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1901-09-26

Senate.

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

RETURN: PRINTING OF PAPERS

Postmaster-General

Senator DRAKE

. - I beg to lay upon the table a return to an order by the Senate showing the number of votes cast for senators in each State, and I move -

That the paper be printed.

Senator PULSFORD

- A Printing Committee was appointed by the Senate four months ago, but it has never been called together. From time to time papers are laid upon the table and ordered to be printed, so that the functions of the Printing Committee seem to be as near nil as possible. I should like to have some idea as to what it was established for, whether any papers are to be referred to it, and generally as to what it is to do.

The PRESIDENT

- Any member of the Printing Committee could have demanded that a meeting be held.

Senator PULSFORD

- In order to get a decision as to whether or not this paper should be printed, I move -

That the question be amended by the omission of all the words after the word " paper," with a View to insert in lieu thereof the words "be referred to the Printing Committee."

Vice-President of the Executive Council

Senator O'CONNOR

. - The subject referred to by Senator Pulsford is an important one, and the Government have had under consideration the propriety of arranging for a joint Printing Committee, which will be able to deal with printing in such a manner as to prevent the duplication of expense which is likely to go on if things are continued in the ordinary parliamentary way.

The PRESIDENT

- There is no duplication now. The Government Printer has been instructed not to print any paper twice.

Senator O'CONNOR

- I am indebted to you, sir, for mentioning that matter. Our view is, if possible, to have some method of printing by which papers can be printed simply " by order of Parliament," whether the order is made by one House or the other. The whole matter is being taken into consideration, and as soon as possible there will be some method arrived at which I hope will enable both Houses to work together in the interests of the country. It does not lie in the mouth of any member of the Printing Committee to complain that it has not been called together. Nobody can call it together except a member of it.

Senator Pulsford

- Some two months ago I asked whether it would be possible to give leave to the two Printing Committees to meet together, and the Postmaster General said it could not be done.

The PRESIDENT

- Some member of the Printing Committee ought to have asked that it be called together. It is not a question for the Government. It is a matter for the Senate and its Printing Committee.

Senator MCGREGOR

- I hope that the amendment will not be pressed, because I think it should always be in the province of the Senate to order any paper to be printed. The Senate is above all committees, and if there is a doubt as to whether the Printing Committee will cause an important paper to be printed, it is competent for any honorable senator to move that it be printed. If, on my motion, a return were laid upon the table, and I thought it was in the interests of the people of Australia, I would move that it be printed, and hope to get the support of Senator Pulsford and others, apart from anything which the Printing Committee might do.

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Senator STEWART

- I shall oppose the amendment. I do not think a reference to a committee, as to what should or should not be printed, is likely to facilitate the business of the Senate. This idea of limiting the printing bill appears

to me to savour somewhat of the penny wise and pound foolish brand of .economy. Very often we find . honorable senators quite ready to squander thousands of pounds uselessly, in my opinion ; but when we come down to the necessary work of printing, they suddenly become stricken by a passion for economy. If any paper is worth being i presented to the Senate, it is worth being printed. If the expense of getting a return for an honorable senator has been gone to, surely it ought to be. printed for the edification of the Senate. How are honorable senators to read such papers if they are not printed ? How are they to be posted up in information which they require for the proper conduct of the business of the Senate 7 I have no doubt that a number of honorable senators throw their papers into the waste-paper basket, not read and not looked at. They take no trouble with regard to the business of the country.

The PRESIDENT

- The honorable (senator is not in order in reflecting on honorable senators.

Senator STEWART

- I think I am quite justified in making that statement, because I have read it in the public press.

The PRESIDENT

- That is no warrant for making a statement that honorable senators neglect their business and do not read the papers.

Senator STEWART

- Well, I have read in the press that they simply toss their papers into the waste-paper basket.

The PRESIDENT

- The honorable senator is not in order in quoting comments made by the press on members of the Senate. They may or may not be correct.

Senator STEWART

- In any case those who seem to be economically minded, so far as printing is concerned, do not appear to me to be very anxious to read papers which are presented for their edification, or to study returns which have been moved for by others. The Senate ought to be the supreme judge of what should be printed. If we were as anxious to economize in other directions as we appear to be in the printing bill, the business of the Commonwealth might be carried on at very much less expense than it is likely to be.

Senator Major GOULD

- The Senate must be the supreme arbiter in this matter, but at -the same time, the argument of Senator Stewart amounts to this, that if an honorable senator thought it necessary to get a return, therefore it should be printed. There would then be no need to have a Printing Committee. We .know that very of ten an honorable senator will get a return which the Senate may not consider it necessary to print. It is laid on the table, and can be referred to at any moment. We must recognise that i the Printing Committee must be of some service. It has an opportunity of looking into papers and judging whether they are of sufficient importance to be printed, but so far, it has not yet entered upon its duties. At the present juncture, if a Minister moves that a paper be printed, we must come to the conclusion that, in his opinion, it is of sufficient importance to be printed. Holding that view, I shall support the motion. I am quite sure that Senator Pulsford has submitted his amendment .more with a view to draw attention to the necessity of having the Printing Committee summoned as early as possible, than to oppose the printing of this document.

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Senator CHARLESTON

- There is nothing unusual in the procedure which we have adopted. I am a member of the Printing Committee, and when in the Legislative Council of South Australia, I was 'also a member of the Printing Committee. In that House, when a paper was laid upon the table, and an honorable member or a Minister desired that it should be printed, he moved to that effect, or, failing an order to print, if he desired to have the opinion of the Printing Committee, he asked that the matter should be considered by 'that body. We have had a 'good many papers of more or less value laid upon the 'table, and I think whenever important papers have been tabled, there -has been a request made that they be printed. It is true that the matter is entirely in the hands of the Senate. If any honorable -member has had a paper laid upon the table which he desires to have printed, he should notify some member of the Printing Committee to that effect, and then it would be called together and give its decision.

Senator DRAKE

(PostmasterGeneralQueensland). - I join -with my -honorable and learned colleague in asking Senator Pulsford

not to press his amendment to a division. It is desirable that some steps should be. taken to keep some check on the amount- of printing done for both Houses, otherwise it might amount to such dimensions that honorable members would be deterred from moving for returns of great value. When the Printing Committee is in proper order, it ought to be able to exercise such a check. When a motion is made that a paper be printed, the Senate is not aware of its contents ; it votes blindly without knowing whether it is a paper which should be printed - a fact which

Senator Stewart

seemed to overlook - but the Printing Committee has an opportunity of seeing whether it is of such a nature as to justify the cost of printing.

Senator Stewart

- The Senate will not know any more about the papers after the committee has looked at it.

Senator DRAKE

- In Queensland the Printing Committee exercise a considerable amount of discretion, even after the Houses of Parliament have passed a motion to print, which is really a formal motion. It would be most unusual to lay upon the table a paper and not move that it be printed. I always consider that it is my duty, when I lay upon the table a paper, to move that it be printed. Senator Pulsford unfortunately has dropped upon a return which is very short, and which no doubt in the eyes of Senator Walker is very valuable. It would be a pity to do anything at this time which would interfere with its being printed.

The PRESIDENT

- I ought, I think, to explain the view which I take. If the Senate orders a paper to be printed, it will be printed. It will not rest with the Printing Committee to say afterwards whether it shall be printed.

Senator PULSFORD

(New South Wales). - If, in the opinion of

Senator Drake,

this paper is of sufficient importance to justify the cost of printing, I am willing to withdraw my amendment. Amendment, by leave, withdrawn.

Question resolved in the affirmative.

STANDING ORDERS

SenatorLt.-Col. NEILD (New South Wales). - I desire to ask you, Mr. President, whether you can give the Senate any information as to the progress made by the Standing Orders Committee in the preparation of our standing orders, inasmuch as something like four months has elapsed since the committee was appointed?

The PRESIDENT

- I shall be glad to give any information I can to the Senate. The position is this : The Standing Orders Committee of the Senate have held a great many meetings. They have been through the draft standing orders three separate times, I think, and after that had been done, they put themselves into communication with the Standing Orders Committee of the House of Representatives, with the view of making the standing orders of both Houses as nearly as possible identical. I intended to ask the Senate this afternoon, through Senator O'Connor, to adjourn for half-an-hour longer at the dinner hour, in order to enable the Standing Orders Committee to hold their final meeting. I quite agree that it is time that the standing orders should be laid on the table, and I can assure the Senate that the Standing Orders Committee have taken a great deal of time, and gone to a considerable amount of trouble, with the object of making them as perfect as possible. The committee hope that this afternoon they will have an opportunity which will enable them to finally conclude their work.

PAPERS

Senator DRAKE

laid upon the table the following papers : -

Papers re complaint by assistant line-repairers of Victoria referred to by the Deputy Postmaster-General of Victoria in the correspondence ordered to be printed on the 12th September, 1901.

Papers re Operator Sheehan, referred to by the Deputy Postmaster-General of Victoria in correspondence ordered to be printed on 12th September, . 1901.

CUSTOMS BILL

In Committee

(consideration of message from House of Representatives):

Clause 50a -

Notice shall be given to the owner of the report of the analyst if the tea is thereby shown to be a prohibited import, and the owner shall be allowed fourteen days after the receipt of the notice to satisfy the collector that the tea is not a prohibited import.

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Senator Major GOULD

- I should like to direct the attention of the committee to the way this Bill comes before us. It is almost impossible to find out, without a great deal of time and consideration, where the alterations have been made in some of the clauses. It is all right so far as the House of Representatives have agreed with amendments made by the Senate, but where the House of Representatives have absolutely disagreed with our amendments, as they have done in several cases, the least we could expect was that the amendments, or the places where they have been inserted or disagreed with, would be clearly indicated. If honorable senators will take the trouble to refer to the list of amendments made by the House of Representatives, they will find that the amendments and the places where they are supposed to be inserted do not correspond with the clauses or with the lines in the Bill which we have before us.

Senator Dobson

- They correspond exactly with the Bill as it came to the Senate.

Senator Major GOULD

- But surely it is not the first Bill that came to us that we have to consider. The Customs Bill came to the Senate, and we made certain amendments in it. It then went back to the other Chamber. I presume that the House of Representatives dealt with the Bill as we sent it to them, and if they wanted to restore anything we had eliminated they must have referred to that Bill to find out where the restoration should take place.

Senator Dobson

- The honorable and learned senator has the original Bill on his file.

Senator Major GOULD

- But surely we expect to have to look at the Bill we sent from the Senate in order to see which of our amendments have been disagreed with. We find that a large number of amendments have been agreed to by the House of Representatives, and that others have been altered or eliminated. We ought to deal with the Bill as it left this Chamber, embodying our final revision, in order that we may know what has become of the amendments we made.

Vice-President of the Executive Council

Senator O'CONNOR

. - We are dealing with a message from the House of Representatives, and we have to take it as it is. I do not know what object the honorable and learned senator has in making these comments. There is no difficulty in finding the amendments. I have been through every one of them carefully, and have not had the least difficulty in finding them. We shall take them in detail, and I do not think that honorable senators will have any difficulty whatever in ascertaining what has become of amendments made by the Senate, if they refer to the Bill itself.

Senator Major Gould

- Is that the Bill we sent to the House of Representatives, or the Bill that they sent to us originally ?

Senator O'CONNOR

- It is the Bill that accompanies the message of the House of Representatives. In reference to the first part of the message, I should like to make a statement which will indicate to honorable senators the net result of the amendments, which have been made by another place. The Senate sent to the House of Representatives 122 amendments. A certain number of them were merely verbal, and others were of some importance. Of the 122 amendments sent to the House of Representatives, they have agreed to 106. With regard to nine, they wish to amend our amendments, and they have disagreed with seven. I think that ought to be taken into consideration when we are dealing seriatim with the amendments made. The first amendment is in clause 50a. There is nothing substantial in the amendment. Clause 50a was

inserted in the Bill on the motion of Senator Stewart. It has regard to the importation of tea. The amendment proposed by the House of Representatives is upon paragraph (d), and is really necessary in order to carry out the very object of the clause itself. I move -

That the committee agree to the amendment of the House of Representatives adding to paragraph (</. the following words : - "and if the collector is not so satisfied, the tea shall be a prohibited import."

Senator Lt Col NEILD

- I hold in my hand a copy of the Bill as reported a third time with amendments.

Senator O'Connor

- The honorable senator will find the amendments made by the House of Representatives on reference to the schedule of amendments attached to their message.

Senator Lt Col NEILD

- I desire to speak to the discussion initiated by Senator Gould.

