene. The Customs laws of all the States contain provisions requiring that all kerosene which is imported shall pass a certain " flashing " test if it is to be used for illumination. In some of the States it can be imported for other

purposes, but it must then be coloured, or in some way distinguished from the better quality of oil, if it will not pass the standard. No doubt the Minister will say that paragraph (g) of clause 49, which says that - All goods the importation of which maybe prohibited b3r proclamation - are -prohibited imports, gives him power to deal with this subject; but I am doubtful whether he has power to prohibit by proclamation the importation of goods unless certain action is taken with regard to them. As there is a doubt in the matter, and the condition is a necessary one for the safety of those who use kerosene oil for illumination, I move - That the following words be added to the clause : - "Kerosene or other mineral oils below the prescribed flashing test, or other prescribed standard, unless imported as prescribed."

Sir MALCOLM McEACHARN

- I think it a very great mistake to burden the clause with all these exceptions. There are very few members of the committee who know the bearing of this amendment. I do not think there can be a doubt as to the power of the Minister to prohibit the importation of anything under regulations. At the present time the importation of oil which is under a certain flashing standard is prohibited. The wisest course is to let the clause pass as it stands, and leave the Minister to deal with this matter by regulations. If we make an exception of kerosene oil and similar things we shall have some other honorable member getting up to propose an exception in regard to some other article about which he has a fad, until nothing is left to the regulations. I think it would be a mistake to do that. The clause has received the consideration of the Chambers of Commerce of the various States, and no objection has been raised to it, and therefore I think it would be a mistake to overburden it. It would be a different thing if there were no power to make regulations ; but I cannot conceive that the Minister would not have that power.

Mr G B EDWARDS

- We could go on adding exceptions to this clause all night. There are diseases of plant life which it is necessary to guard against, just as it is necessary to guard against diseases of animal life ; and there are a thousandandone things which we might try to legislate about. The clause is rapidly becoming the most protective provision I have ever seen. It protects the moral and religious well-being of the community and its artistic life, and I do not see why it should not be extended to deal with diseases of animal and vegetable life. I think that we have gone a bit too far already, and I hope that honorable members will .allow the clause to pass without further discussion, so that, we may get on with the Bill.

Mr. PIESSE

(Tasmania).- One honorable member calls the amendment a fad, and another honorable member objects to it as. altogether a new proposal.

Sir Malcolm McEacharn

- I did not say that it was a fad. I said that we should have other fads.

Mr PIESSE

- I should like to draw the attention of the honorable member to the fact that there is a similar provision in the Customs Act under which so much of his business is done. The amendment brings, the clause in some respects even more in accord with section 49 of the Victorian Customs Act.

Mr Mauger

- Why not adopt the Victorian Act altogether 1

Mr PIESSE

- I do not want to do that. We are passing a clause which is a very great improvement upon section 49, because- it is. shorter, and I think, on the whole, clearer. This matter is of very great importance,, and, as it has already been dealt with in customs legislation in the way I ask the committee to deal with it, I trust honorable members will not be led away by the argument that it is a fad and something new, and that they will consider it on it* merits, backed up a"s it is by existing legislation.

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Mr KINGSTON

- I sympathize with the observations which have fallen from 'the honorable member for Melbourne. Great pains have been taken to compress the provisions of the Bill within reasonable compass, and large powers have been given to the Minister to extend its operation when necessary. We cannot find fault with honorable members for the way in which they have supported our proposals, because so far only one alteration has been made, and I am delighted to find that some of those who voted for that alteration are

now inclined to think that it is a mistake to go too far in this direction. I ask the committee not to load the Bill. We have power to deal with this matter by regulation.

Mr Higgins

- If we passed a clause empowering the Governor-General in Council to do everything it would be all right.

Mr KINGSTON

- Clause 51 says All goods lawfully prohibited to be imported into any State shall, as -regards that State, be prohibited imports for the purposes of this Act.

I venture to think that in that clause, read in conjunction with clause 49, we have everything that we want.

Mr Isaacs

- Clause 51 does not take us very far, because the word " imports " as there used means " imports from abroad," not from State to State.

Mr KINGSTON

- I am prepared to offer the honorable member for Tasmania the same consideration as I have promised the honorable and learned member for Indi, and I think that under the circumstances he ought to be satisfied. .Sir Malcolm MCEACHARN. - If We add anything at all to the clause we must add a good deal more than the honorable member for Tasmania proposes to add.

Mr. PIESSE

(Tasmania). - After the promise of the Minister that I shall have as much consideration as the honorable and learned member for Indi, I do not wish to press my amendment, because I think that between us we may make some additions to clause 49 before it finally passes. At any rate, I have called attention to the subject, and I hope that consideration will be given to it when it comes up again. I beg leave to withdraw my amendment.

Mr McDonald

- I object.

Mr THOMSON

- The Minister now sees the effect of including some articles and leaving out others. As I contended in the first instance, and as he now himself maintains, he has all the necessary powers under paragraph (</), and therefore there .is no necessity to specify any of these articles in the clause. But as he has allowed some things to be specified he must not be surprised that honorable members should wish other things to be specified.

Sir MALCOLM

McEACHARN (Melbourne). - The section of the Victorian Act to which the honorable member for Tasmania has referred would require oil imported in cases to be marked on the side, in black Roman letters, of not less than 2in. in length, " specially dangerous."

Mr PIESSE

- The honorable member refers' to oil which is not up to the standard.

Sir MALCOLM McEACHARN

- My desire is that a large industry which is now springing up - the importation of oil in bulk - may not be hampered.

Mr Thomson

- The importation of oil for subsequent refinement here ?

Sir MALCOLM McEACHARN

- Yes. I think that honorable members, before committing themselves to the amendment, should see whether it might not damage an industry which is going to be a large One, and will give a great deal of employment here, in New South Wales, and in the other States.

Mr REID

- I hope that the honorable member for Tasmania will not force the amendment upon us. To do so would be so unlike his usual generous manner in dealing with these matters that I beg of him to withdraw it.

Mr McDONALD

- I objected to the withdrawal of the amendment because honorable members who have little 'fads that they want to air bring them forward, as in this case, and when they have been aired they go back to their constituents, and say - " I tried to get so-and-so done, but there was no hope of doing it, so that I was

compelled to withdraw my amendment."

Mr Higgins

- -They do that in Queensland, perhaps.

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Mr McDONALD

- I think that when an honorable member moves an amendment he should be serious and mean business. He should have sufficient faith in it to press it to a division. But, as the honorable member for Tasmania has no faith in his amendment I will rescind the objection which I took to its withdrawal.

Mr. PIESSE

(Tasmania). - I have a very strong objection to honorable members imputing motives.

An Honorable Member. - The honorable member was only joking.

Mr PIESSE

- I do not consider that it is any joking matter. When the honorable member has had more experience he will learn that to retreat is not always to lose a battle.

Amendment, by leave, withdrawn.

Clause, as amended, agreed to.

Clause 50 (Restrictions of spirits, &c). . Mr. G. B. EDWARDS (South Sydney). I hope the Minister will give us some information as to what is meant by this clause. It seems to me that we shall have to give some closer definition of the packages mentioned in the clause, beyond saying that they shall be of the prescribed size.

Mr Deakin

- It is the usual provision, and will be quite sufficient to meet every case. . Clause agreed to.

Clauses 51 to 56 agreed to.

Clause 57 (Ship not to be moved without authority). §ir MALCOLM McEACHARN (Melbourne). - I think this clause may lead to some difficulty, as it might be absolutely necessary for a steamer to be moved away in a great hurry under circumstances in which it would be impossible to get the consent of the harbor authorities. Supposing a fire took place, or that there was a fear of collision. It may be said that these are extreme cases, but I think the Bill should cover extreme cases.

Mr Kingston

- There would be no prosecution in a case of that kind. No Customs officer would be mad enough to prosecute.

Sir MALCOLM McEACHARN

- You do come across a mad one sometimes. However, I simply call attention to the matter.

Mr CONROY

- The provisions in clause 242 come up again in connexion with this clause, and if there is to be no mitigation of the penalty in any case, under any circumstances whatever, it will be my duty to object here. I want to know if the Minister will consent to consider this matter ?

Mr Kingston

- I have already said that I will consider the penalty clauses.

Clause agreed to.

Clause 58 (Report of cargo).

Mr. REID

(East Sydney).- This clause makes the distinction which I understood existed - a proper distinction - between cargo which has been shipped from a port beyond the seas and stores similarly shipped.

Sub-clause (a) provides that the master of a ship arriving from beyond the seas shall -

Within one day after arrival make report of the ship and her cargo by delivering to the collector an inward manifest in duplicate.

And sub-clause (6) goes on to say -

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

So that the Customs Bill itself draws a distinction between cargo and stores.

Mr Kingston

- It was never suggested that stores were part of the cargo.