The CHAIRMAN

- That point has been disposed of.

Senator Lt Col NEILD

.- I shall ask the Minister to follow the invariable rule and withdraw his motion, so that the primary matter may be discussed.

Senator O'Connor

- I have merely moved a motion agreeing with the amendment made by the House of Representatives.

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Senator Lt Col NEILD

.- I do not understand how a discussion can be initiated and then suddenly snuffed out in the way it has been in this case. Senator Gould was permitted to initiate a discussion when there was no motion before the Chair.

Motion agreed to.

Clause 52a -

There shall be publicly exposed at the principal ports of Australia printed lists of all books wherein the copyright shall be subsisting, and as to which the proprietor of such copyright or his agent shall have given notice in writing that such copyright exists, stating in such notice when such copyright expires.

Senator O'CONNOR

- I move-

That the committee agree to the amendments of the House of Representatives, omitting the words " publicly exposed," and inserting in lieu thereof the words "open to public inspection at the Custom-house"; and inserting after the word "writing" the words "pursuant to section 49."

This is the new clause that was carried at the instance of Senator Sargood, with regard to exposing lists of books wherein copyright shall be subsisting. I think the amendments are an improvement.

Motion agreed to.

Clause 154a -

For the protection of the revenue against the undervaluation of goods subject to ad valorem duties any goods entered as of a specified value may at any time before sale to a person having no knowledge of the entry, and subject as may be prescribed, be purchased by the Customs at their declared value with an addition of £10 per centum on the amount of such value.

Senator O'CONNOR

- With regard to clause 154a, which is a new clause, the House of Representatives has made an amendment which I intend to ask the committee to agree with. The clause was inserted in the Bill on the motion of Senator Sargood. It gives the Customhouse officers the right to purchase goods at the valuation of the owner. There was a provision in the clause as it left the Senate to the effect that the clause should take effect at anytime before the sale. But if the goods were sold to a person having no knowledge of the entry, the goods were not to be dealt with under the clause. An amendment has been made to carry out that object, and it seems to me that it carries it out more completely. The amendment is little more than verbal, and will certainly improve the clause. I move -

That the committee agree to the amendment of the House of Representatives, omitting the words "to a person having no," and inserting in lieu thereof the words, "and delivery to a person who shall prove to the

satisfaction of the collector that he purchased and took delivery in good faith, and without any."

Senator CLEMONS

- I do not think the Vice President of the Executive Council is quite correct in saying that the amendment of the House of Representatives is merely verbal.

Senator O'Connor

- It is not " merely " verbal, but it carries out the object of the clause.

Senator CLEMONS

- The amendment made by the House of Representatives adds the words, " and took delivery." As the Vice-President knows, there is a considerable difference between sale and delivery and removal of sale. I do not wish to oppose the amendment, but I should like to hear the reasons why these words have been added.

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Senator O'CONNOR

- The reason for the addition of these words is, I think, obvious. Unless they were inserted, there might be sales of goods for the purpose of evading the provision. It is true that the clause, as amended, would also apply to a bond fide sale, where there had been no delivery, but, as the honorable and learned senator will be aware, delivery takes place in all sorts of ways - not necessarily by delivery of the whole of the goods themselves. Something may have taken place which amounts to changing the possession of the whole of the goods by reason of changing the possession of a portion of them. A large portion of the goods could be placed in a bonded warehouse, where a bonded certificate passes the property of the goods . I do not think there can be any difficulty about a bona fide sale. It is, however, because there might be a delivery, either by bonded certificate or in some symbolic way, that it is necessary to make this alteration. This is only a permissive clause. It is a power which may or may not be exercised. There may be some cases in which there has been a bona fide sale and the position of the parties has been affected, and yet there has been no delivery. In a case of that sort, the clause need not be applied, and I do not understand that it would be applied. There is no hardship in insisting that there shall be delivery as well as sale, whereas on the other hand, if we do not insist upon delivery as well as sale, we open the door to an evasion of the measure by the making of contracts which, in reality, are not intended to affect a change of the property in any way whatever. The amendment, it is true, is not merely verbal, but it gives effect to the clause in the direction of carrying out what was, I think, the intention of Senator Sargood.

Motion agreed to.

Clause 192 -

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

Senator O'CONNOR

- We made certain amendments in this clause, and the proposal of the House of Representatives is to adopt a portion of our amendments and strike out the rest. As a mere matter of drafting, it was thought that the clause as originally introduced into the Senate did not specifically give the power to break open chests, trunks, and packages, where goods might be or were supposed to be. We amended the clause by inserting the words "and search" after the word " into," and by omitting the words " the same and " after the word " open," and inserting in lieu thereof the words "and search." The House of Representatives propose to restore the words "the same and," and also to leave in the word "search," and under their proposal the clause would read in this way -

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

It is simply a question as to which way of stating the clause best carries out the object we all have in view. The question is as to whether it is necessary to have the words " break open " before " chest, trunks, and packages," and it is not because the word " search " carries all that with it. By restoring the words "the same and," which we omitted, the second word " and " before the word " search " is rendered unnecessary, and the House of Representatives have consequently proposed to omit that word. I move - That the committee do not insist on the amendment omitting after the word "open," line 4, the words " the

same and," and agree to the consequential amendment to omit the further word " and."

Motion agreed to.

Clause 213 (Notice of action to be given).

Senator O'CONNOR

- In this clause a provision was put in, on the motion of Senator Gould, with regard to the proceedings against an officer, to the effect that leave might be granted to proceed, without notice, on such terms as the Judge might think best. Some verbal amendments have been made by the other House, which really carry out that object. I move -

That the committee agree to the amendments of the House of Representatives inserting the word "of" after the words " Australia or," and omitting the words " or Judge"

Motion agreed to.

Clause 213a (Defect in notice to invalidate).

Senator O'CONNOR

- I move-

That the committee agree to the amendment of the House of Representatives, adding the words "and the court may give leave to amend such notice as it thinks best."

Apparently the reason for that amendment is that the notice is made by clause 213, really the basis of the action, because it will state the cost, the nature of the proceedings, and the court in which the same is to be begun. It is provided that where a Judge under this clause decides that the notice shall not be deemed invalid by reason of a defect or inaccuracy therein, he shall also have the power, if he thinks fit, to amend the notice. It seems to me to be in furtherance of Senator Gould's amendment.

Motion agreed to.

Clause 256 (Settlement of disputes by Minister).

Senator O'CONNOR

- It will be remembered that we made an amendment with regard to a dispute between an officer and a person as to any contravention of an order. We inserted the words " published in the Gazette " after the word " order," and it is proposed by the other House to insert before the word " published," the words, " which shall forthwith be." I move -

That the committee agree to the amendment of the House of Representatives inserting the words " which shall forthwith be."

Senator Sir Josiah Symon

- When this clause was considered, I understood that the policy of the Bill was to make publication in the Gazette necessary to the validity of the order ; in fact, I suggested an amendment.

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Senator O'CONNOR

- That is carried out by a subsequent clause. Senator Higgs moved an amendment in clause 258 to make the proceedings public. I suggested to him that it would be sufficient to amend clause 256 so as to make the publication in the Gazette part of the order. That, of course, would insure publicity of the order. At that time I was resisting any amendment to the clause to make it a public court. If the whole proceedings must be in public the decision must be in public. All that is necessary is to provide that the decision shall be published in the Gazette forthwith. It does not need to be made a part of the order.

Motion agreed to.

Clause 259a -

Any matter of difference arising under this Act, or in relation to the Customs, and not involving a contravention of this Act, may, at the request of the parties interested, be referred to the Minister for decision, and thereupon the Minister shall in such manner as he shall think fit inform his mind of the circumstances, and finally decide the difference.

Senator O'CONNOR

- The clause provides for a settlement of the difference by the Minister, where it does not involve a contravention of the Act. The word "shall" after the word "Minister" in line 6, is inappropriate. With regard to a judicial officer, we cannot say " shall " in a matter of this sort. He inquires into the matter, and the proper word to use is " may." I move -

That the committee agree to the amendment of the House of Representatives omitting the word " shall,"

line 6, and inserting the word " may " in lieu thereof.

Senator CLEMONS

- There is, I think, some considerable difference here. The first " may " in regard to the option of the parties interested is permissive. They may, if they like, ask the Minister to inquire into the matter. The word " shall," which we put in, made it obligatory on the part of the Minister, if asked, to inquire into the matter. If this amendment is agreed to, the parties interested may ask the Minister, and he may, if he thinks fit, refuse to inquire.

Senator WALKER

- I think Senator O'Connor is perfectly right in using the word "may," in the first instance, provided that he puts in the word "shall" before the word "finally." The Minister may not require to inform his mind if he has sufficient knowledge.

Senator Sir JOSIAH SYMON

- I am not very greatly wedded to this mode of deciding these things. As I pointed out previously it is met by other provisions. Senator Sargood laid great stress on it and so did the committee, and this provision was put in, but the essence of the whole thing was that it should be compulsory on the part of the Minister to inform his mind as to the circumstances. Considerable debate took place on the question of whether he should hear the parties. Some of us thought that we should use the words " hear and determine," and Senator Downer, I think, suggested that these words might be put in, so as to constitute the Minister a court, imposing upon him the obligation of calling the parties before him to give evidence, but finally that was not insisted upon, and it was left in this form -

Shall, in such manner as he thinks fit, inform his mind of the circumstances.

We were quite content with that, so long as it was obligatory that he should make inquiry and deal with the facts in a quasi-judicial fashion. If we substitute the word "may " for the word " shall " we shall destroy the whole advantage of the clause, because it will be in the power of the Minister then either to do nothing or to say to the parties, when they come before him, " I am not going to bother to inquire, as it is not important enough to make an inquiry." It may be of great importance to the importer, but the Minister will be left in a position to decide by rule of thumb.

Senator O'CONNOR

- Senator Symon is mistaken as to the meaning of the clause. The word " may " is the only proper word to give permission to the Minister to inform his mind in any way he thinks fit. He is the person to decide in what way he shall inform his mind. If he chooses he may call evidence ; or he may rely on a report, or a document, or a book. The very form of it shows that it is in the discretion of the Minister. In that respect there is not the least difference whether we say " shall " or " may." . But when we come to the words "and finally decide the difference," it is true that the word " shall " would govern them. It is not intended to force the Minister to enter upon the consideration of every case which is submitted. The parties usually interested in a dispute would be an officer and an importer or a person who has to pay duty ; but persons may be interested in the amount of duty to be allowed or deducted in the case of a contract.

Senator Sir Frederick Sargood

- They would not go before the Minister.

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Senator O'CONNOR

- The Minister certainly should not decide a matter of that sort, but if it is made compulsory how would he be able to avoid it? It may be that the parties think that it does not involve a contravention of the Act, and although it may not do so yet it may be one of those cases which certainly ought to be tried in the ordinary way before a court. It may involve questions of law which the Minister does not think he ought to decide, but if the word "shall" is retained it will compel the Minister to decide it.

Senator Charleston

- That was the object of putting it in.

Senator O'CONNOR

- The debate was as to the means the Minister should take to inform his mind, and as to whether he should hear evidence on both sides. The parties interested may refer to the Minister a question of which it would be utterly wrong for him to undertake the interpretation, but the clause as it is makes him the final arbiter. Surely this ought not to be made obligatory on the Minister. I think the amendment is a proper

one.

Senator HIGGS

- If the word " may " is substituted for the word " shall " it will only bring the clause into line with clause 256, which reads -

If any dispute shall arise between any officer with reference to any contravention of this Act the Minister may in manner prescribed -

Motion agreed to.

Schedule 2a -

Motion (by Senator O'Connor) agreed to -

That the committee agree to the amendment of the House of Representatives omitting the words " or Queen as the case may be."

Clause 112-

The collector may require the owner to produce documents for any goods entered for export.

Senator O'CONNOR

- I move-

That the committee do not insist on the amendment omitting all the words after "export."

This clause as it originally came up to the Senate read as follows -

The collector may require the owner to produce documents for any goods entered for export and in the case of goods subject to the control of the Customs to give security that the same shall be landed at the place for which they are entered or otherwise accounted for to the satisfaction of the collector.

The committee struck out the safeguard of the security which is provided in the latter part of the clause, and the other House wish to restore the words, for this reason -

Because the provision proposed to be omitted is usual and necessary for the proper protection of the revenue ; further, it is permissive and to be exercised only when the collector sees reason to require it, instead of as, in many existing Acts, in all cases.