Mr REID

- No, and for a very proper reason. The reason being that the ship's stores are not intended to be landed, and are therefore not subject to any duty imposed by the local Custom-house. Of course the Custom-house will want to ask questions as to stores to- prevent the landing of the goods, because a captain might bring with him as ships' stores a large quantity of dutiable articles -which might disappear and find their way to the shore. The Customs authorities therefore very properly take the right, and have the right, to know what the ship's stores amount to, but they do not claim any dominion over them in the way of affixing duties of customs to them. I have been asked by various business people to get some information as to the intentions of the Government under this clause, and I can assure the Minister seriously that there is a certain amount of misapprehension about the intentions of the Government,, especially on this point. Do the Government propose in any way to question the right of a captain to deal with his ship's stores as he likes when he is outside the three-mile limit ? Does the Minister intend to claim any right to interfere with the full liberty over the ship's stores when the ship is beyond the three-mile limit I mean . stores brought by the ship from abroad, and including stores that- may be consumed between Fremantle and Sydney.

Mr KINGSTON

- I think I have already stated what the Government's intentions are, and I do not intend to repeat my statements just now. This clause has nothing to do with that point, but there is a special clause relating to ships' stores later on in the Bill on which we can debate the matter more fully and conveniently.

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Sir MALCOLM McEACHARN

- (Melbourne). - I would like to ask the Minister if there should not be some provision in this clause under which a manifest may be; amended on giving a satisfactory explanation. I often happens that goods are said to be on board a ship, when they are not on board, while, on the other hand, goods are very often on board which do not appear on the manifest, and I think there should be some provision so that upon satisfactory information being given as to the reason why the manifest is wrong, the error may be corrected, and no penalty may be incurred. I think that is only reasonable, because from my own experience it is utterly impossible to have the manifest always absolutely correct

Mr Kingston

- I think there is a provision dealing with that further on in the Bill.

Sir MALCOLM McEACHARN

- What I wish is that there shall be no penalty if it should . happen that the manifest is wrong in consequence of an error for which the people connected with the ship are not responsible.

Mr Kingston

- I do not think it is necessary to make provision for that sort of thing here. A question of that sort could be considered by the court.

Sir MALCOLM McEACHARN

- I do not think such a matter as that should ever get as far as a court.

Mr KINGSTON

- I quite agree with the honorable member, and it would be a great mistake on the part of the collector to take any proceedings whatever in a case where there is manifestly an error. If he did take any proceedings, the court would not dream of imposing a penalty except the error should prove to be of a character that would mislead, When it becomes the duty of any person to supply correct information to the authorities we cannot lay it down that errors shall in certain cases be excused. If we were to provide that accuracy might be sacrificed, and that although the Customs might run the risk of being misled and suffer loss, no penalty is to be inflicted, we should be making a mistake. Of course, a heavier penalty should be provided when there is intentional wrong ; but to let a man who gives wrong information go free even when the collector is satisfied that the error is of such a kind that no penalty should be exacted would be a mistake.

Mr F E McLEAN

- I do not think the penalty mentioned at the end of this clause would apply in the case of an error in the manifest.

Sir Malcolm McEacharn

- If the Minister will state that that is the case I will be quite satisfied.

Mr F E MCLEAN

- E. McLEAN.- In clause 220 penalties are provided for in the event of 'untrue statements being made, and it seems to me that that would meet the case. If a master tendered his manifest bona fide there could not possibly be any case against him under this clause.

Sir Malcolm McEacharn

- He would come under clause 220.

Mr F E McLEAN

- Yes ; he would be proceeded against under that clause if he made a false statement. If any amendment is required it would be in clause 220, where some provision might be made to meet such a case as that referred to.

Mr Isaacs

- Is there any provision in the Bill requiring that the goods in the ship must correspond with the manifest ?

Mr KINGSTON

- There is this provision, that the ship's report and manifest have to be correct, and there is a penalty provided for rendering an untrue statement.

Mr Isaacs

- The Minister misunderstands me. One of the usual provisions in a Customs Act is that you must produce your manifest, and that if the goods and the manifest do not correspond you will have to account for the goods. Is there a similar provision in this Bill?

Mr. KINGSTON.- Clause 220, paragraph (e), provides for a penalty for making any declaration containing an untrue statement. We must have accuracy.

Mr Isaacs

- That will not cover a case ' such as I have referred to. It will not make the captain account for the loss of goods.

Mr KINGSTON

- It will make him account for handing over a document which is not a true record of the goods of the ship.

Mr Isaacs

- The document may be true, but the goods may not be there.

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Mr KINGSTON

- Oh 1 The goods may be there and yet not be there. They may be in the ship and yet somewhere else. I do not think so.

Sir MALCOLM

McEACHARN (Melbourne). - I have had practical experience of this matter over a number of years. The captain has a manifest presented to him that is prepared and finished at the last moment. Very frequently goods are put into that manifest in anticipation of their being placed on board, and 'they do not get on board. Is the captain to be liable to a fine of £100 because he presents that manifest in all good faith? It is a thing which happens in regard to almost every steamer. The captain may, in perfect innocence, present that document, but under the operation of this Bill he would be held responsible. I really ask the Minister - I have not asked him to give in to me upon this Bill up to the present time, and I am as much interested in it as anybody, I suppose - to give this matter consideration.

Mr Kingston

- Undoubtedly.

Sir MALCOLM McEACHARN

- And in case of need, will the Minister recommit the clause ?

Mr KINGSTON

- In case of need, I will recommit the clause; but I want to take the discussion on the penalty provisions upon this point - for which we contend strongly - that there shall be accuracy in documents and statements made for Customs information, and that want of accuracy shall expose to a penalty, although not to the same extent as when fraud accompanies the act. When a document is put into our hands, which is intended to guide us, those who give the information give it under these conditions, that if it is inaccurate they are responsible, although not to the same degree as if fraud were contemplated.

Mr. ISAACS

(Indi). - I just wish to point out that the document is the manifest, and the usual provision to be found in any Customs Act is that if the captain arrives with a manifest, which shows that a certain quantity of goods were put on board, that manifest is taken to be true. But perhaps the captain cannot account for the quantity of goods which he ought to account for. Will the Minister look- to the clause referred to by the Attorney-General - clause 118? That is the kind of clause which I wish to see inserted, but of course that provision relates to exportation. I want to know whether a similar clause exists with regard to importation. It is not a question of whether the document produced is right or wrong. The document is assumed to be true, and it is because it is assumed to be true that the captain has to account for the goods mentioned, the fact being that the goods may not have been placed on board the ship.

Mr Kingston

- I will take a note of that.

Mr. PIESSE

(Tasmania). - I think that clause 215 partly provides for this. It provides that the following goods shall be forfeited to His Majesty -

All goods found on any ship after arrival in any port and not being specified or referred to in the inward manifest.

That refers to cases where there are more goods on board than are referred to in the manifest. A ship may carry a part of a cargo. The balance should have been put on board the first ship, but it is placed on board the following ship.

Clause agreed to.

Clause 59 -

When any ship is wrecked upon the coast the master or owner shall without any unnecessary delay make report of the ship and cargo by delivering to the collector an inward manifest so far as it may be possible for him to do so at the Customs house nearest to the place where the ship was lost or wrecked.

Penalty : £20.

Sir MALCOLM McEACHARN

- I wish to point out that the owners of many steamers reside either in London or Sydney, and it would be extremely difficult if they had to report at the Customs-house nearest to the place where a ship was lost or wrecked. Supposing that a wreck occurred near to Warrnambool, and there was a Customhouse at that port, the owners might be put to the inconvenience of going to Warrnambool in order to report the matter. I think the clause should provide that the report should be made to the central Customhouse of the State where the vessel was lost. Let me take the wreck of the Federal, the other day, as an example. How could we go to the nearest Customs-house to report her wreck? I do not think that the clause intends that.

Mr KINGSTON

- The idea of the clause is that a report should be made, in case of wreck, at the most convenient place for those concerned.

Mr Reid

- It does not say so.

Mr KINGSTON

- The natural idea would be that the report should be made at the nearest place. Does the honorable member for Melbourne suggest any amendment to meet the point which he raises?

Sir Malcolm McEacharn

- I suggest that after the word " wrecked " the words " or the central Customhouse of the State " should be inserted.

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Mr KINGSTON

- I think that if we were to put as an addition to the clause, the words " or at some convenient Customhouse," it might overcome the difficulty.

Mr Reid

- That would be a very vague expression.

Mr KINGSTON

- I move-

That the following words be added to the clause: - "Or at the chief Customs-house of the State where

such ship was lost or wrecked."

Amendment agreed to.

Clause, as amended, agreed to.

Clauses 60 to 62 agreed to.

Clause 63 -

If the owner shall satisfy the collector that he cannot immediately supply the full particulars for making an entry, he may, with the consent of the collector, make a sight entry.