The policy involved in the retention of these words is this. Where goods are exported they may be goods which have been in bond. In that case, the person exporting is entitled to get back the duty. Of course, the revenue is the principal consideration in cases where the goods are dutiable. It would be an idle ceremony to make these requirements for entry for export if the person who exported the goods could take them a little way round the coast and rel and them somewhere else free of duty. We are not dealing with the case of a P. and O. or an Orient ship, but with cases where there may be an intention to smuggle. The object of the amendment is that, when a person makes an entry of goods for export, he shall state what their destination is, and give security that the same shall be landed at the place for which they are entered, or that they shall be otherwise accounted for to the satisfaction of the collector.

Senator Sir Frederick Sargood

- How is it possible to carry it out?

Senator O'CONNOR

- It is possible, and it is carried out in all the customs laws of the different States.

Senator Clemons

- There is such a provision in all the customs laws except in the State of Tasmania, but it is ignored.

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Senator O'CONNOR

- I know that it is not ignored in all cases. One result of the presence of a clause of this kind is that it is always in the power of the Customs officers to call upon the owner of the goods to give security. Knowing that there is this power, it acts as a safeguard. The power need not be always exercised. It probably will only be exercised where Custom-house officers have a suspicion that some improper operation is likely to take place. Then there is some one responsible whom they can deal with after possession of the goods has been parted with. In most cases possession of the goods themselves is a sufficient security, but here possession is parted with, and they are no longer under the control of the Customs. What position will the Customs be in if goods are landed again or treated in some way which evades payment of duty ?

Therefore, it is a very necessary safeguard to have this clause in the Bill. It is in the Acts of all the States already, and considering the much larger area we have to deal with under the Commonwealth, and the larger extent of customs we shall have to deal with under our laws, we ought not to omit any precaution or

safeguard for the revenue.

Senator CLEMONS

-I should like to point out, with all respect and deference to that "model State," South Australia, that the Customs Act of the States which is the most recent, and the best brought up to date, is that of Tasmania ; and it is a curious fact that the provision which the House of Representatives has insisted upon is to be found in the Customs Acts of every State except Tasmania. The reason is that Tasmania has brought its Customs Act up to the furthest state of perfection. The question now raised is a practical one. It is simply as to whether the Government will compel the owner of goods exported to give a certificate and to guarantee that they shall be landed at a port outside the Commonwealth, or whether they will compel the master of the ship to do so. The question was fully discussed when the Bill was last before honorable senators, and the objection then taken to it still holds good - that if it is in force it will practically ask the owner of the goods to do what he cannot possibly succeed in doing. He will be asked to give a certificate as to a matter of which he has no knowledge, whereas the master of the ship is the person in whose custody the goods are, and who can best give a certificate as to the port at which they will be landed. The Vice-President of the Executive Council has endeavoured to make out a strong case by asking what is going to happen if the goods are not landed in the place where they are supposed to be landed. But clause 121 contains all that is necessary, as it was left by the Senate in the Bill. Under that clause the Government can, if they like, insist upon the owner - although it is my contention that they ought not to insist upon such a thing - producing a certificate as to the landing of the goods; and this can be done, although the owner will probably never even travel with them to England or any other country where they are to be landed. Every provision is made in clause 121 for securing what the Government want. The Collector of Customs may demand a certificate from the owner or from any one else concerned with the goods. Therefore I contend that this provision is totally unnecessary, and that it is quite unnecessary that we should restore the words the excision of which has been objected to by the House of Representatives.

Senator O'Connor

- This is a different thing from a guarantee. A certificate does not carry any money value with it. It is simply a bit of paper.

Senator CLEMONS

- I admit that, but the Vice-President of the Executive Council will also recognise the fact that, if such a certificate is not satisfactory, the Government will have power to take other steps. It is a practical difficulty that is involved in the clause. The Vice-President knows that in the Acts where this provision has been inserted it is practically a deadletter.

Senator O'Connor

- The honorable and learned senator must not appeal to me in that way. I think it is a very salutary power to have, and will prevent a great deal of illegal work.

Senator CLEMONS

- The Government are asking the owner to do something which practically he cannot do. How can he give a certificate to the effect that goods which left the Commonwealth for England have been duly landed there?

Senator O'Connor

- This provision is to insure that they will be duly landed. It is different from clause 121 .

Senator CLEMONS

- How can the owner say that the goods will be duly landed?

Senator Drake

- It is not a certificate that is wanted, but an undertaking.

Senator CLEMONS

- The words are that the owner shall give security. But suppose the goods are not landed at the port where they are supposed to be landed?

Senator Fraser

- Then the owner cannot help it.

Senator CLEMONS

- The man who ought to give this security is undoubtedly the master of the ship, and not the exporter of the goods. The Customs Act of Tasmania was framed with considerable care, and the impracticability of

this provision was fully recognised. It was, therefore, left out for the reasons I have given, and which have been urged by Senators Sargood, Macfarlane, and others.

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Senator MACFARLANE

- The omission of the provision which has been insisted upon by the House of Representatives, was made at ray instance, and it was done because I urged that in the first instance, the revenue was perfectly protected by clause 121, and secondly, because it "was unfair and unjust to ask the exporter to give what the ship from which the owner gets a bill of lading can only give. The owner of the goods cannot give security for what the ship will do. There is no objection whatever to his giving a certificate of the goods being landed.

Senator O'CONNOR

- Exactly, but that does not cost him anything.

Senator MACFARLANE

- He should not be asked to give security for any man's good behaviour but his own. It is quite impossible to work this provision. I have had a little conversation with the Minister of Trade and Customs upon the matter, and any honorable senator who has read the right honorable gentleman's replies to questions in the House of Representatives will see that he is not quite seised of the position. There is no real occasion to ask for security from the owner of the goods, who cannot be responsible for what becomes of them after they are put on board the ship. Very often a ship comes back to port after she has left with the goods on board. The Customs are amply protected against smuggling by their own officers. It is not for an exporter to give security that the goods shall not be smuggled, It seems to me therefore that the provision is not only unfair and unjust, but is really impracticable. The Government are asking the shipper to do something which he really cannot do. I am not quite sure that my honorable and learned friend Senator Clemons is quite right about the Tasmanian Act. I am quite willing that drawback shall be withheld until the goods are proved to be landed, in case of doubt. That would take away from the feeling of injustice ; but to ask that security shall be given is unfair to the exporter.

Senator PEARCE

(Western Australia).The committee might, I think, very well agree no to insist upon the amendment which has been disagreed with by the House of Representatives. As the Vice-President of the Executive Council has pointed out, it is an optional power to place in the hands of the Collector of Customs. I can quite understand that there might be occasions on -which it would not be necessary for the collector to exercise the power. For instance, I should think that the collector would never ask for such security to be given in the case of a line of vessels which he knew was trading to foreign ports. But in the case of coasting vessels of smaller capacity, which might be loaded with goods as to which, in the opinion of the collector, there was grave suspicion that they were to be landed at some port in Australia, he might require something in the nature of a security, so that if the law was broken the Customs might get some tangible compensation for the breach of the law.

Senator Macfarlane

says that the Customs officers themselves will prevent the goods being smuggled. But it may be made to appear that the goods are being carried as part of the Inter-State trade, and are not being landed from some foreign port to a part of the Commonwealth. In that case it might be possible for the duty to be evaded. Under all the circumstances, the committee might very well agree not to insist upon this amendment.

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Senator Sir FREDERICK SARGOOD

- The restoration of these words seems to me to do a great wrong. I was going to use a stronger term. It is perfectly true that a similar provision has been in operation for a good many years in the State Acts. It is a continuation of old Customs Acts which have been in operation for a great number of years ; and I may say, speaking as a practical man who has had to deal with these matters for the last 30 years, that it has been felt by importers in my own State to be a crying wrong to compel them to give this guarantee in respect of matters over which they have no control whatever. Senator Pearce has said that it is permissive, but we know perfectly well what has happened and will happen again. Customhouse officers, in exercising a permissive power, cannot single out a particular line of ships, and say - " We do not

require a guarantee to be given in the case of goods placed upon those vessels." As a matter of fact, the printed form of the Customs department of Victoria contains these guarantees, and we have been in the position of being compelled either to give the guarantee or not to ship. We have had no option in the matter. We have felt that this was a most iniquitous thing, and have protested time and again. We are quite prepared to give any amount of guarantee so far as our own goods are concerned, but we do distinctly claim that we should not be made liable for men over whom we have absolutely no control. Directly the goods are placed on board ship, our power over them ceases, and whatever is done subsequent to that we do not know. Let the Government make the master of the ship responsible for what subsequently happens. Under this very Bill the masters of ships are under very serious pains and penalties if they do not discharge goods according to the bills of lading and so on. Therefore, the Customs have a number of safeguards already. I think I am right in saying that the penalty goes so far as the confiscation of the ship in some cases. Surely that ought to be sufficient to secure the Customs. I trust that the committee will adhere to its position, and strike out the words in question, which are unfair to the exporter, compelling him to give security in respect of matters over which he has no more control than the members of this Senate.

Senator PULSFORD (New South Wales). - Senator Pearce has stated that these words are desirable to be retained in view of goods being exported coast-wise. But any goods sent coast-wise to an Australian port represent internal trade not export trade. If they are goods subject to duty, the duty must be paid before they are put on board the vessel; or if they are sent under bond a heavy bond is given, which is all that is necessary. Senator Pearce also made a remark to the effect that there was danger in the case of the smaller vessels. But there is a clause in the Bill which prevents the shipping of goods subject to Customs control on any vessel of less than 50 tons register. Nowadays, with the electric telegraph all over Australia, it is quite impossible for any vessel over 50 tons register to come to any port along the Australian coast without its being known. Such a clause as this might have been all very well in the dark ages, when there were no railways and telegraphs, and goods could be surreptitiously landed, but it is practically impossible nowadays to do that; and it is unnecessary to require a shipper to give a guarantee that certain things will take place when those things occur at the other side of the world. If a shipper duly performs all that is required in connexion with the export of the goods, surety that is sufficient, and there is no need to make him enter into this solemn declaration without any reason and without any ability on his part to see that his declaration is carried out.

Senator GLASSEY

- We are, of course, always glad to hear Senator Sargood, as a man of wide experience in matters of this kind, but I point out that this question received a great deal of consideration in the other Chamber, where I find that there are also a number of merchants. As I have previously remarked also, it should be remembered that the Minister for Trade and Customs has gathered around him men of wide practical experience in these matters, and they feel very strongly upon this point. That being so, I think the committee will be acting wisely in adhering to this proposition, inasmuch as the strength of the argument, in my opinion, lies unquestionably with the course suggested by the other Chamber. The Minister for Trade and Customs has had an opportunity of being advised in connexion with these matters, not from the official stand-point only, but from the unofficial stand-point of merchants and business men, and he is sustained in the position he has taken up on this question. That being so, I think we should adhere to the proposition requiring this guarantee, not for the benefit of the Minister, but for the benefit of the whole Commonwealth.

Senator Sir JOSIAH SYMON

- I think, with Senator Glassey, that we may take it for granted that there are some men in the House of Representatives possessed of business experience. It may also be said that no abler Minister could hold a portfolio, in respect of matters of this description, than the present Minister for Trade and Customs. There can be no doubt either that he has communicated with men of knowledge and experience with a view to making the Bill as effective as possible. But we must also bear in mind that in doing that he has only done what any one else in his position would do; he has done it from the standpoint of the Customs. It has been suggested in the Senate before that if a policeman were drafting a Police Act, depend upon it he would draft it from the point of view of what would best effect the policeman's duty.

Senator O'Connor

- Or the importer from the importer's point of view ; and we have to consider the public.

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Senator Sir JOSIAH SYMON

- I was just going to add that it is for the Senate to find the happy medium for the benefit of the whole Commonwealth, and, not being an importer or a Customs official, I take the view submitted by Senator Sargood. I do so for the reason that, unless there is some overpowering necessity shown for it, it is undesirable to intrust the Minister or the collector, or any Customs official, with too drastic and severe powers. It is true that it is merely permissive, but we are putting it into the power of a Customs authority to exact from a shipper of goods, no matter of what quantity or value, a security that the ship-owner who contracts to carry them shall deliver them at their port of destination. It is against all principle to adopt any legislation to compel a man to give security for the act of some one else. If he voluntarily does it it is another thing, but to make it compulsory upon him is very hard, and, unless it is absolutely clear that it is necessary for the protection of the Customs revenue, this power ought not to be placed in the hands of any man. When the matter was previously before the Senate these words were struck out after consideration, so that, if there was to be security given, it should be by the person who had control of the goods. I should be content to make the penalty as severe as honorable senators like upon the master or owner, to insure that a vessel does not engage in smuggling. But to ask the shipper of the goods to give security is, to my mind, open to the objections so ably put by Senators Macfarlane and Sargood, and it seems to me that the Customs is amply protected by clause 121, to which reference has been made, and by the obligation to produce the shipping document before any goods can be landed, unless they are put on shore in some barren part of the Commonwealth.

Senator PULSFORD

- Senator Glassey wished the Chamber to understand that, speaking generally, there was no desire on the part of the mercantile members of the other House that the clause should be amended in the way the Senate amended it. I have referred to what took place there, and I find that Sir Malcolm McEacharn, who is undoubtedly an authority on such matters, said that a 10-ton boiler which his firm had shipped some time ago, I presume from Melbourne to Western Australia, had gone astray, and was not found until after a lapse of ten months, when it turned up at Kalgoorlie. It was impossible to get any certificate of the landing of that.

Senator O'Connor

- The honorable senator is dealing with the certificate, and not with the guarantee.

Senator PULSFORD

- I do not care whether it is a certificate or a guarantee. I am showing that it is altogether unjust to expect any firm to be absolutely responsible for what may take place on the other side of the world, when we see that such a thing as this has occurred at our own door. The amendment moved by Senator Macfarlane, who has a practical knowledge of these things, and rarely troubles the Chamber with anything that is not necessary, is a desirable amendment, and I hope the committee will adhere to it.

Senator WALKER

- It will perhaps be within the knowledge of Senator O'Connor that every vessel has a manifest, and the captain or owner of a ship is responsible for what becomes of the goods set out in the manifest.

Senator O'Connor

- Responsible to whom ?

Senator WALKER

- Responsible, I take it, to the owners of the goods. But we could have a bond from the captain or owners of the ship if it is insisted upon. Why not make them give a bond ?

Senator O'Connor

- I prefer this bond.

Senator MACFARLANE

(Tasmania).I point out that a ship's manifest contains a statement of everything the ship has on board, and the ship can be forfeited if the master does not produce a proper account of all the cargo that is in it.

Senator O'Connor

- I should like to see that clause.

Senator MACFARLANE

- I find that by clause 119 the master of every ship has to account to the satisfaction of the collector for any goods specified or referred to in the outward manifest, and not on board his ship under a penalty of £50, but I think there is another clause of an even more severe character than that. At all events there are very severe penalties attached to the master and owner of a ship, and they ought to be sufficient.

Senator O'CONNOR

- The provisions the honorable senator has referred to have nothing to do with what we are talking about now. We want a different remedy altogether. We want the person exporting these goods to give a guarantee, if he is required to do so, that the same will be landed at the place for which they are entered.

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Senator Walker

- Is that reasonable ?

Senator O'CONNOR

- It is most eminently reasonable. He must do that or otherwise account for the goods to the satisfaction of the collector. I do not understand Senator Symon when he suggests that this is an unheard-of provision, because in every State but Tasmania this provision already exists. And another reason why the provision should be insisted upon is that if we give up this security, which is insisted upon by all the States except Tasmania, we are giving up what I say is a very valuable power to prevent smuggling in regard to goods that are exported. Goods may be taken away in one of these ships for export under some cloak or pretence - they may be taken to a particular place and brought back again into Australia. This is to prevent anything of the kind being done, and we say we want some safeguard in the matter. Is there anything unreasonable in this safeguard, which will be applied only in cases where the collector thinks fit ?

Senator Sir Frederick Sargood

- It is applied in all cases.

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Senator O'CONNOR

- I do not know. I presume there may be suspicious cases, and there may be a great number of them. What I say is that under the Bill the provision may be applied. What hardship is there in asking the shipper of the goods to give this guarantee when he knows where he is shipping them to? I presume that if the owner of the goods is the shipper of the goods, they are shipped under a bill of lading, and under that bill of lading the captain of the ship is responsible to him that they shall be landed properly. It is perfectly open to the owner of the goods to make a contract with the owners or captain of a ship which will indemnify him. If the goods are not carried in accordance with the contract, and the owner of the goods suffers the forfeiture of his guarantee, he will have a remedy against the person who has contracted to carry the goods. Under such circumstances, what difficulty is there in asking him to enter into this security? On the other hand, so far as the Customs is concerned, if we have not this power the Customs will lose control altogether of these goods when they are exported. It has been said that we might make the captain of the ship enter into the guarantee ; but the captain might never come back again to the Commonwealth. We have got the owner of the goods, and we have got his guarantee ; and in dealing with these things we must deal with some one upon whom we are able to put our hand at any time when we want him. Clause 121 has been referred to, but it deals with a different thing altogether. The comptroller may require a certificate in proof of the landing of the goods according to the export entry. There is to be a security that goods will be landed, or otherwise accounted for, to the satisfaction of the collector. If a wreck occurs or goods are thrown overboard, or through some accident or mistake goods are not landed, that would be a satisfactory accounting for the goods, and it might be that in the process of that accounting the certificate might be required that the goods had been landed, which is provided for in clause 121. That is a different thing altogether from the question we are dealing with under this clause. We are asking for a security which exists already. I do not question that the opposition to it is offered entirely in the public interest, but, still, all the experience of honorable senators who are opposing the proposal is experience of one side of the transaction, and not of the Customs side. As Senator Symon has said, we have to consider what the community has to say to it, and in the interests of the whole community it is most unwise that we should let it go forth to the world that the Commonwealth is going to be more lax in the administration of its customs laws than the several States have been. I ask the

committee to agree to restore the provision.

Senator CLEMONS

(Tasmania).- The "Vice-President in the last few remarks he made has given an excellent reason for insisting upon our amendment. It seems to me that it is now beyond any doubt that if an offence were committed against the clause as it originally stood, the ship would be guilty of smuggling, and would be liable to forfeiture under clause 219. The word " smuggling " is defined to mean the introduction of goods with intent to defraud the revenue. If a ship did bring back goods which had been exported, it would be with intent to defraud the revenue, and she would be forfeited. What greater penalty do we want? It has been regarded as a reason why we should accept the amendment that it is a usual and customary thing in legislation throughout the Commonwealth. In English legislation there is no such provision. On the contrary, it is almost exactly on all fours with the clause as it was amended here. "With all due respect to the transcendent ability which exists in the other House, I think it is fail- to predicate equal ability and equal knowledge of customs matters in the House of Commons.

Senator Lt Col NEILD

- I wish to remind Senator O'Connor that in States where a similar provision exists, it is not used as permissive, but as obligatory in every instance.

Senator Sir Frederick Sargood

- It is so in Victoria.

Senator O'Connor

- Because section 136 of the Victorian Statute makes it obligatory in every case. Here it is made permissive and to be applied only at the discretion of the collector.

Senator Lt Col NEILD

- That does not make it any more agreeable to me. I do not like to leave it to the whim of any officer to say that one exporter shall give a bond and another need not. It is desirable that this whimsicalness of legislation should be avoided. Why should an officer at the port on Johnston "River, in Queensland, be in a position to demand the giving of a bond when his confrere at Cairns lets the goods go without a bond? Any one who has had a knowledge of commercial matters, as I have had, knows perfectly well that these bonds cause a great deal of trouble. The shipper must either attend at the Customhouse to execute the bond or give a power of attorney to a Custom-house agent or a clerk to sign for him. Besides that he has to get somebody to join in giving the bond, and very often he has to go cap in hand to ask a friend to do so. It is an exceedingly troublesome and irksome thing for any man to do. And it is altogether unnecessary, because there is a sufficiency of authority in the Bill in respect of the power to confiscate or seize vessels engaged in smuggling, and any person engaged in smuggling operations is arrested and dealt with as a criminal. Surely the criminal law and the civil law in the matter of confiscation ought to be sufficient without penalizing an exporter by compelling him to trot round and execute a bond or ask a friend to join him in executing a bond over matters which are of no consequence. As it is to be a permissive affair it will be possible for an exporter of £5 worth of dutiable goods in one port to be called upon, to give a bond while an exporter of £50,000 worth in another port is not called upon to do so. It is open to the Customs department to conduct their business in that manner. Let us have one law equally for all, and not a law which shall be used haphazard as the whim of an officer may dictate. In view of the provisions in the Bill, I do not think this additional security is needful.

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Postmaster-General

Senator DRAKE

. - The argument of Senator Neild is exactly in the opposite direction from those which have been used. We have been told that a terrible hardship is to be imposed on the owners of goods, and yet in five States out of six this provision is obligatory. Every owner who exports goods has to comply with this, provision, which, it is said, will inflict such a terrible hardship. So far from this provision being more burdensome to owners than the present laws in five States it is a considerable relaxation, because it gives the collector power only to insist in cases upon security being given. Senator Neild seems to think that that is very objectionable because it might be used in a partial manner. In the case of this Bill, as well as in the case of other laws, we must allow a certain amount of discretion. The honorable senator must be aware that it is not a question of the individual character of a man. There would be certain cases in which it would be

desirable that a bond should be given that the exported goods should not be brought back or should be accounted for to the satisfaction of the collector. Another portion of the clause which has been struck out has been almost entirely ignored in the speeches.

Or otherwise accounted for to the satisfaction of the collector.

Again and again we have been told that this provision would inflict terrible hardship, and that it would be impossible to comply with it because the owner could not possibly say whether the goods would be landed at the port for which they were entered ; but the words I have quoted have been overlooked. Is it a great hardship to an owner when he enters goods for export to undertake to say that they shall be accounted for to the satisfaction of the collector? Supposing that the vessel was wrecked, or that for some reason or other the goods could not get to their destination, would there not be ample means for the shipper to satisfy the collector as to what had become of them ? The part of the clause which is objected to is that the owner shall give security when he enters goods for export, that he will prove where they have gone to the satisfaction of the collector.

Senator Sir Josiah Symon

- No; security that they will be landed by some person over whom he has no control.

Senator DRAKE

- Really there is nothing in the clause more than requiring the owner to give security that the goods shall be accounted for to the satisfaction of the collector.

Senator Sir FREDERICK Sargood

- Why should he ?

Senator DRAKE

- I think it is very desirable that he should. It would only be used in exceptional cases. I do not suppose it would be an ordinary practice, because a man who did it would risk certain other penalties. A great deal of ingenuity is devoted sometimes to evading the Customs Act, and it is not unreasonable that this power should be given to the collector, not to be used at all times, as is the case in five States out of six, but to be used at any time he may think advisable.

Senator PULSFORD

(New South Wales). - It was stated by

Senator O'Connor

that we ought to beware how it went forth that the Commonwealth was going to be more lax in dealing with these matters than the States had been. It is evident to me that he overlooked a very great change which the federation has brought about in the commercial relations between the States. The possibility of illicitly landing goods which have been sent away is very great as between State and State, but it is very little as between Australia and the rest of the world. If the Minister recognised that great fact, I do not think he would contend for these words, which in my opinion are quite unnecessary. I shall give an illustration of the changed position. Within the last three or four hours, the Treasurer told me that the drawback department in Victoria would be practically wiped out by the uniform Tariff, and about 24 officers would be available to be sent to other places to do work where it might be increased. The clanger which has been aimed at in State by State is almost wiped out under federation.

Senator Drake

- Could they not enter for islands outside and bring goods back to another State?

Senator PULSFORD

- The fact that the goods can only be shipped in vessels above 50 tons register, and that it is so easy to trace the movements of a vessel of that class, makes that danger altogether illusory. It is a very common thing for goods to be sold in Australia for cash. Every year I believe millions of pounds are paid through bankers here, by cable-credits, and in other ways, to Australian producers, and the goods when shipped, to a very large extent, belong to persons on the other side of the world. The shippers here are only the agents of the owners on the other side of the world, and to ask us to put the agents in the position of the real owners and to give this security is asking too much. By the interpretation clause the word " collector " has an extended meaning. It does not merely mean the collector, It means any principal officer or any officer doing duty in connexion with the matter. So that there is a wrong done with regard to the owner of goods, and another wrong done by putting a power of this character in the hands very often of an inferior officer. Then, again, I draw attention to the statement made by Senator Clemons to the effect that the

proposal of the Government is altogether at variance with the English customs law.

Senator Clemons

- May I make an explanation? I unwittingly misled the committee. I did not quote the English section correctly. I find there is a provision in it with regard to security which I overlooked. I rise, therefore, to ask Senator Pulsford not to urge that as an argument.