Sir MALCOLM McEACHARN

- I wish to ask the Minister to take out the words " shall satisfy the collector," line 1, and to also omit the words "with the consent of the collector." It is only fair that if it be an impossibility to pass the necessary entry, it shall not be left to the collector to decide whether that shall be done or not. It is a matter which has been very seriously considered in the State which the Minister for Trade and Customs represents. Indeed, I have had several representations from there, and that is the reason why I bring the matter forward. I therefore move -

That the words "shall satisfy the collector," line 1, and also the words " with the consent of the collector," lines 3 and 4, be omitted.

Mr KINGSTON

- This is a matter upon which I took advantage of the official advice which is at my disposal. The collectors tell me that it would be highly undesirable to permit of the making of sight entries at the sweet will and pleasure of the party concerned. But where it is impossible to pass an entry, and a merchant satisfies the collector that the particulars cannot be supplied, then a sight entry is allowed. Otherwise, a somewhat reckless course may be adopted, and the merchant really withholding information which is in his possession, will make a sight entry.

Mr Higgins

- But supposing that he really cannot give the entry, and that the collector is stubborn?

Mr KINGSTON

- But why should we suppose anything of that sort?

Sir Malcolm McEacharn

- I know that it has been done.

Mr KINGSTON

- Does the honorable member know that a collector, arbitrarily and simply for the purpose of thwarting the merchant, has officially refused permission to make a sight entry?

Sir Malcolm McEacharn

- Yes.

Mr KINGSTON

- I think not. I think that our officers are of a character and reputation higher than that.

Sir Malcolm McEacharn

- I am not speaking of this State, but I know that it has been done.

Mr KINGSTON

- It is highly undesirable to lay down a general rule that simply on the representation of the owner a sight entry is to be passed.

Mr Reid

- The Bill allows him only three days in which to complete the entry.

Mr KINGSTON

- We see the goods then, and examine them, but by making this sight entry the owner may throw upon the officer the responsibility of checking all those goods, and deprive him of the benefit of the information which is really in the possession of the merchant. That is the way in which the matter is put for my consideration. It seems to have a good deal to commend it, and I hope that some honorable members will recognise that, in passing a clause such as this, we shall not be imposing any obligation that ought not to be imposed on the merchant.

Mr REID

- I understood the honorable member for Melbourne to say that this is intended for-

Sir MALCOLM

McEACHARN (Melbourne). - Perhaps the honorable and learned member will allow me to explain. Say a steamer arrives, and the merchants are dilatory in passing their entries, and the captain has to discharge his cargo and get away. The captain is then allowed to pass his sight entry, so that he may commence to discharge.

Mr Reid

- The honorable member is speaking of the captain, but here the owner is referred to.

Sir MALCOLM McEACHARN

- That is so ; but, at the same time, the captain does pass the sight entry on many occasions.

Mr Kingston

- I do not think he ought to.

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Mr HARPER

-I am unable to agree with the honorable member for Melbourne on this question. I really think the clause as it stands is necessary. It is intended to meet such a case as that in which goods have been imported, and no invoice has come to hand, and where it is impossible for the importer to say precisely what the contents of the packages are, so as to enable the duty to be levied. To leave it open for any one at any time to say that he had not documents and wanted to pass a sight entry, would in the first place lead to an enormous amount of trouble, and in the second place might lead to a good deal of fraud. As a rule, merchants who import goods have the documents, and this clause is intended to meet exceptional cases, where they bond, fide have not the information. In such cases it is the duty of the importer to satisfy the collector reasonably that he has good ground for asking leave to pass a sight entry. When the sight entry has been passed, as provided in the next clause, during three days the packages are open for examination, and if the documents are still missing the final entry is passed on the actual contents of the packages after examination. I think the honorable member, for Melbourne was under a slight misapprehension to begin with. He thought this clause would interfere with the ship, but, as a matter of fact, it does not concern the ship in the slightest degree, but only the importers of the goods.

Mr REID

- One speaks with diffidence when two such high authorities seem to differ, but I would like to point out to the honorable member for Mernda that it is scarcely consistent with the theory of an . attempt to under-pay a duty that an owner should make application for the kind of entry which involves, not the landing of the goods to be delivered to him to i be used as he likes, but the landing of the goods for the purpose of examination under the supervision of the Customs authorities. I should think that if people had any indirect motive in connexion with the goods, the last thing they would do would be to take advantage of this kind of entry which would bring every package immediately under the notice of the Customs by examination.

Mr HARPER

- It might, or it might not.

Mr REID

- I know the honorable member for Mernda knows immensely more about these matters than most of us do. But the point occurs to me that no one who had an invoice would undertake a procedure which keeps these goods to be opened by the Customs officers in the shed.

Mr Kingston

- He might suppress his invoice, and throw the obligation on the officers of the Customs.

Mr REID

- What I see is that the Bill has very carefully provided for the next stage, which is fatal to any evasion.

Mr Kingston

- Examination with the papers is better than examination without the papers ; that is the point.

Mr REID

- I see there are certain, clever mixtures of various kinds. I do not feel strongly on the question.

Sir MALCOLM

McEACHARN (Melbourne). - I would still press my amendment.

Mr Kingston

- I hope not.

Sir MALCOLM McEACHARN

- As. the leader of the Opposition has said, it is only a matter of three days in which the* entry is to be completed, and it is manifestly absurd to think that a man is going to trouble to pass a sight entry, and then afterwards pass another kind of entry. I do not think the Minister should stand out on a small matter of this kind, because taking the three clauses together, there is really nothing whatever in them: I can understand the Minister desiring to carry his Bill through without any alteration, but at the same time I can assure him there will be very few Bills passed with as few alterations as he will find in this measure. It is only right that the Minister should meet us in what after all is a very trivial matter.

Mr KINGSTON

- I can assure the honorable member that there is no question of any slavish attachment to the Bill, or any desire to carry the measure through as we have introduced it. I confess that at first I thought a good deal in the same way as the honorable member for Melbourne. That, is a view which might strike one at first blush ; but on reference to those who know best, and otherwise informing my mind, I think there is no room for. doubt that there would be great possibility of Customs difficulty and evasions. with the worst results, if facilities were given to an owner on the simple statement that he has no documents, to avoid the necessity of producing documents, followed by an examination that would throw the whole onus of responsibility on the Customs officers.

Mr Poynton

- This is quite a new law altogether.

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Mr KINGSTON

- I think the provision here is of a character which is generally found in Customs Acts. However, I would ask honorable members to let the clause pass as it is. The Government are satisfied that it is their duty to maintain the clause, but if on further consideration we come to a different conclusion, I shall not hesitate to inform the honorable member for Melbourne. If the honorable member likes I will get a report, which he may see.

Mr Reid

- False declarations are liable to very heavy punishment, and the view of the honorable member for Melbourne might be met by a provision for a declaration by the owner.

Mr POYNTON

-I can assure the Minister that to make a declaration is the present practice in South Australia. Otherwise many cases of hardship might be inflicted on the owner because of the texture of the goods. I do not want to go into particulars, seeing that the Minister has promised to consider the matter, as I hope he will. He will see that in having only three days for an examination, there is no great danger. It was mandatory on the part of the Customs officer to accept a declaration, but in the Bill it is optional whether he allows a sight entry or not, and that is what is complained of.

Mr ISAACS

- I am not quite sure whether I understand this question properly, and I would like to say in this connexion that I have found it very difficult indeed to study this Bill. We have no marginal notes, which enable us to refer to the. various Customs laws of the States, and, speaking for myself, I am not sure that I am able to do what I would like to do in seeing that the Bill does no injustice to any particular State, or to Australia generally. In that I am quite sure I am safe, so far as the Bill goes, in following the Minister. But I much prefer the example given in the Defence Bill, in which we are able to follow the various local provisions. However, as I understand the matter, it is that if for any reason whatever an importer is not able to make a perfect entry at once, he makes a sight entry. He does not want the permission or consent of the collector to make the sight entry, but, although he does not require that permission, it is not of the slightest use until the collector passes the entry. In the following clause, it will be seen that even if we strike out the provision for the consent of the collector, it would not advance the matter one bit, nor give any further facilities to an importer to commit a fraud on the revenue, because until the collector accepts and passes the sight entry, there is no permission to land the goods.

Mr Reid

- - - Still the things here are intended one to follow the other as a matter: of course. When the permission of the collector is given to make a sight entry, the entry is immediately put in, and it passes as a matter of

course.

Mr ISAACS

- The existing law in Victoria, of which I have some knowledge, allows the importer to make the entry without any consent, and to present it, but there is a condition that it shall be passed by the collector before the goods are landed.

Mr.- Reid.

- That is about the same tiling as the provision here, and I quite agree with the honorable and learned member.

Mr ISAACS

- I was pointing out that the effectual part is the passing by the collector.

Mr.- Reid.

- Here the effectual part is made the consent of the collector before the passing. If the collector consents to the making of a sight entry, that is consenting to the entry passing through.