Senator PULSFORD

- If, in the case of the English Act, some wider degree of security is requisite, it is because of circumstances, which, in regard to Australia, are now mostly things of the past. Australia is under the Commonwealth a united country. Goods cannot be sent from Australia unless they are exports ; and if they are exports they are not to be landed in any other part of Australia. The danger which this clause is aimed at is therefore quite illusory. I hope the committee will adhere to its former resolution.

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Senator FRASER

- I find that the clause as it stood in the Bill as originally sent to the Senate from the House of Representatives has been in force for many years in nearly all the States of Australia. It has not created any inconvenience.

Senator Sir Frederick Sargood

- Has it not ?

Senator Lt Col Neild

- It has created great inconvenience.

Senator FRASER

- That has not been proved, at any rate. It is only right and proper that the Collector of Customs should have very large powers for the purpose of enforcing honesty on the part of traders. There is no trouble whatever about the honest man ; the difficulty is with the evader. An honest man rarely finds himself in trouble. As this provision has been in force in five different States for many years past without any apparent inconvenience; as it is only permissive, and not obligatory, so far as the Customs department and the collector are concerned ; and as we are assured that the collector will never enforce it unless there are strong reasons for suspicion, I think it desirable not to insist upon the amendment. Another reason is that we ought not to split straws in regard to amendments. If we can see our way to agree with the House of Representatives, we should do so. Another place has agreed with many of the amendments made by the Senate, and we should meet them as far as possible.

Senator MCGREGOR

- I congratulate Senator Pearce on the clear grip he seems to have of this question, in comparison with the hazy manner in which the commercial authorities - Senators Macfarlane, Sargood, and Pulsford - have been able to put the case before the committee. I shall endeavour to throw some further light upon it. The position is simply this : Goods enter the Commonwealth in bond. Some merchant wants to send them away again without paying the duty. Senator Neild made a few remarks to the effect that we have no right to ask for security from the merchant. I say that the Customs officers have a right to do all they possibly can to protect the revenue and prevent smuggling. Senator Neild knows very well that there are some persons to whom he would willingly lend £5 without any security, whilst there are others to whom one would not lend 5s. on any consideration. Disreputable people are not exclusively confined to other than the commercial classes. There has been sufficient evidence even in Victoria to show that gentlemen connected with the commercial classes, in very high positions, have been willing to take advantage of the Customs. They have wanted to clear goods without paying the duty.

Senator Sir Frederick Sargood

- That has nothing to do with the question.

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Senator MCGREGOR

- Certainly it has. Goods come in in bond and have to be cleared to some other port of the world. If the goods are consumed here, they would have to pay duty. Senator Pearce has pointed out that it is quite possible that they might be landed in some port of the Commonwealth after having been cleared from the Customs in any other port. It is to prevent that kind of thing that this provision is inserted in the Bill, requiring that the person clearing shall be required to give security that the goods are really to be landed

at some other port than a port of the Commonwealth. It is a common thing if one is brought before a court and is a suspected character to be required to give bail before being finally sentenced. This provision simply requires the shipper of the . goods to give bail - nothing more or less. I see nothing wrong in it. If the Customs officers have any suspicion that everything is not fair and above board they should have . the right to take precautions against the defrauding of the revenue. I therefore hope that the committee will agree with the decision of the House of Representatives in this matter.

Question - That the amendment be not insisted on - put. The committee divided -

Ayes18

Noes..... 10

Majority8

Question resolved in the affirmative.

Motion agreed to.

Clause 121 -

If required by the comptroller a certificate in such form; and to be given by such person as may be prescribed, shall be produced in proof of the due landing, according to the export entry of any goods subject to the control of the Customs.

Senator O'CONNOR

- An amendment similar to the amendments made in the clause we have just been dealing with was made by the Senate in this clause. The House of Representatives have disagreed with our amendment. They propose that the clause shall stand as it came \ip to the Senate. It then read as follows : -

If required by the collector, a certificate in such form, and to be given by such person as may be prescribed, shall be produced in proof of the due landing, according to the export entry of any goods, subject to the control of the Customs, and the collector may refuse to allow any other goods subject to the control of the Customs to be exported by any person who fails within a reasonable time to produce such certificate of the lauding of any such goods previously exported by him, or to account for such, goods to the satisfaction of the collector.

The amendment made by the Senate was to strike out all the words after the words " control of the Customs." That is to say, we struck out all the words giving the collector power to refuse to allow other goods, subject to the control of the Customs, to be exported by a person who had failed within a reasonable time to produce a certificate of the landing of such goods to the satisfaction of the collector. The provision was a very usual one in Customs Acts - that where it is found that the owner of goods, who has been exporting them, has been dealing with them in an unsatisfactory way, and has not accounted for them properly, the Customs may refuse to allow him to export goods in the future.

Senator Lt Col Neild

- Once convicted, always a criminal !

Senator O'CONNOR

- The honorable senator does not understand the provision.

Senator Lt Col Neild

- Senator O'Connor is impertinent.

Senator O'CONNOR

- The honorable senator has only got what he deserved for his interruption. This, again, is one of the powers which certainly ought to be preserved. It ought not to be allowed to go forth to the world that the Customs Act of the Commonwealth is any less stringent than other Customs Acts, and that we are opening our doors to fraud and omitting punishments which have been used hitherto by the State authorities. This clause really follows exactly the same principle as the State legislation. The collector in this case is the party to ask for a certificate. In the case of the previous clause there was a guarantee required. Here the clause is only to be applied in particular cases when required by the collector, and it will be a very great protection against fraud. I move -

That the committee do not insist on the amendment omitting all the words after the word "Customs."

Senator Lt Col NEILD

- The Vice-President of the Executive Council has thought it consistent with his dignity, if he possesses any, to tell me that I know nothing about the matter. Let me tell him that I was engaged in the commerce of Sydney before he became an adept in the proceedings of police courts. I do not tell the honorable and

learned senator that he does not understand the profession he practices, and let him extend the same courtesy to me. He does not, however, understand what he is talking about here, for he knows as much about commerce as a cow does about conic sections. A person who pays the penalty for an offence is supposed under the British law to be purged of that offence, and is not required to bear it all the days of his life. This clause is framed upon exactly the opposite idea. I do not think it is a desirable clause, but the Senate has decided by a large majority to go back upon itself in one provision of a somewhat similar type. We might therefore just as well give up this amendment also and let the majority have their way, contenting ourselves with dissenting from an unusual and, in my view, obnoxious provision.

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Senator Sir FREDERICK SARGOOD

- The Minister points out that this clause is somewhat the same as clause 112 which we have just divided upon. There is, however, a very great difference between the two clauses. Clause 112 requires the exporter to do something which it is within his power to do, namely, to give some security ; but this clause requires him to do something which is absolutely beyond his power, namely, to produce a certificate for the landing of the goods. I may mention what actually happened in connexion with this clause under the Victorian Act. Speaking of the New Zealand trade, a large export trade was done with New Zealand by Victoria in the early sixties. We had then to sign a document practically to this effect, and the only way in which that could be carried out was to get our customers at the other end to sign a document to the effect that the goods had been landed. This went on for some months, until the customers in New Zealand absolutely refused to sign any more documents. The Custom-house officers here insisted on it being done, with the result that the whole of the trade went to Sydney, where they had the good sense not to require such an absurd arrangement. The honorable and learned senator has said there would be no difficulty whatever in getting these certificates, but as a matter of fact it is almost absolutely impossible to get them. I think I may safely place my experience in these matters against the statement of the honorable and learned senator. I may further state that after the loss of the trade with New Zealand, although the provision still remained in the Victorian Act, it became absolutely a dead letter. Unfortunately it was not so until we had practically lost the whole of that trade. This will be simply reviving that difficulty so far as the Commonwealth is concerned, and any export trade is liable to be absolutely killed if this provision is put into force. If this power is placed in the hands of the collector, we cannot expect but that he will take care that the power is exercised perfectly, honestly, and with the best intentions, no doubt.

Senator PULSFORD

- We are going from bad to worse, and this clause is but an encouragement to perjury and deceit. I am quite certain that Senator O'Connor would agree with what I say, were his commercial knowledge as great as his legal knowledge undoubtedly is. Any one well informed regarding the commerce of the world must know that if we put this clause into the Bill, it cannot be truthfully complied with. I again draw attention to the growing practice in the trade of the world of purchasing goods for cash, and cabling the remittances. The shipper has very often no interest whatever in the goods . The goods are not shipped by the men who sold them, or by the owner, but by an agent, and to call upon a man who has perhaps merely been a shipping agent to produce this certificate is simply ridiculous. I am quite certain that if the committee agree to this amendment, as they seem likely to do, it will only be because they are in entire ignorance of the course of trade, and the possibilities that lie behind the clause.

Question - That the amendment be not insisted upon - put. The committee divided -

Ayes 19

Noes 10

Majority 9

Question so resolved in the affirmative.

Motion agreed to.

Clause 166 ("Declaration on the debenture").

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Senator O'CONNOR

- An amendment was made by the Senate in this clause, which the House of Representatives refuses to agree to. The clause, as it originally came up to us, read in this way -

A person claiming drawback on any goods shall make a declaration upon the debenture that the goods have been exported and have not been relanded, and are not intended to be relanded, and that such a person at the time of shipping was entitled to drawback. . . .

We amended that by inserting after the word " not " line 3, the words " to his knowledge. The House of Representatives disagrees with that amendment, and the reason they give is this -

Because the State has a right to ask for a positive assurance that the necessary conditions have been performed before paying away money which is only payable when those conditions have been performed. That is to say that the person referred to here and who pays the drawback upon any goods should not have the money returned to him until it is clear that the goods have been actually exported. The person who gets the debenture is entitled to have his drawback before the goods have been actually taken out of the port where he makes his entry in the ordinary way and satisfies the authorities that the goods are re-exported.

Senator Sir Frederick Sargood

- Not as a rule. I do not know that it has ever happened.

Senator Pulsford

- Clause 165 is clear on the point that the drawback debenture cannot be issued until the goods have been exported.

Senator O'CONNOR

- I am pointing out what can happen, and that until goods have been exported the owner has no right to have this drawback paid. The Customhouse authorities are entitled to have the best possible security that the goods have been exported, and therefore we require that a declaration shall be made. There is no objection on the part of the Senate to a declaration being made, but honorable senators have decided that it shall be a declaration, not that the goods have not been, or are not intended to be relanded, but that they have not been landed to the knowledge of the party claiming the drawback. With a qualification of that kind, this declaration is really valueless. The owner of the goods may take very good care when he is making the declaration to know nothing whatever about whether they have been relanded or not, and it is very difficult, indeed, to prove that he does not know anything about it. If the clause remains as the Senate passed it, we shall have to show knowledge on the part of the person making the declaration and claiming the drawback, and to prove knowledge in a case of the sort is the most difficult thing in the world. On the other hand, if a person is bound to make a declaration that as a matter of fact the goods have been exported, have not been relanded. or are not intended to be relanded, that is a matter entirely within his own knowledge.

Senator Millen

- How can lie make such a declaration 1

Senator O'CONNOR

- Because he can ascertain whether the goods have or have not been relanded at the time he makes the declaration, It might be supposed from the arguments used that this was some new invention never heard of before, but it is a provision which is to be found in every Customs Act, and it is looked upon as a necessary safeguard. The clause with the qualification suggested would practically be of no use whatever. In the case of the honest trader there is no hardship upon him, and if a man is not honest, with the amendment adopted by the Senate, there would be no safeguard whatever, because, in order to prove that he made a false declaration, we should have to prove what was in the mind of the person making the declaration at the time, which would be impossible. Under the circumstances, if we are to have any solid benefit from the safeguard provided under the clause at all, these words ought to be omitted. I therefore move -

That the committee do not insist on its amendment inserting after the word "not," line 3, the words "to his knowledge."

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Senator Lt Col NEILD

- The only way I can account for such a speech as we have just heard is that it was made without the customary application to the font of information. How can Senator O'Connor assert that it is positively within the power of a shipper of goods in Melbourne to say that they have not been relanded anywhere between this port and Port Darwin 1 This is a proposal to require a man to swear with absolute blindness

and positive recklessness that goods have not been relanded when he can have no knowledge on the subject. How on earth can he follow a vessel from port to port and ascertain what has become of the goods he shipped ? He can only assume that, with the guarantee of respectability on the part of the ship-owner and the captain, the goods have been dealt with fairly and honestly. His personal knowledge must be a minus quantity. When Senator O'Connor tells us that a shipper is in a position to know whether his goods have been relanded he displays a want of information which is astounding. He knows that in the Equity Court it is customary to accept affidavits, without the name of the informant, in this form - " I have been informed and do verily believe." The practice of the Equity Court will not suit him when it is a question of a few shillings of revenue. It will answer the purpose for the reputation or the financial existence of citizens, but it is not good enough for a Government department with a few shillings at stake, and the Minister absolutely requires reckless swearing. I think he had better apply to the font of information and imbibe before he makes another statement of that kind to the committee.

Senator Sir FREDERICK SARGOOD

- It appears to me that we are going from bad to worse. The last two clauses were bad enough, but this clause simply means that exporters" are called upon to declare a lie.

Senator O'Connor

- Is not the English Act good enough for the honorable senator?

Senator Sir FREDERICK SARGOOD

- I do not care about the English or any other Act. To ask an exporter to positively declare that the goods he shipped have not been re-landed, when he can have no personal knowledge, is a monstrous thing. Practically it requires a shipper to declare a lie. I protest against its enactment. It is an unfair position for the committee to place exporters in. I know that exporters have protested time and again against being placed in that position, and that a number of them have refused to make these declarations.

Senator Major GOULD

- Its a remarkable thing that this is another amendment to which the committee agreed without division. I have taken the trouble to examine the records in reference to this and the two previous ones which we dealt with, and, strange to say, the representatives of the Government were consenting parties to each of them. In one case Senator O'Connor went so far as to say that he did not see any necessity for clause 112, but afterwards, when an objection is raised in the other House, he finds it his duty to fight as hard for our agreement with its action as he did to lead us to take a contrary action. I congratulate the Government on being able to make the Senate jump Jim Crow or come to heel. This question was considered carefully here, and the reasons given by Senator Sargood actuated honorable senators to take the course they did. We simply ask that a man should be allowed to say that certain goods have not been relanded so far as he knows. How can any man swear that that they have not been relanded, if he acts in a strictly conscientious way ? No doubt merchants- will come to look at the declaration as a mere matter of form. They will not know that the goods have been relanded, and, therefore, they will swear that they have not been relanded. This class of legislation introduces the very thing which the Government objected to in a Customs Bill - laxity of honesty and laxity of truth. When the Senate is asked to go back upon an amendment, which it deliberately made with a full knowledge of the circumstances, it ought to be very careful before it turns round and says that its previous decision was wrong. I admit at once that if good arguments can be adduced to show that it made a mistake, it has a reason for turning round, but I submit that no such cause has been shown in regard to this clause or the other clauses. I have heard no reason or argument which would justify me in going back upon a vote which was deliberately given with the concurrence of the representatives of the Government.

Senator O'CONNOR

- There are two ways of looking at the position. In one way we may act so as to delay the passage of the Bill, it may be for the sake of a trivial provision. It is quite open to the committee to take that course. On the other hand we may take the view that we acted on the previous occasion without considering the matter in its true significance or its true importance. We may have made a mistake. Are we to subject this Bill to the process of going backwards and forwards between the Houses simply because we will not acknowledge that after all we did not see the matter in the light in which it ought to have been submitted? Every honorable senator now will deal with the thing not only on its own merits, but also in view of the fact that it is one of few differences remaining between the two Houses. That must be taken

into consideration. I do not wish to put undue weight upon that matter. If any honorable senator finds that he was mistaken, and now sees his way to bring himself into accord with the two Houses, that is a course of action which would not in any way give up the rights of the House or the rights of individuals. It is the most public spirited course which can be taken. If any honorable senator feels strongly and thinks it is a thing over which it is worth while to bring the two Houses into conference, he is perfectly open to take that view. I cannot understand the attitude of Senator Sargood in using such strong language about this measure. He would lead one to suppose that it is being introduced to the mercantile world here for the first time.

Senator Sir Frederick Sargood

- No ; I distinctly said it was not.

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Senator O'CONNOR

- In England in 1873 the customs laws were carefully revised and consolidated, and this section was deliberately left in. Practically it is word word for the same as the provision which the committee is now asked to agree to.

Senator Major Gould

- That was only an Act for the consolidation of existing laws.

Senator O'CONNOR

- It was a Consolidation Act, but it also amended the law where it was necessary. Section 118 says - The person entitled to any drawback on any goods duly exported, or his agent authorized by him for that purpose, shall make and subscribe a declaration upon the debenture that the goods therein mentioned have been actually exported, and have not been re-landed, and are not intended to be re-landed in any port of the United Kingdom.

Senator Pulsford

- Not to his knowledge.

Senator O'CONNOR

- That part was left out. The section I have read is exactly what the House of Representatives wishes to have in this Bill. In section 156 of the Victorian Act there is no limitation as to his knowledge ; but there is a statutory declaration to be made that the goods mentioned have been actually exported, and have not been, and are not intended, to be re-landed in any part of Victoria. And in the law of Western Australia there is exactly the same provision. Under these circumstances, the question arises - Are we to give up a safeguard which other States, and which England, have been insisting upon ? I submit that the clause ought to be left as it is in the original Bill.

Senator Lt.-Col.

NEILD (New South Wales). - Surely the Minister can see that there is a wide distinction between the circumstances of a comparatively few miles of coast line and the great coast line of the Commonwealth. Taking the case of Western Australia, or even the case of Victoria, surely only a few hours are required for a vessel with dutiable goods on board to reach her destination ; but there is a totally different state of affairs existing in the Commonwealth where a vessel will take goods and traverse thousands of miles of coast line, entering various ports

en route,

and possibly taking at least ten days to a fortnight to accomplish her voyage. At intervals during that period, the vessel being in port, goods may be re-landed unintentionally. I shall take the case of wrong goods being put ashore, as witness the case of the boiler in Western Australia, which was quoted. The owner must absolutely swear that the goods have not been re-landed, otherwise he cannot get his drawback. I thought that when we came to constitute a great dependency we were to make some advance, and not necessarily, as

Senator O'Connor

seems to think desirable, go back 30 or 40 years for a musty precedent at the other end of the world. It is one of those cases where it is desirable, in the interests of truth, that the owner of goods should not be compelled to swear to a thing which he does not know anything of. To compel persons to make these extravagantly positive statements, not knowing whether they are facts or not, is calculated to weaken a man's respect for the declarations which he is required to make under the provisions of the Bill. If you

make a man reckless, you absolutely invite him to propagate falsehoods. I do not think the House of Representatives, over this point, would take the course which Senator O'Connor

suggests. Surely there would not be a conflict between the two Houses over three words which are in the manifest interest of veracity. I do not think, if it came to a conference, there is any reason why we should shrink from maintaining that which we believe to be honorable and right. I do not know that a conference would have any bad effect. There will be a conference between the two Houses some day, and perhaps if we had a conference or two it would tend to a better understanding between us, if that were possible, than exists. For these reasons I urge that the motion be not agreed to.

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Senator PULSFORD

- I think it was very unfair for Senator O'Connor to ask the committee to pass this clause in order to avoid any conflict with the other House. If he had made this appeal to us in the earlier part of the the sitting - if he had indicated that there were dangers when we commenced to consider the amendments, there might, perhaps, have been some reason in doing so. But after we have, without any effort to block him, agreed to nine amendments of the other House, and only called for a division in support of the last two of our own amendments, he was not fair in endeavouring to lead us to follow him with regard to the other few amendments. If, as we have done hitherto, we pass the majority of the amendments desired by the House of Representatives, I do not think for one moment that any difficulty will arise with that House in consequence of our expressing a desire to retain two or three of the amendments which we have made. If any difficulty were to arise, surely it would reflect great discredit on the other House. This committee, in dealing with the amendments, has shown every desire to do what is right and to deal fairly with the House of Representatives, and I am inclined to resent the suggestion conveyed in the remark of the honorable and learned senator.

Senator O'Connor

- I expressly said that it was not to have more than its due weight.

Senator PULSFORD

- Due weight would have been attained if the remark had never been made. With regard to the desire to excise these words, I once for all express my deep regret that the amendments which we made in the Bill, and which decidedly elevated the whole tone and character of it, and were a credit to the new Commonwealth, have now, on the appeal made by the other House, been rejected 1 It is not at all to our credit that that has been done. I do not think that in the future we shall look back on the work of this afternoon with any gratification.

Senator HIGGS

- I hope the Government will not adopt the views put forward by honorable senators who support the amendment made by the Senate. Those views are not in the direction of improving the Bill at all. I have it on very good authority that all this obstruction this afternoon--

Senator Millen

- I would draw your attention, Mr. Chairman, to the use of the word obstruction by Senator Higgs, and ask whether it is in order ?

The CHAIRMAN

- To accuse any honorable senator of obstruction is not in order.

Senator HIGGS

- I beg to withdraw the word and will substitute " agitation " for it. All this agitation on the part of Senator Neild and Senator Gould is in the interest of certain free-traders of New South Wales who have large cargoes of goods-

Senator Major Gould

- I ask whether it is in order for any honorable senator to say that any other honorable senator is actuated by considerations of what will do for the benefit of persons in New South Wales in reference to this Bill ? I may at the same time state that the honorable senator is absolutely incorrect in his statement so far as I am concerned.

Senator Lt Col Neild

- I wish to say, so far as concerns any remark of that kind which may have reached the ears of Senator

Higgs, that it is simply a falsehood.

Senator HIGGS

- I had it from Senator McGregor, but I beg to withdraw the statement. I would urge that honorable senators should refrain from delaying the passage of this Bill as much as possible. We should endeavour to maintain friendly relations with the other Chamber, especially as we have not yet agreed upon the standing orders which would govern conferences between the two Houses. If the amendment were insisted upon it might bring about a quarrel and " eftsoons a nocent political water-spout might rise," and sweep some of us into political oblivion.

Senator Sir JOSIAH SYMON

- I think my honorable friend is predicting his own doom in speaking as he has done of political oblivion following upon our decisions. Such speeches are naturally offensive to those speakers who have been proceeding with the work of the Senate.

Senator Glassey

- Do not be too thinskinnd.

Senator Sir JOSIAH SYMON

- I am not thin-skinned at all, but I think that remarks of that sort are very much to be deprecated when we are considering amendments of this character. It is our duty to consider them, not from the point of view of either promoting unfriendly relations with the other House, or of altogether putting aside the possibility of such disagreement, but from the desire - as has been recognised by the representatives of the Government in this Chamber - to do our duty to the public. We ought to insist upon them unless we are convinced to the contrary. I do not think I was in the chamber when this particular amendment was dealt with, but I believe that considerable debate arose upon it.

Senator Drake

- There was practically no debate upon this clause.

Senator Sir JOSIAH SYMON

- Speaking to the amendment made by the Senate, I say that honorable senators are not doing themselves justice if they urge that we should yield at discretion to a suggestion from another branch of the Legislature that we should swallow our own amendment.

Senator O'Connor

- No one says that. '

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Senator Sir JOSIAH SYMON

-Of course my honorable and learned friend said the very contrary, as well as it could be put, in regard to the earlier amendments. He said that we were to do our best in the interests not of one side or the other but of the Commonwealth as a whole.

Senator Major Gould

- But he talked of raising difficulties in regard to the matter.

Senator O'Connor

- I said that in answer to a statement by Senator Gould.

Senator Sir JOSIAH SYMON

- I am sure that none of us desires to raise more difficulties than we can help.

Senator Sir John Downer

- I expect we shall have enough of them without anticipating them too much.

Senator Sir JOSIAH SYMON

- We are not anticipating them at all, but we have to see that the amendments which have been sent up to us by the other Chamber meet with the approval of our own judgment and intelligence. My honorable friends representing the Government have done their best to convince us, and in regard to the earlier amendments which we have adopted have succeeded. We are now considering what is the wisest course to take in reference to the clause before the committee. Here we undoubtedly have the precedent of the English Customs Act. That is an old precedent to go by, but we are not to swallow it if we find that it is inconsistent with what we think is right for the Commonwealth. It appears to me that we ought not to compel a man to make a declaration of something which is not within his personal knowledge. To do so is, to my mind, shocking. The declaration the exporter is asked to make here is that the goods have not

been re-landed. What objection can there be to an amendment to the effect that they have not been re-landed to his knowledge ? Senator Sargood takes a very strong view of the matter, and if we insist upon the amendment, I do not suppose that there will be any conflict with the other branch of the Legislature at all. At any rate, it is necessary that we should discuss it fairly, and that, I believe, has been done until recently without any unnecessary feeling. Nothing, at any rate, could be better than the attitude of the Vice-President of the Executive Council in regard to this amendment. I am satisfied on that point.