Mr ISAACS

- There is some distinction between the consent and the passing.

Mr Reid

- But it is intended that the one thing is to be followed by the other.

Mr ISAACS

- What I wish to point out is that if we leave clause 64 as it is now, it will make no difference whether we leave the consent in clause 63 or strike it out.

Amendment, by leave, withdrawn.

Clause agreed to.

Clauses 64 and 65 agreed to.

Clause 66 -

Entries shall be made of the whole of any cargo landed or to be landed not later than seven days after the report of the ship, or within such further time, if any, as the collector may see fit to allow ; and so that if the goods are placed in quarantine seven days at the least shall be allowed for entry after their release from quarantine.

If default shall be made in the entry of any goods pursuant to this section the collector may cause the goods to be removed to a warehouse ; and if the goods are not claimed and entries passed therefor within six months after such removal the goods may be sold by the collector. (It) If the goods are of a perishable nature they may be sold at any time the collector thinks fit, either before or after warehousing.

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Sir MALCOLM McEACHARN

- I would like to ask the Minister the effect of this clause. In lines 1, 2, and 3 it is provided -

Entries shall be made of the whole of any cargo landed or to be landed not later than seven days after the report of the ship.

I am advised from the State of South Australia that the wharfage regulations differ there from those of other States, and that very great confusion may arise if the clause be passed in this form. It has been suggested that instead of the words " than seven days " there should be inserted " than the period prescribed by the Customs Act." I do not know whether this Bill annuls all the other Customs Acts, but I think the suggestion of the honorable and learned member for Northern Melbourne that a schedule of Acts annulled by this Bill would be extremely useful to those who have to consider this measure.

Mr Kingston

- Do honorable members wish a regulation made?

Sir MALCOLM McEACHARN

- It may be done by regulation under the Acts, which are different in the various ports. I do not think the Minister will consider it possible to make the same regulations for every port. The words "within such time as may be prescribed " would do so long as the provision is not tied down to a particular number of days, which might not be in accordance with the particular necessities of the port.

Mr.' HIGGINS (Northern Melbourne). These specific instances given by the honorable member for Melbourne, show that it is really of importance as a guide to persons who may read or look at this Bill, that it should be shown how local Acts are affected, and how far affected, by the Bill. It is evident, from what

the honorable member states, that in Adelaide the importers have been reading the Act as revoking or altering the Customs Acts of Australia. We all know that where there, is any inconsistency between a Commonwealth Act and a State Act, the State Act must go. But in fairness to traders and others we ought to set out specifically that we do not intend that this or that section or Act shall remain or apply after the Commonwealth Customs Bill is passed. It is the first object of legislation, or perhaps I should say, the second object, to see that people are not misled by our legislation.

Mr KINGSTON

- Of course, the intention is that this Bill when fully put into force shall supersede all the local Customs Acts.

Mr Higgins

- Could it not be said what Acts are affected by the Commonwealth Bill ?

Mr KINGSTON

- There is no doubt that that would be the effect. It might possibly be desirable to introduce a provision of the character suggested by the honorable member declaring that the other Acts shall cease to operate so far as the Customs is concerned. But I do not want to do that in too much of a hurry, or until we know precisely where we are. It is a matter in which we have to be very careful. There was a suggestion thrown out that there might be power taken by proclamation to pick out the various sections, and that these; on being picked out, should in due course cease to operate. '

Mr PIESSE

- The only clear course would be to get the State Legislatures to repeal them.

Mr KINGSTON

- It is a subject in dealing with which we can easily make a great mistake. It is due to no want of industry on the part of those who were in trusted with the preparation of the measure that a repeal clause has not been inserted. Such a clause was prepared, and a schedule was also drawn up ; but difficulties, which will be patent to honorable members generally, induced us to leave it out of the Bill.

Mr Higgins

- Did not the same difficulties apply to the insertion of the clause in the Defence Bill?

Mr KINGSTON

- This is a much more ticklish and troublesome measure than the Defence Bill.

Mr Higgins

- There are about 20 Acts repealed by the Defence Bill. '

Mr KINGSTON

- Yes ; but this Bill deals with a much greater variety of subjects than the Defence Bill deals with. I do not think that the term " repeal " would be a right one to use with respect to the cessor of State Acts by supercession.

Mr Reid

- The provision in the Defence Bill is a very good one.

Mr KINGSTON

- Yes. As this clause stands, it gives very large powers to the authorities. The time allowed is seven days or - within such further time, if any, as the collector may see fit to allow.

Do I understand that the honorable member for Melbourne would like to have the words " as may be prescribed " inserted ?

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Sir Malcolm McEacharn

- I do not know that that is necessary ; but it might happen that different regulations would be made for different places. I think the .matter is worth looking into.

Mr.- KINGSTON.-

I should be sorry at the present moment to give my adhesion to a. proposal that different regulations would be made for different places. I think that a great deal is to be said against it.

An Honorable Member. - What we want is uniformity.

Mr KINGSTON

- Yes. Want of uniformity in the Customs machinery is not to be tolerated any more than want of uniformity in our customs duties. I think the 'clause as it stands is wide enough, but if the honorable

member attaches particular importance to a general regulation on the subject, I shall not object to the insertion of the words.

Sir Malcolm McEacharn

- It does not affect us in Melbourne, but the people in Adelaide say it affects them.

Mr KINGSTON

- I will take the risk of Adelaide being affected.

Sir Malcolm McEacharn

- Will the Minister consider the matter if any question should arise ?

Mr KINGSTON

- I shall. Talking of Adelaide, I was delighted to receive to-day from the Adelaide Chamber of Commerce a communication in which the members express their general concurrence with the provisions of this Bill. They suggest one or two little amendments, to which I shall give the gravest consideration.

Sir Malcolm McEacharn

- And this is one of them. I put the papers before the right honorable member.

Mr KINGSTON

- That being so, it is , hardly necessary for me to repeat my promise to the honorable member.

Clause agreed to.

Clauses 67 to 69 agreed to.

Clause 70 (Goods landed on permit at ship's risk).

Sir MALCOLM

McEACHARN (Melbourne). - I should like to ask the Minister where the provisions of this clause come from ? It appears to throw the onus of looking after goods unshipped and landed under a collector's permit upon the master or owner of the vessel, and also the responsibility for their loss.

Mr KINGSTON

- I cannot give the honorable member the information at the present moment, but I shall have it looked up. Goods can be landed in either of two ways - upon entry passed by the owner, or under a collector's permit. A collector's permit is generally obtained for the convenience of the ship-owner, to allow him to land goods on a wharf and send his vessel away again. The clause provides that goods so unshipped and landed -

Shall be placed by and at the expense of the master or owner of the ship from which they were unshipped in a place of security approved by the collector, and shall until lawfully removed therefrom be at the risk of the master or owner of the ship as if they had not been unshipped.

Mr Harper

- They can go to the King's warehouse.

Mr KINGSTON

- If they are put in a place of security approved by the collector, it is not absolutely necessary that they shall be immediately removed to the King's warehouse. The clause is intended to cast upon the master or owner of the vessel responsibility for goods which are landed in this way to meet his convenience.

Sir Malcolm McEacharn

- Will the right honorable member add a proviso allowing the master or owner to recover the expenses incurred from the owner of the goods 1 That is only fair.

Mr KINGSTON

- I had the honour to receive a deputation of representative men, who, if I recollect aright, assured me that the precautions for the protection of owners of vessels which were insisted upon in bills of lading and in similar documents were of such a character that Legislative interference was necessary for their protection.

Sir Malcolm McEacharn

- They were speaking from their own point of view.

Mr KINGSTON

- The clause is not the result of that deputation, but I ask the honorable member if it is not a fact that the owners of vessels are generally able to take care of themselves in this respect ? As they have the control of the matter, and exercise it most unreservedly, is it necessary for Parliament to step in 1

Sir MALCOLM

McEACHARN (Melbourne). - I think it is necessary. The Minister in his position is taking just as much care for the protection of the Customs as ship-owners take for their protection. While I am a merchant, and the honorable member for Mernda is a merchant, I am aware that if he thought that the law permitted him to throw upon me the onus of stacking and looking after goods landed in this way he would do so.

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Mr Harper

- The ship-owner will take care of himself. . Mr. Kingston. - There is nothing to prevent the ship-owner from putting what conditions he likes in the bill of lading.

Sir MALCOLM McEACHARN

- I do not know whether the conditions in a bill of lading would override the provisions of the clause.

Mr Kingston

- Yes, they would.

Sir MALCOLM McEACHARN

- I am at a disadvantage in not knowing the law upon this subject, but if I can * get an assurance from the right honorable member and other honorable members that I can protect myself by bill of lading, I shall be perfectly satisfied.

Mr Kingston

- Undoubtedly that is so.

Sir MALCOLM McEACHARN

- I accept the assurance.