Senator Sir JOHN DOWNER

- There has been a most excellent feeling with regard to the discussion on this Bill, and now I believe that there is more of a misunderstanding than a difference in feeling in regard to it. For my own part, when I see a long series of Acts passed by our own people and the people at home in a certain direction, I generally expect that, although on the face of them they may seem a little hard, there has been some reason for the stringency of their provisions. In regard to this particular matter, recognising that the provisions of the Customs Act are liable to invasion and evasion, I hesitate to say that the line which has previously been adopted is altogether wrong, and that we are compelling merchants to make declarations which it is absolutely incompetent for them to make. I have come to the conclusion that the proposal of the Government is absolutely necessary. A person who applies for drawback is asking for money to be returned to him because of certain things. The authorities to whom he applies say - " You must give us evidence that you are entitled to the money." It is said on the other hand - " We will give you the best evidence we can." Suppose the Government say - " You shall not give us your own declaration, but the declaration of the captain of the ship on which your goods are taken," why should they not do so ? For the merchant to reply - " I am an honest man, and am not going to make an affidavit about a matter which I do not know, and you have to take the best evidence I can give you " is, I say, rubbish. If the merchant makes a declaration, what does it come to ? He declares that the goods have not been landed at this place or the other. How does he know ? He may not know. But every affidavit or declaration is subject to the knowledge of the deponent. If the deponent wants to get out of it, he has to explain how it came about that he made the declaration. If he says that it is true to the best of his knowledge, then the onus of explaining would fall upon the Customs, and not upon the deponent. That is no doubt the reason why this provision has been adopted throughout Customs legislation, and the onus has been upon the deponent, the affidavit being only a declaration of belief, which the person making it has to verify. I think highly of the intelligence of the various fiscal authorities throughout the British dominions in the past, and I do not think it is expedient to depart from what has hitherto been enacted in this particular.

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Senator McGREGOR

- I wish to put my view of the case before the debate closes. I am glad to see so many honorable senators standing up in the cause of honesty and all that sort of thing. It is very refreshing. But I should like them to take the true position of affairs into account. What happens under the clause is that goods are imported, and duty is paid upon them. When they are to be re-exported the exporter wants the duty back again. The Customs have to repay what they have received in respect of the goods. Then the individual who is responsible is asked to sign a declaration. I entirely agree with what Senator Downer has said with respect to that declaration. The importer has to declare that the goods are not intended to be re-imported, but that they are to be exported to some port outside the Commonwealth. I want to show honorable senators that importers can make the declaration and be absolutely telling the truth. Take the case of Senator Sargood, for instance. Suppose he has paid duty upon a quantity of goods and intends to re-export them on board ship at Port Melbourne or Williamstown. They are put on board the ship. He knows that they are in the hold of that ship. He signs a declaration that those goods have not been re-imported into the Commonwealth, and are not intended to be re-imported, but that they are to be exported. He knows every word of that to be true. There is nothing false in the declaration. The ship goes away, and if at some time or another the goods are afterwards landed within the Commonwealth, his declaration was no less true at the time he made it. The declaration that the goods are not to be re-imported is to prevent the Customs department being defrauded by those sending away goods if they afterwards re-import the goods into the Commonwealth. If they only make a declaration to the effect that " with their knowledge " the goods were not re-imported, there would be a loop-hole by means of which the Act could be defeated. The thing is as plain as possible. A man has no right to get money back until he

can assure the Customs authorities that the goods are cleared. Suppose Senator Neild contracted with any person to deliver to him goods in Sydney, and that person afterwards came to him for payment. I have not the least doubt that before Senator Neild paid the money he would require a receipt to be given to him to assure him that the goods had been delivered. The declaration made in this case is of the same character. There is nothing impossible about the signing of this declaration, nor is there any intention to in any way palter with the truth. Senator Higgs made a statement with respect to the action of some honorable senators. I say that that statement was untrue.

Senator Higgs

- Is Senator McGregor entitled to say that a statement is untrue ?

The CHAIRMAN

- That is .not a proper expression to use.

Senator McGREGOR

- I do not intend to withdraw it.

The CHAIRMAN

- If the honorable senator made use of words of the character complained of he is not in order, and is obliged to withdraw them, or they will have to be taken down.

Senator McGREGOR

- Then I shall move that the committee dissent from the Chairman's ruling.

Senator O'CONNOR

- I think there has been a misunderstanding about the matter. Senator McGregor, as I understand, referred to a statement made by Senator Higgs. I do not understand that he meant that what Senator Higgs said was untrue, but that the statement itself was untrue. Surely we are not anxious to make trouble over a thing of this sort if there is merely a misunderstanding about it. I merely want to ask the Chairman to give Senator McGregor an opportunity of explaining, which I think he was about to do, what he really meant with regard to the statement of Senator Higgs. I am sure he had no intention of reflecting upon Senator Higgs at all.

The CHAIRMAN

- I understood Senator McGregor to say that Senator Higgs had stated something that was untrue.

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Senator McGREGOR

- You misunderstood me, sir. I want to point out that I have the right, according to Peel's decisions, to say that a statement made by any honorable senator was not true. I did not say that the honorable senator was wilfully or deliberately stating an untruth, nor had I any intention of doing so. I wanted to further explain that a great deal of this was with intention, because we considered that a great deal of time had been wasted, and Senator Higgs, realizing that, made a statement for the purpose of showing the ridiculousness of the position. The honorable senator asked me if he might use my name, and I told him he might use my name for anything. Honorable senators can now understand the position, and I hope they will not be so touchy.

Senator Major GOULD

(New South Wales. - The explanation has partly mixed up

Senator Neild

with myself. If I understand it correctly,

Senator Higgs

made the statement that

Senator Neild

and myself were acting in the interests of some big firms in Sydney, and when that was questioned he said that

Senator McGregor

had told him so. It would appear that

Senator Higgs

was not speaking on his own responsibility, but upon that of

Senator McGregor. Senator McGregor's

explanation is that a man may say anything in his name, and he will afterwards explain it away. With

regard to some remarks of

Senator O'Connor,

the honorable and learned senator must have misunderstood what I said in the first instance. I pointed out that we should not as a Senate immediately turn round and swallow our deliberately expressed opinions unless good reason be shown why we should do so. The fact that another place disagrees with our amendment is not, in my opinion, any good reason why we should abandon the amendment. If our amendments are of such a character that we feel impelled to stand by them, the House of Representatives will probably be prepared to give our position fair consideration, and may fall in with what we wish to see carried out. When the honorable senator says it would be ridiculous to bring about trouble or delay in connexion with this Bill for the sake of two or three unimportant words, I cordially agree with him ; but directly we come to deal with a matter of real importance we ought not to give up our deliberate convictions simply because to stand by them may cause some delay in the passage of a measure. Were we to legislate in that way the usefulness of the Senate would be gone, and the talk about the Senate being strong and determined would be only so much moonshine.

Senator MILLEN

(New South Wales.) I am inclined to think that whether the words are inserted or left out will make very little difference in practice.

Senator Downer

has shown that practically the power will be there whether we put the words in or not. He told us that every declaration would be assumed to have been made to the best knowledge and belief of the deponent. If that is so, why not put the words in? If

Senator Downer's

statement is correct, as I think it is, what becomes of the assertion of

Senator O'Connor

that unless the words are left out the door will be left open for fraud? Supposing any one made the declaration required under this Bill, and it was afterwards found that the goods had been landed again, is there any jury in Australia that would find that man guilty of perjury, unless it could be proved that he had a knowledge?

Senator Downer's

statement was that a man claiming drawback should offer evidence that the goods had not been relanded, or that it was not intended to re-land them ; but I ask

Senator Downer,

as a lawyer, whether he would accept as evidence a statement from me or from any one else about a matter upon which we could not possibly know anything. If I attempted to speak with respect to goods the possession of which had passed beyond my control,

Senator Downer

would say at once that that was not evidence.

Senator Fraser

- The honorable . and learned senator could speak as to the bill of lading over which he would have control.

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Senator MILLEN

- It might be that a man would be claiming drawback in respect of goods he had sold and which were beyond his control. He could make a declaration that the goods had been exported, and that so far as he was concerned there was no intention of relanding them, but he could make no declaration as to the course which might be followed by the man who then owned them. Under this clause this declaration will come to be regarded as a mere matter of form. We know what has happened in New South Wales with regard to similar declarations connected with the land laws of that State. I can appeal to Senator Fraser to say whether, under those land laws, a special morality has not been developed because of the extraordinary declarations required. The result has been that persons make those declarations just as a matter of form, and in a way in which they would never dream of making declarations with regard to any other matter. So it will be here under this clause, and an ordinary merchant, whose word upon anything else would be taken without the slightest hesitation, will accept this as a formal matter, and the

declaration will have no real weight. People will be forced to make declarations with respect to matters which cannot be within their knowledge, and that will have the result of weakening the effect of the many other declarations required to be made under this Bill.

Senator PULSFORD

(New South Wales). - In support of this matter the English practice has been quoted by Ministers, and I desire to point out that this clause in the English Act is substantially obsolete, because the English Tariff, as we all know, is practically confined to intoxicants and narcotics, and under the Act they are excluded from drawback. Under clause 161 of this Bill drawback will not be allowed upon spirits, wine, beer, tobacco, cigars, cigarettes, or opium. The English Tariff is practically confined to those articles, and as there is no drawback on them the clause which has been relied upon in the English Act is practically obsolete.

Motion (by Senator Walker) agreed to -

That the committee do now divide.

Question - That the amendment be not insisted on - put. The committee divided -

Ayes 18

Noes..... 9

Majority 9

Question so resolved in the affirmative.

Motion agreed to.

Clause 168 -

All ships trading or plying or going from one port or place in Australia to another port or place therein and not trading plying or going to any other port or place beyond Australia shall be considered as engaged in the coasting trade, and such ships shall be deemed to be coasting ships for the purposes of any Customs Act.

Senator O'CONNOR

- With a view to make the clause clearer we inserted the words "beyond Australia," but on consideration it is quite apparent that the amendment, which was made rather hastily, only confuses. It is not necessary because the word " therein " means beyond Australia. I move -

That the committee do not insist on the amendment inserting the words "beyond Australia. "

Senator PULSFORD

- The words which were inserted at my suggestion seemed to me to be necessary. Even now they appear to me to make the clause clearer, but I am quite willing to accept the assurance of Senator O'Connor that they are not necessary.

Motion agreed to.

Clause 220-

The following goods shall be forfeited to His Majesty : -

All goods in respect of which any entry, invoice, declaration, answer, statement or representation which is false or wilfully misleading in any particular has been delivered, made or produced..

Senator O'CONNOR

- In paragraph (i) we inserted the word " wilfully " before the word " misleading," but the House of Representatives refused to accept our amendment for these reasons -

Because so long as the statement is misleading the injury to the revenue and to more careful traders is the same whatever the intention ; further, where necessary any forfeiture can be waived, but to make the right of forfeiture for misleading entries depend on proof of intention would in many cases defeat the course of justice.

On the principle we have decided already in regard to two or three amendments, I put it to the committee that the retention of the word is not necessary. If we do not insist on our amendment, the clause will really do no injustice, and at the same time it will protect the revenue. I move -

That the committee do not insist on the amendment, inserting the word "wilfully" in paragraph (i)

Senator Major GOULD

- It is almost a pity that we should make up our minds to abandon this amendment, because after all it must be a wilful commission of an offence before a person can be liable to the penalty prescribed by the clause. Is it not really a correct expression to use ? A man may unwittingly make a statement, which is

misleading in some particular. I put it to Senator O'Connor whether it is not fair that we should retain the word?

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Senator Lt Col NEILD

- It has often been said that this is a strong Senate. I think there is a risk of the Chamber earning the title of "a strong Senate of weak senators," because it seems to me it would be almost impossible for a Chamber, which spent weeks in deliberating, and in arriving at certain conclusions, to display more abject obedience to dictation from another place to go back on itself, and show that those weeks were misspent, and that it went astray.

Senator Drake

- How many weeks did we spend over this amendment?

Senator Lt Col NEILD

- It is astonishing how, when I want to make a very small fire, the Postmaster-General supplies me with enough fuel for a big conflagration. Why do we pass amendments if the instant we are told that somebody somewhere else disagrees with them, we are in abject haste to fall in with the swish of the cane and obediently come to heel? That seems to me about the position the Senate is placing itself in, and the House of Representatives will be perfectly entitled to consider that the Senate does not intend to stand by any amendment which is subsequently disagreed with, because, so far, those who have sought to maintain the position which it had taken up have been beaten by two votes to one. If that is the good will of the Senate, I necessarily bow to it, and I only regret that there is not a little more backbone in a House which started its career with so great a flourish of trumpets, putting forth in such ornate and strong phraseology its splendid strength, which now appears to me "to be made perfect in weakness."