Mr REID

- A very simple alteration in the clause would, I think, do what the honorable member for Melbourne wants, and I think it would be a very fair provision. In the majority of cases I believe it is through the fault of the consignees that the ship-owner is compelled to take advantage of the provisions of this clause.

Mr Kingston

- Sometimes it happens one way, and sometimes the other.

Mr REID

- If that is so, it is rather hard for the Minister to deal with the matter. If the fault lay always with the consignee, it would be a simple matter. The Minister might insert the words -
In default of payment I.13' the consignee of the goods.

Mr Kingston

- I can assure the right honorable member that the department will not ask for payment twice.

Mr REID

- If those words were inserted the claim would be made first upon the owner of the goods, and in default of payment by him, on the master or owner of the vessel. But if the responsibility shifts, I do not see how the Minister can deal with the matter.

Sir MALCOLM

McEACHARN (Melbourne). - Will the Minister accept that slight alteration of the clause? We do not want to throw the onus upon the master or owner of the vessel if the owner of the goods will pay.

Notwithstanding the right honorable member's assurance, I am still of opinion that the provisions of the clause might override the conditions in a bill of lading.

Mr Kingston

- No, they would not. A merchant might contract out of the provisions of the clause.

Sir MALCOLM McEACHARN

- Will the right honorable member for East Sydney allow me to move the amendment which he has suggested 1

Mr Reid

- Perhaps it will be enough if the Minister will promise to take the matter into his consideration.

Mr KINGSTON

- The ship-owner wants to get his vessel away, and therefore has the goods dumped down upon the wharf. This course is allowed under the collector's permit for the convenience of the master. The owner of the goods may not be ready to pass entry for them, because the vessel may arrive a little earlier or a little later than he expected; and the goods having been discharged for the convenience of the master or

owner of the ship, is it not fair to provide, in the absence of any arrangements to the contrary, that the ship's authorities shall be responsible?

Sir Malcolm MCEACHARN

- Is it not provided that the owner of the goods must pass entry for them within 24 hours ?

Mr KINGSTON

- No ; not later than seven days. It will be generally admitted that goods are discharged under collector's permit for the convenience of the ship, and it is therefore only fair that the master or owner of the vessel should bear the risk and expense.

Mr. REID

(East Sydney). - It seems to me that to allow seven days for entries of cargo landed from a sailing ship which has come from London, and only the same time for cargo landed from a steamer which is going round the coast, and which has perhaps only two days to stay at any port, is an unequal arrangement, though I do not see how we can get out of the difficulty. Many of the steamers that touch at our ports do not wait seven days in any of them, and it would not be fair to compel them to do so.

Mr KINGSTON

- The disposition of the owner is generally to get possession of his goods as soon as he can, while the shipowner has large powers of protection, which he liberally exercises. It is never to the interest of the owner of goods to have them dumped down on a wharf in this way. However, I promise to look into the matter further.

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Mr THOMSON

- If effect were given to the desire of the honorable member for Melbourne, it would I not be quite fair to consignees. A steamer may come into port and discharge her cargo on a Saturday afternoon.

Mr Harper

- Or at night.

Mr THOMSON

- Yes, when the Customhouse is closed, and it is therefore impossible to pass entries. If there is no safe place for the goods on the wharf, they will have to be removed to some place which the collector considers secure, and it will not be fair to charge the cost of this removal to the owners of the goods. A consignee would naturally say - "I have my own stores, and if I had the opportunity I would have taken the goods direct to them from the wharf. As it is, I have to incur double expense, and why should the goods be landed at my expense and risk, when the landing is done for the convenience of the steamer?" Seven days is perhaps a long period to allow for the passing of entries, but I did not raise an objection to the provision because there were other honorable members present who represent those whom the clause will effect.

Sir Malcolm McEacharn

- I think that the provision is contrary to the harbor regulations, which require that the delivery of cargo shall be taken within either 48 hours or three days, I forget which.

Mr THOMSON

- I cannot see why 48 hours is not long enough. When a steamer comes in and wants to land goods before the Customs-house is open, it would be improper for a consignee to be compelled to pay the extra cost of delivering and storing the goods in a safe place.

Clause agreed to.

Clause 71 -

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

Mr THOMSON

- I would suggest to the Minister whether it would not be desirable to strike out the words "before warehousing" at the end of the clause. There is sometimes more reason for repacking goods when they are to be transhipped.

Mr KINGSTON

- I am quite agreeable to accept the suggestion. I move - That the words "before warehousing," line 2, be omitted.

Mr REID

- I want to know the meaning of the word " skipped " that occurs in the clause.

Mr KINGSTON

- " Skipped " is a term that is applied to a variety of things. In one sense skipping is an exercise which the right honorable and learned member might indulge in to advantage. It might result in his becoming " smaller by degrees and beautifully less."

Mr Reid

- But not before warehousing.

Mr KINGSTON

-I did not know the meaning of the term " skipped," and I am delighted to find that my ignorance was shared by other honorable members. But what I understand it to mean in this connexion is the transferring of liquids from one receptacle to another.

Sir Malcolm McEacharn

- That surely means having a drink.

Mr KINGSTON

- This particular word has afforded more amusement than enough. The various gentlemen who have looked at this clause at one time or another have come to the conclusion that the word " skipped " must be a misprint of the word " shipped," but it is not. It is one of those words which have been handed down to us from olden times, and is so old that most people appear to have forgotten its precise meaning. Still it is well known to the Customs authorities.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 72-

Dutiable goods may be warehoused in warehouses licensed by the Minister.

Mr REID

- I suppose there is nothing in this clause to prevent goods that are free being stored in a bond.

Mr Kingston

- No.

Mr REID

- I suppose it would always be understood that the placing of free goods in a store also used for the reception of bonded goods would not render the free goods subject to the Customs authority in the same sense as dutiable goods, although ' they were in a bond ?

Mr Kingston

- If free goods were in a bonded store with bonded goods they could not be got out except under the conditions that control the bond generally.

Mr REID

- Of course, I understand that, but still they would be treated as free goods. Supposing that goods had paid duty, but were still left in bond as free goods, they would not be liable to pay duty again ; or if free goods were put into a bond for storage, they would not be treated as within the dominion of the bond.

Mr.Kingston. - No.

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Sir JOHN QUICK

- I would like to know whether there is power under this clause to provide for the establishment of bonded warehouses in inland towns? Some time ago there was an agitation in the inland towns of Victoria, such as Ballarat and Bendigo, to have bonded warehouses established at inland centres.

Mr Reid

- Have they not got that right here in Victoria ?

Sir JOHN QUICK

- I do not know whether they have the right ; but the warehouses have been refused. I only wish to know whether there is power under this Bill to establish such warehouses. I do not ask the Minister to commit himself to the policy of establishing inland bonded warehouses, but I want to know whether there is power for the establishment of bonded warehouses under proper conditions, because I think it might be found to be a matter of very great convenience to the people in the great centres in the interior of Victoria and in other parts of the Commonwealth to have bonded warehouses, so that it should not be necessary for

them to come to the capitals or the ports to take their goods out of bond whenever they require them. There has been a very strong feeling in this direction in the country districts, and I would like to have the Minister's assurance that there is power to establish these bonds provided the Minister is satisfied as to the desirability of doing so in individual cases as they arise.

Mr Kingston

- There is undoubtedly the power to do so, but with regard to the policy there is a great deal to be said ; also as to the expense that would have to be incurred.

Mr REID

- No doubt the power that has been referred to would have to be used with very great discrimination, but at the same time the Minister must feel that now, that the Customs department embraces such an enormous area the policy of the Government will have to be more liberal than ever before in the States, because the distance between the seaports and the large centres of consumption is sometimes so great that it would be an intolerable restriction on the trading rights of persons in the interior if there were no bond within a reasonable distance. I am quite sure the Minister will pursue a liberal policy in that direction by issuing licences, but he will only do this under proper conditions, and with due regard to the expense that would be incurred by the department. The Minister must look forward to the extension of the system of bonded warehouses in the interior now.

Clause agreed to.

Clause 73 -

There shall be four classes of licensed warehouses as follows : -

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

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

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

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

Mr E SOLOMON

- I would like to know whether the first class of warehouses referred to in the clause is intended to embrace private warehouses or Government warehouses only. I see that under the second classification private warehouses are to be used only for warehousing goods the property of the licensee. Under that provision a private bond owner would not be able to take in goods belonging to other persons, and, as the Government bonds are sometimes full, I think that the owners of private warehouses should be permitted to take in for storage other goods than their own.

Mr KINGSTON

- Class I. refers to general warehouses into which anybody's goods may be placed. These are general warehouses that are to be kept by private persons, because the King's warehouses are dealt with in another part of the Bill. Then there are warehouses of a private character into which no goods beyond those belonging to licensees can be taken. There is also to be a machinery bond, and a further bond for manufacturing purposes is provided for.

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Mr REID

- I am sure the Minister will gladly avoid a long discussion by consenting to a verbal alteration in this clause. As the clause reads now, it will be compulsory to establish the four classes of licensed warehouses provided for under this clause, and I would suggest that instead of the introductory words of the clause as they now stand, we should insert the words " four classes of warehouses may be licensed." This alteration' would remove from the clause an objection which seems to raise the fiscal question in a rather acute form. We do not wish to acknowledge at the present stage that as a matter of Customs administration there is any necessity for a machinery bond or for duties on machinery. That is a matter that will raise a very serious discussion when we come to the discussion of fiscal matters, and it is just possible that there may be no object in having a machinery warehouse. I would not object if the word " machinery "-were removed, leaving the clause to provide that the warehouses mentioned in Class III. should be used only for warehousing heavy or bulky goods. However, the first method that I suggested

would be a more convenient way of removing the objection.

Mr Harper

- If there are no duties on machinery, there will be no machinery bond.

Mr REID

- I think that the amendment in the form I suggested will save time, but of course if the Minister wants a discussion on the subject, then he shall have it.

Mr Kingston

- The right honorable gentleman need not threaten us in that way.

Mr REID

- How can I threaten the Minister ?

Mr Kingston

- The right honorable gentleman is threatening us with a long discussion. ,Mr. REID. - I am not threatening the Minister. I am not putting that forward in any way as a threat ; but I simply inform him that I do not wish to raise any inflammable discussion at this stage. The adoption of the amendment I propose will not make the slightest difference.

Mr Kingston

- Would the adoption of the word "may" instead of "shall "meet the case ?

Amendment (by Mr. Kingston) agreed to-

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

Clause, as amended, agreed to.

Clause 74 (Annual fee). - Sir MALCOLM McEACHARN" (Melbourne). - I would like to ask the Minister why he has raised the charge in the schedule to £25 for private warehouses I understand that up to the present time a nominal fee of £1 has been charged. In addition to the £25, those who have warehouses have to pay 2s. per hour, or portion of an hour, whenever a locker is in attendance.

I do not think there is any necessity for such an extravagant charge.

Mr KINGSTON

- But this is not extravagance; it is revenue.

Sir Malcolm McEacharn

- It is extravagance from a merchant's point of view.

Mr KINGSTON

- It is possible that the extra charge was considered necessary on account of the increased prosperity which will result from the enlarged opportunities of doing business, by reason of the policy which this House is going to adopt. I confess that I have not looked at the schedule itself very closely, because I did not expect to be called upon to deal with it to-night. We shall come to it in due course.

Sir Malcolm McEacharn

- But this clause states that the .charge shall be in accordance with the schedule.

Mr KINGSTON

- We can deal with it when we come to the schedule.

Clause agreed to.

Clauses 75 to 82 agreed to.

Clause 83 -

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

Mr THOMSON

- I wish to ask the Minister in charge of the Bill what is the effect of this clause? I would point out that the word " prescribed " means "prescribed by this Act."

Mr Kingston

- Or by regulation. .

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Mr THOMSON

- It means " prescribed by this Act " or by regulation. But I would point out that an article is manufactured in bond and duty is paid upon it there, either because the ingredients used in its composition would have

to pay more duty than the manufactured article, or else for another reason, namely, that there is a considerable waste in its manufacture, and by reason of manufacturing it in bond, the payment of duty upon that waste is escaped. But supposing that the article when manufactured is named in the Tariff, it would, I presume, pay the duty imposed in that Tariff. This provision, however, states that it shall pay the duty prescribed - if any - under this Act, or under the regulations made under this Act. I wish to know the effect of this provision. It appears to me that the article should be liable to the duty fixed by the Tariff.^a

Mr KINGSTON

- Of course the provision is for the purpose of encouraging local manufacture. It gives effect to a practice which obtains in different States.

Mr Thomson

- It is not a question of practice, but of the wording of the clause.

Mr KINGSTON

- A man gets his raw material in a warehouse. It is then converted into the manufactured article, and the manufactured article can either be cleared at the rate provided by the Tariff in respect of it, or at any lesser rate prescribed by regulation.

Mr Thomson

- It seems to me to allow of duty by prescription.

Mr. KINGSTON.- No one, of course, would imagine that the rate would be a higher one, because that would be offering no encouragement whatever to local industry, while the lesser rate of course would be. The provision is general and large, but it seems to me not more so than is necessary to give effect to what is wanted.

Mr. THOMSON

(North Sydney).- I do not think that I can follow the Minister. I have no desire to interfere with his Bill, but I simply want to get provisions properly inserted. If the article manufactured is an article named in the Customs Tariff, why should it not pay the duty imposed by that Tariff? If it is not an article named in the Customs Tariff, why should the Minister have power to prescribe the duty which it shall pay? It seems to me that this clause gives permission to the Minister to fix a duty which might be different from that in the Tariff.

Mr Kingston

- It may be a less duty.

Mr THOMSON

- But if the article is one that is named in the Tariff, why should a lesser duty be paid? The advantage of manufacturing in bond is not to get a lesser duty on the manufactured article than it would pay if imported. The object is this: That sometimes the ingredients which go to make up a manufactured article would, if imported, have to pay more than the manufactured article would pay, and consequently to enable it to be made locally, permission is given to manufacture in bond. That is one reason. Another reason is that in the case of some goods, there is a very heavy loss in manufacture, and if the raw material and the manufactured article pay the same duty, it pays to manufacture in bond so as to escape the payment of duty upon the loss. That is a desirable practice, and I quite agree with that principle. But here is a provision which seems to allow of the imposition of duty by the Minister, by prescription. Why should we give a power in a Bill of this sort to the Minister to fix the duty, not by the Tariff, but by prescription? That is what I want to know. I think this is a very dangerous provision. Unless the Minister can show that it is not dangerous, I think it will not effect even what the Minister himself may desire.

Attorney-General

Mr DEAKIN

. - I can not speak of the effectiveness of this clause, but it appears to me that it would cover a case where several dutiable materials are used in the manufacture of a certain article. Either some or all of these are dutiable, but what ought to be the duty on the finished product when one has mixed together three or four ingredients, is a matter that cannot be exactly calculated. A rough and ready estimate is made. It is not a matter for mathematical computation as to whether one has used, say, 5 per cent, of this article, that working out at so much, or 10 per cent, of some other article which also works out at so much. Instead of that process being resorted to, one is able to say, speaking broadly of a manufactured article which includes three or four dutiable materials - "That is about the total which it ought to pay."

Mr Thomson

- But supposing there is no duty on the manufactured article?

Mr DEAKIN

- Then " this clause will not be applied.

Mr Thomson

- Suppose there is a duty' on the manufactured article ?

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Mr DEAKIN

- The case which the honorable member puts is one which may or may not occur. I hesitate to give illustrations,; because my commercial knowledge is so limited. But I know that various makers of the same products vary the quantity they use of some particular substances, and that variation determines the character of their product. We cannot necessarily say that precisely the same duty should be charged on what we may term the same article, because it might not be of the same composition in regard to its ingredients. The provision, among other things, enables the Minister in a rough and ready way to say what the duty shall be when no process of calculation could tell him what it should be.

Mr. THOMSON

(North Sydney.)-I wish to take an article as an illustration. There may be a duty upon curry powder in the Tariff. The ingredients which go to make up that article may be taken to a manufacturing bond, possibly for the reason that some of the main ingredients would pay a bigger duty than the curry powder itself if the duty were paid before manufacture. These ingredients are made into curry powder, and the Minister has power under this clause to fix the duty, because it is provided that -

The manufactured article may be delivered for home consumption subject only to the payment of such duty, if any, as may be prescribed.

The Minister, therefore, has the power to fix any duty to be paid on that article, notwithstanding that the Tariff states that a certain rate of duty shall be paid for its importation from outside.

Mr Kingston

- What does the honorable member suggest ?

Mr THOMSON

- I think that the Minister ought to consider the clause with that point in view.

Mr Kingston

- -I shall be most happy to do so.

Mr THOMSON

- It is a very serious matter ; it takes away from Parliament the power of fixing the duty upon certain articles, and leaves it to the Minister. I do not think that we desire that. This provision gives the Minister power, where an article is named in the Tariff as dutiable, to fix a different duty, and, indeed, if it is not named in the Tariff, it still gives him the power to fix the duty.

Mr HARPER

- I agree with the honorable member for North Sydney. I think that this clause needs consideration, and I understand that the Minister is prepared to give honorable members an opportunity for its further consideration. There is another case which I wish to put before the committee - a case in which several raw materials may be converted into an entirely different article. I do not quite see how this clause will affect the manufacture of such an article. My point runs very much upon the lines of the question raised as to the duty to be charged on the new product. I think that the clause really requires further consideration, and if the Minister will give us an opportunity later on of dealing with it, I shall be quite satisfied.

Mr REID

- Unless it is made clear that the ultimate result of the operation of this clause is to fix an amount of duty which is practically the equivalent for the duty in our taxation scheme, a very serious constitutional question will arise. I do not think that according to our Constitution anything in the nature of a tax can be imposed by means of a machinery Bill of this sort. The matter was pointed out by the honorable and learned member for Indi in connexion with another Bill, and I understand that the Government thought so seriously of it in that case--

Mr Deakin

- That was a question of appropriation. I understand what the honorable member refers to.

Mr REID

- I think there is a provision in the Constitution that a taxation Bill shall consist of taxation only.

Mr Deakin

- Section 55.

Mr Kingston

- This will not be taxation.

Mr REID

- That is just the point. If the words, as they might seem to do, give the Minister the power of practically fixing a tax that may not be absolutely equivalent to an existing tax in every case, but a tax which may be equivalent to, or less, or more than an existing tax, then in the case of the power to levy more than an existing tax--

Mr Kingston

- If the duty be made more it will be a tax.

Mr REID

- The language will have to be made a little clearer to show that there is no attempt to levy what might be a heavier tax. The clause must be made so that in another place the point cannot be raised that the Government might under it raise a heavier tax than any authorized by Parliament. I am not sure that the suggestion I make will meet the difficulty, though I think it will lessen it very much. I simply make the suggestion for the consideration of the Minister, because we do not want any little troubles with another place over Bills of this sort.

Mr Kingston

- I take it the clause may be allowed to pass, with a promise that it will be recommitted if necessary.

Clause agreed to.

Clauses 84 to 94 agreed to.

Clause 95 -

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

Sir MALCOLM McEACHARN

- Would it not be well to provide that the owner must have notice ?

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Mr Kingston

- The authorities might not know where to find the owner.

Sir MALCOLM MCEACHARN

- A man may warehouse his goods and go to England, or do as I did, warehouse goods in London, leave them there for three years, and forget all about them. To post a notice to the last residence of the owner of the goods would be, at any rate, doing something towards finding him.

Mr HARPER

- It would hardly be possible sometimes for the Comptroller of Customs to know where the owner is.

Sir Malcolm McEacharn

- The warehousemen would know.

Mr HARPER

- Not necessarily. I may buy a certificate for tobacco, and that certificate may be sold and transferred from one person to another without registration. Under such circumstances, it would be impossible for the comptroller to give notice, and people must look out for themselves.

Sir Malcolm McEacharn

- Then I think six months is too short a time.

Mr KINGSTON

- There is a provision later on as to what is to be done in reference to sales by the collector.

Mr Harper

- That is by public notice, advertising the numbers and marks of the goods.

Mr KINGSTON

- It would be almost impossible to give notice to the owner, because the collector might not be able to find

him ; though, of course, a notice might be " buried " in the Gazette, as the leader of the Opposition said in regard to another matter.

Sir Malcolm McEacharn

- In many cases the owner could be found, and it is worth trying to find him.

Mr Chapman

- Six months is the minimum time.

Mr Reid

- It is a very short time in which to forfeit the goods.

Sir Malcolm McEacharn

- I would ask the Minister to further consider the clause.

Mr Harper

- It is in the interests of the owner of the warehouse to get his rent.

Mr Reid

- But still six months is a very short period.

Mr KINGSTON

- The warehousemen will not move the collector in the matter if the goods are good for the dues. If the goods are not good for the. dues, what is the use of piling up charges when the warehouseman cannot be satisfied ?

Mr Reid

- The Chinese employee of a warehouseman, if he happens to know the owner of a certain parcel of goods is away, may get them sold by the collector and perhaps put a friend up to buy them.

Mr KINGSTON

- We know that for "ways that are dark and tricks that are vain the heathen Chinese is peculiar " ; but we propose to keep him out of a white Australia.

Mr Reid

- But the Chinese of our own manufacture are worse.

Mr KINGSTON

- If the clause were made compulsory there might be something in the objection, but the clause will not be put in force by any warehouseman - unless fraud is suggested - so long as goods are good for the money. If circumstances arise, and attention is called to the goods as not being good for the money, surely it is a mercy to every one concerned that they should be sold.

Mr Reid

- -Yes; there is the further protection that the goods need not be sold.

Mr KINGSTON

- Two conditions would have to be contemplated - not only the disposition of the heathen Chinese employee of the warehousemen, but a similar disposition on the part of his employer. I am inclined to think that in the Bill I increased this period from what was originally proposed. That was done on the suggestion of some one interested.

Clause agreed to.

Clause 96 -

The comptroller may cause any warehoused goods which in the opinion Of the collector are not worth the duty payable thereon to be destroyed, and may remit the duty.

The owner of any goods destroyed shall pay to the licensee of the warehouse or to the collector, in case the goods were in a King's warehouse, the rent and charges payable in respect to the destroyed goods.

Mr HARPER

- There may be a waste product in a warehouse which is of no value for duty, but which may be of some-small value otherwise. Is it not rather arbitrary to say that such goods may be destroyed? Should the collector not have power in such cases to remit such a portion of the duty as may be desirable to meet the case ? Some commodity might be of very little value, but still of some value, and it would be a pity to compel it to be destroyed.

Mr Kingston

- The clause is only permissive.

Mr HARPER

- The collector may remit the duty, but he must destroy the article.

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Mr Thomson

- The duty cannot be remitted without destroying the article.

Mr Reid

- The more articles destroyed the better for Australian industry according to the views of some Of our friends - that must not be forgotten.

Mr KINGSTON

- We do not propose to embody in this Bill the destructive practices of the leader of the Opposition. I shall have another look at this clause, but I think it is good enough.

Clause agreed to.

Clause 97 -

No goods of a combustible or inflammable nature shall be warehoused except by permission of the collector, and if any such goods shall be landed the same may be deposited in any safe available place that the collector shall approve, and whilst so deposited the same shall be deemed to be in a King's warehouse and be liable to be sold by the collector at the expiration of fourteen days in the same manner as goods of a perishable nature deposited in a King's warehouse, unless duly cleared or" warehoused in some warehouse with the approval of the collector, and such goods shall be charged with the expenses for removing, securing, watching, and guarding the same until sold.

Mr. REID (East Sydney). - I think the gods must have been asleep when they drafted this particular clause, because it points to a very serious offence, namely, that of endeavouring to pass off goods of a combustible or inflammatory character as ordinary goods. A contravention of the clause would be in a person obtaining the landing of combustible or inflammable goods by the concealment of the nature of the goods, and there is no penalty - not even the " short cut" - attached.

Mr Deakin

- There is the general penalty.

Mr REID

- The general penalty of £10 will not do for such an offence as this. The poor innocent who is responsible for a slip 10,000 or 12,000 miles away has to pay £10, but here is a person who may, perhaps, endanger the lives of hundreds of people in order to escape the operation of proper laws for the protection of human life against the indiscriminate handling of inflammable or combustible material. Surely such a person is not going to be put under the general penalty clause which deals with comparatively innocent offences.

Mr Kingston

- What does the honorable and learned member suggest ?

Mr REID

- Just the "short cut"penalty something substantial, say £50

Mr KINGSTON

- I move-

That there be added to the clause the words "Penalty : One hundred pounds."

Mr E SOLOMON

- I think this would be a good time to ask the Minister to insert a provision with regard to fire insurance. In some bonded stores large fires have taken place from time to time, and as a result the Government have been sued for compensation. I know that there is such insurance in Western Australia, and the Commonwealth Government should take the matter into consideration when dealing with this' Bill. This is a very important matter, because the loss of hundreds of thousands of pounds might be involved by incendiarism, or from some cause other than the storage of combustibles.

Mr Deakin

- What is to be insured?

Mr E SOLOMON

- The goods that are kept in bond until people pay the duty. In Western Australia, of late years, all bonded goods have been insured.

Mr Kingston

- Does the honorable member propose compulsory statutory insurance ?

Mr E SOLOMON

- The insurance could be charged to the goods, or some other provision made, because, in case of fire, not only are goods lost, but the storage is also lost

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Mr KINGSTON

- I take it that insurance will be a matter of arrangement between the licensee of the warehouse and his customers. This is a matter which is very generally attended to by warehousemen, and whatever sympathy I may or may not have with a proposal for statutory fire insurance, I do not think the question ought to be raised here. There is simply a deposit, subject to statutory conditions, for the security of the revenue in a warehouse which is the property of a private individual on license, and it seems to me that, as in other matters, the charges can be fairly left to be arranged between the licensee and the customer. I originally thought of fixing the charges for storage, &c., but it was pointed out, and, I think, fairly and with force, that so long as people choose to agree in those matters, and they are satisfied, no legislation is necessary. I believe that there is already sufficient accommodation for warehousing in the different ports, and that it is not necessary for the Government to interfere.

Sir Malcolm McEacharn

- I hope that the Government will apply that principle to the Inter-State Commission.

Mr KINGSTON

- The honorable member suggested just now that we should introduce into the Bill a provision allowing persons to arrange matters as they liked, by conditions inserted in bills of lading.

Sir Malcolm McEacharn

- That is quite another point.

Mr PIESSÉ

- I would point out that the proposed penalty can apply only to the first two lines of the clause.

Mr KINGSTON

- Yes ; but the words cannot be inserted in the middle of the clause.

Amendment agreed to.

Clause, as amended, agreed to.

Clauses 98 to 101 agreed to.

Clause 102 (Continuation of existing warehouses).

Mr. PIESSÉ

(Tasmania). - The clause gives the Minister the right to determine whether King's warehouses shall continue, but it does not provide for giving notice of the closing of existing warehouses.

Mr KINGSTON

- That is so, and to get over the difficulty, I move -

That the words " by Gazette notice " be added to the clause.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 103 (Power to sell).

Mr Harper

- I suppose the proceeds of these sales go to the Crown

Mr Kingston

- Yes. That is provided for later on.

Mr Harper

- Will notice be given of the sale in the Gazette, or in the newspapers ?

Mr Kingston

- Yes. Clause 262 provides that -

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.

Clause agreed to.

Clauses 104 and 105 agreed to.

Clause 106 (Prohibited exports).

Mr CROUCH

- I should like to call the attention of the Minister to the fact that he does not take power in this clause to prohibit exportation by regulation, as he took power in paragraph (g) of clause 49 to prohibit importation by regulation. There are certain exports which are prohibited now by some of the States. In Victoria the export of scrap iron is prohibited, and there is a desire among some people to prohibit the export of hides, so that the work of tanning may be done in the country. I ask the Minister if he is not tying his hands unnecessarily by not taking this power.

Mr KINGSTON

- The prohibition of exports is a different thing from the prohibition of imports. The importation of certain articles is prohibited because we wish to protect ourselves against them. I do not know that I shall ask the committee to insert a provision such as the honorable and learned member suggests.

Mr Reid

- It is very tempting.

Mr KINGSTON

- Yes ; but we are taught not to yield to temptation, and under the circumstances I shall refrain.

Clause agreed to.

Clause 107 (Size of exporting vessel).

Mr. REID

(East Sydney).- What is the object of limiting the size of an exporting vessel ? I can understand that the size of an importing vessel should be limited to prevent the facilitation of the bringing in of dutiable articles, but I do not see why there should be a limit in the case of exporting vessels.

Mr Kingston

- The limit is always made. It is impossible for the department to keep its eye upon very small boats.

Mr Piesse

- I think it is a usual provision. It is inserted, because of the short voyages which are possible between the States, to guard against smuggling.

Clause agreed to.

Clause 108 (Conditions for export).

Mr. REID

(East Sydney). - Is it necessary to provide that before any goods are taken on board a ship for export entry must be passed at the Customs-house

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Mr Kingston

- It is the general rule now.

Mr REID

- I think that I am correct in saying that it is a rule which is honoured more in the breach than in the observance. If a man is sending home 1,000 bales of wool, is it the practice to enter them for export before a single bale is put on board ?

Mr Kingston

- The clause provides that free goods may be entered for export within three days.

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Mr REID

- I overlooked that provision. I quite understand the reason for the provision relating to goods of a dutiable character.

Mr O'Malley

- In view of the great importance of the Bill, and the fact that there is not a quorum present, will the Minister consent to an adjournment?

Mr Deakin

- There is a full quorum. All the most intelligent men in the House are here.

Clause agreed to.

Clause 109 (Goods to be shipped at wharf).

Mr. REID (East Sydney).- This is a most important clause, because if its provisions are contravened all sorts of irregular practices may take place ; but no penalty is provided against its contravention.

Amendment (by Mr. Kingston) agreed to-
That the words "Penalty, £100," be added to the clause.

Clause agreed to.

Clause 110 agreed to.

Clause 111 (Documents and security).

Sir MALCOLM McEACHARN

- I think there is some ambiguity about the wording of this clause. Does the word "owner" refer to the owner of the goods or to the owner of the vessel ?

Mr Kingston

- To the owner of the goods.

Sir MALCOLM McEACHARN

- How can the owner of the goods give a bond for the landing of them when they have been handed over to the ship-owner ?

Mr KINGSTON

- Yes, he can. It is the owner of the goods who gives the security, undoubtedly. Although the goods are shipped, he has the control of them, and he will have a right to see that they are properly delivered, and to get proof and supply it afterwards to the Customs authorities.

Clause agreed to.

Clause 112 agreed to.

Clause 113 (Requisites for obtaining clearance).

Sir MALCOLM

McEACHARN (Melbourne). - This is a clause which has been very materially altered from the Victorian Act, and I would like to know whether transires can be granted as in the past under section 173 of the Victorian Act. I would also ask what documents are to be produced. The clause says that the master of the ship shall produce documents relating to the ship and her cargo before a clearance shall be granted. The Customs authorities might ask for the bills of lading to be produced before a ship could get her clearance ; but. it is known that the bills of lading are very often not signed until after the captain has gone. The wording of this clause is totally different from that of section 173 of the Victorian Act, which simply requires the master to deliver to the collector an account with a duplicate thereof in the form contained in the 13th schedule of the Act, or to that effect, and signed by the master. I hope the Minister will look into the matter.

Mr Kingston

- I will.

Clause agreed to.

Clauses 114 and 115 agreed to.

Clause 116 (Time of clearance).

Mr. REID (East Sydney). - This clause hangs to a certain extent on the vexed question of ship's stores that we shall have to consider, because it enables the collector to refuse a certificate of clearance - a very serious thing - unless all a ship's inward cargo and stores - I suppose that means ships' stores - shall have been duly accounted for to the satisfaction of the collector.

Mr Kingston

- That is the ordinary provision that a ship shall not be cleared until she has complied with all the requirements of the law.

Mr. REID. - I suppose so; we must always assume that these things will be administered with discretion.

Clause agreed to.

Clauses 117 and 118 agreed to.

Clause 119 (Goods exported to be landed at proper destination).

Mr THOMSON

- I would like to know from the Minister how this clause is to be enforced. It is provided that no goods shipped for export shall be landed at any place other than that for which they have been entered without the permission of the collector. The place for which the goods are entered might be at the other end of the world, and the matter would in that case be entirely beyond the control of the collector.

Mr Kingston

- If we cannot catch the master, we cannot punish him.

Mr THOMSON

- But if it should become necessary for certain reasons to land goods at some place other than that for which they are entered, how could the permission of the collector be obtained ?

An Honorable Member. - It means within the Commonwealth.

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Mr THOMSON

- No; to export goods means to take them beyond the Commonwealth, and this clause contemplates goods being taken beyond the Commonwealth, according to the meaning that we have applied to the word "export." I do not see the object of the provision at all.

Mr Kingston

- The idea is that the goods shall be truly entered, and not brought back again.

Mr THOMSON

- But that is provided for in another clause. This provision seems to me to be unnecessary and unworkable.

Mr Kingston

- I think there is something in the objection of the honorable member, and I have noted it.

Mr HARPER

- The practice is sometimes adopted of entering goods for Guam, which is merely a secret port, and I scarcely see how we could follow vessels or exercise any control over them after they go beyond our jurisdiction.

Clause agreed to.

Clause 120(Certificate of landing).

Sir MALCOLM

McEACHARN (Melbourne). - This clause provides that the Collector of Customs may refuse to allow goods to be exported by any person who fails within a reasonable time to produce a certificate as to the due landing of any goods previously exported by him, and I would suggest that we should add to the end of the clause the words "or to give satisfactory reasons for his failure so to do."

Mr Deakin

- I will take a note of that suggestion.

Clause agreed to.

Progress reported.

QUORUM OF SESSIONAL COMMITTEES

Minister for External Affairs

Mr BARTON

. - I have to crave the indulgence of the House for a moment. It has been discovered, with respect to the sessional orders, that the Sessional Committees quorum has been fixed rather too high. We have had the Library Committee, the Printing Committee, and other ordinary committees formed, and it is found rather difficult to get quorums. The number of the quorum was fixed at five, and in respect to the Printing Committee especially, whose operations are very necessary to the management of the documents which pass through the House, it has been found almost impossible to get a meeting. I wish therefore, with the indulgence of the House, to move a motion without notice on this head, in order that the committees may be unhampered in their work. I move, therefore, with the concurrence of the House -

That the orders of the House fixing the quorum for the Standing Orders Committee, the Library Committee, the House Committee, and the Printing Committee, respectively, be amended, and that in future three be a quorum for each of such committees.

Mr CROUCH

- I understand some complaint has been made by the members of the Senate arising out of the action of this House in fixing the quorums for joint committees.

Mr SPEAKER

- I suppose that the honorable and learned member is speaking to a point of order, and on that point I may inform him that the quorum is not proposed to be fixed under this motion for the joint committees, but for the committees of this House.

Question resolved in the affirmative.

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22:25:00

House adjourned at 10.25 p.m.