Senator McGREGOR

- I am rather amused at the arguments of Senator Neild, because they amount to this, that we must not agree with another place, no matter how sensible it may be, lest somebody should think that we are vacillating and weak. He suggests that we must never have the moral courage or the strength to admit that we may have been mistaken, and on further consideration to honestly reverse our opinion. I take it that the arguments which have been used for the retention of this word are altogether weak. A man who commits an offence against the law is not excused because he acted in ignorance or unintentionally. He has committed an offence and must take the consequences. Offences against the customs law are dealt with by the department very reasonably. There is a very elastic method of inflicting punishment, because generally the fine provided for is a maximum, and if it can be proved that a person has unwittingly violated the law, certainly he will not be dealt with so severely as he would if it were proved that he acted wilfully. If we look at the thing in a sensible light, it will be recognised that it is far more to our credit to reverse our decision if we have come to the conclusion that men must be careful in transacting their business, that they must not be allowed to act in a haphazard manner and make as many mistakes as possible, and thus give an opportunity to those who are actually dishonest, under the guise of doing things unwittingly, to escape the consequences of their own acts. I think honorable senators will act wisely if they do not insist upon the amendment.

Senator Sir FREDERICK SARGOOD

- Senator McGregor rightly tells us that there should be every assistance given to the Customs to protect the revenue, and he goes on to say that the punishment for an offence is elastic. Well, there is not much elasticity in this clause, because it provides that goods shall be forfeited to His Majesty.

Senator O'Connor

- And there is a right to remit the forfeiture, and the honorable senator knows that that is constantly done.

Senator Sir FREDERICK SARGOOD

- I have unfortunately known cases to happen where the delay was so great that the season had completely passed, and the goods were practically useless.

Senator O'Connor

- That should make people all the more careful not to make misleading statements.

Senator Sir FREDERICK SARGOOD

- This clause says first of all that the goods shall be forfeited in the event of any entry, invoice, declaration, answer, statement, or representation being false. I entirely agree that an offence of that sort

should be punished, but when it goes on to use the words "misleading in any particular," it is too sweeping. It is not at all infrequent in some trades for the invoices to come without importers knowing what the goods are. We have a general idea, but until they are opened we do not know what they are.

Senator O'Connor

- Under those circumstances, it is the importer's duty to show what the invoice really is, and if he does not understand it to say so.

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Senator Sir FREDERICK SARGOOD

- It appears to me that it would be well to qualify the use of the word " wilfully " by these words which Senator Downer has kindly suggested to me -

The accuracy of which shall be thrown upon the party making the declaration.

Hedge it about as much as you like, but do not confiscate the whole of the goods simply because there has been an unintentionally misleading statement made. I realize the very serious results which may follow from passing the provision exactly as it stands.

Senator Sir JOHN DOWNER

- I thoroughly agree that all revenue laws have to be Draconic to a certain extent, because there is a different morality about dealing with the Customs from that which exists about taking money out of a man's pocket. At the same time we are all human beings, and we must be subject to occasional mistakes, even although we are dealing with the Customs. What occurred to me when I was speaking to Senator Sargood just now was that if before the words " wilfully misleading " - I prefer the word " unintentionally " to the word "misleading," but no alteration can now be made - we inserted the words " the proof of absence of intention to be on the person accused" it would meet justice, and I should think would satisfy even the Draconic system of the Customs.

Senator Sir Josiah Symon

- Does the honorable senator move an amendment?

Senator Sir JOHN DOWNER

- I move-

That the question be amended by the omission of the word "not," with a view to adding the words "subject to the following modification - the proof of absence of such wilfulness to rest upon the accused. ' "

If it be misleading in fact, the person accused will have to prove that he did not mean to do it. The Customs cannot possibly give that proof. It is only by making a law of this description that they can administer the department. My view is that it is very unfair, simply because an invoice is misleading, to put in the position of a criminal a person who may be absolutely innocent. It has to be an intentional act, but the exculpation will rest on the person accused, who is the only one who really can prove that it was not done intentionally.

Senator HIGGS

- I sincerely hope that the Vice-President of the Executive Council will stick to his ground upon this point. Up to the present we have not found it necessary to disagree with the other place, and it would be a pity to raise further trouble, and take up time by making amendments which would only delay matters.

Senator Millen

- We might as well abolish the Senate.

Senator HIGGS

- If we are strong we should be reasonable. Those honorable senators who say that we might as well abolish the Senate should remember that a good deal of the discussion that has taken place during the last four or five months has come from one particular side of the Chamber.

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Senator O'CONNOR

- I cannot accept the amendment moved by Senator Downer for several reasons. One of them is, I think, perfectly obvious. The honorable and learned senator's amendment speaks about the proof being upon the owner of the goods of showing that the wilfulness was not intentional. We are not dealing with a criminal charge, nor even a charge made in court, to which that amendment would be applicable. In the clause as it stands, the mere fact of a statement being false or misleading has the effect of forfeiting the goods. But if we say that the fact of a statement being false forfeits the goods, and that the effect of a

statement being misleading does not forfeit the goods until the owner has had an opportunity of showing that his misleading statement was not intentional, we introduce a new element altogether, and it will be impossible to work it under this clause at all. That is the first objection; that is to say that in a clause which makes the goods not forfeitable by any judicial decision, but forfeitable by the mere fact of the owner making some misleading statement, it is not applicable to say that that effect shall only follow when the owner has had an opportunity of showing that he did not intend to mislead. It is utterly impossible to apply the amendment to a clause of this sort. Senator Downer probably had in his mind some forfeiture that had to be ordered by a court, and that was, perhaps, the reason why he said he did not think a man should be made a criminal unless he had an intention to mislead. But this clause is not intended to punish moral guilt at all. A man may commit the customs faults set out in this clause with the most innocent mind in the world. He may have absolutely no intention to defraud. He may be morally as white as snow. All the same he may have broken laws which have been made, not only for the purpose of punishing moral guilt, but for making people careful in dealing with the Customs. It is only in that way that the Customs can be conducted with a due regard to the protection of the revenue. There are things in clause 220 which may be done by the most innocent person. For instance, it is provided that all goods imported in any ship in which goods are prohibited to be imported may be forfeited. One can easily imagine cases in which a perfectly innocent person might put his goods on board a ship in which goods are prohibited from being imported. He may not know that the ship is a prohibited vessel, but his goods may be forfeited. Again, it is provided that goods found on any ship after arrival in any port, which goods are not referred to in the inward manifest, may be forfeited. The owner may have been absolutely innocent, and yet the goods may be forfeited.

Senator Macfarlane

- Monstrous !

Senator O'CONNOR

- The honorable senator must see that many of these provisions are necessarily inserted for the protection of the revenue. I have mentioned these matters to show that those honorable senators who speak of an intention to mislead, and introduce the moral element, are speaking beside the question. We are not dealing with what is in a man's mind at all. I hope the committee will take the view that it is in the interests of the honest trader and of the revenue to leave the clause as it came to the Senate originally.

Senator Major GOULD

(New South Wales). - I agree with many of the remarks of

Senator O'Connor

as to the undesirability of inserting such an amendment as that moved by

Senator Downer.

This is not a case of a man being brought before a court for the purpose of obtaining an order for the forfeiture of his goods. It is merely a case of a particular section of an Act of Parliament being offended against by an individual. When this matter was previously before the Senate I find that the amendment was made in the clause without very much debate.

Senator Clemons

drew attention to the wording of the clause, and then

Senator O'Connor

is reported in

Hansard

as saying -

As to the false declaration in the paragraph, I do not think it matters whether we insert the word "wilfully" or not so far as the protection of the revenue is concerned.

I know that when an honorable senator is in charge of a Bill, and a certain conclusion is arrived at by the other House, with the concurrence of the Government, and the measure comes back to this Chamber, it is only right that the honorable senator should stand true to his colleagues in his endeavour to maintain the decision. But is it not reasonable to say that before goods are forfeited the declaration made must be false? If a false declaration is made there is an end of it. But the word "misleading" is different altogether. An act of inadvertence may arise, and a man may put in a statement which is misleading. That may involve the forfeiture of the goods, and render it necessary for the man to wait until he can see the

Minister to get the forfeited goods returned to him.

Senator O'CONNOR

- It will make him careful about the statements he makes.

Senator Major GOULD

- It will make him careful, but the point is that a considerable amount of injury may be done to him by the taking away of his goods. I think it would be very much better for the committee to adhere to the amendment made by the Senate, because it is only reasonable to give a fair amount of consideration where a man may not wilfully make a misleading statement.

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Senator Sir JOSIAH SYMON

- I hope the committee will not adopt Senator Downer's amendment. To begin with, apparently no honorable senator is in charge of the proposal, and Senator Downer is not in the chamber. It is of no use debating it if it is a kind of orphan.

Senator HIGGS

(Queensland). - I should like to explain that

Senator Downer

had business in another part of the building, and that he requested me to pair with him in case his amendment went to a division. It is due to him that I should explain his absence.

Amendment negatived.

Senator Sir JOSIAH

SYMON (South Australia). - I shall vote in favour of insisting on the amendment made by the Senate. The amendment is for the insertion of the word " wilfully " before the word " misleading." There is a wide distinction between false and misleading. " False " expresses an element of guilt in the mind, but "misleading" may be applied to something of a most innocent character. The word "false " is a very strong one, but the word "misleading" is a mild term, and, as a rule, expresses innocence. It seems to me that we should do well to retain the word " wilfully," as intimating the absence of guilt in the misleading point contained in the invoice or answer. The word " false " only qualifies the word " misleading," and embodies in it that element of guiltiness which surely should be essential to warrant the forfeiture of the goods.

Senator MCGREGOR

(South Australia). -I wish to point out to

Senator Symon

that " wilfully misleading " is just equivalent to false. If we put the word " wilfully" before the word "misleading," we are simply inserting in the clause a repetition of two terms which mean exactly the same. I do not believe that any one will suppose there is any difference between a wilfully misleading statement and a false statement. One is the same as the other. I shall vote for

Senator O'Connor's

proposal, with a view to giving as little trouble as possible to the Customs. Look also at the delay which will be caused. Every one is wanting to have the Tariff announced, and for the purpose of inserting something which is really there already, we are going to delay the passage of this Bill for nearly a week. I hope honorable senators will vote for the motion.

Senator CHARLESTON

- I have been assisting the Government all the afternoon' to get this Bill through, but I am afraid I cannot assist them in this matter. There is a very strong case for the forfeiture of goods, where a person has prepared an invoice or made a declaration which is false. Where an invoice is wilfully misleading, and there appears to be a clear attempt to deceive the Customs authorities and evade the duties, the person guilty should be treated in the same way as one who makes an absolutely false declaration. But where a man just makes an unintentional mistake, to forfeit his goods is going a great deal beyond what I think the justice of the case requires. I cannot, therefore, support the Vice-President of the Executive Council in the motion he has submitted with respect to this amendment.

Senator PEARCE

- I also am afraid that I cannot support the Government in this particular instance. When we were discussing this clause before, Senator Sargood related an instance in which a clerk, who had been making out an invoice, in carrying over a total from one page to another made a mistake in the figures.

The total amount of the invoice then became misleading, but it was not wilfully made misleading. I think that Senator Sargood said that in that case the clerk was dismissed.

Senator Lt Col Neild

- And that the Collector of Customs demanded his dismissal.

Senator PEARCE

- I hesitate to confer such a power on the Minister for Trade and Customs, especially when we have in the clause already a provision that for a false statement or declaration goods may be forfeited. I am not at all swayed by the fact that we are going to delay the announcement of the Tariff. I think we should put principles of justice before the delay of any measure. All that is necessary in the clause is covered by the word "false." Eoi* the reasons I have given, I shall support the committee in insisting on this amendment.

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Senator O'CONNOR

- The illustration the honorable senator has just given shows what a dangerous thing it would be to allow the word " wilfully " to remain before the word " misleading." In the case mentioned there was probably no intention to deceive, and I presume that in such a case forfeiture of the goods would not be insisted on. That would depend altogether on circumstances. But let honorable senators put it the other way. Suppose there was an intention to deceive, what would be easier than for the importer to say - "Unfortunately, we employed a clerk who made this mistake " ; or, " one of our partners in dealing with this matter unfortunately made a mistake. It has misled the Customs, and we are very sorry for it." How on earth could we disprove a statement of that kind? We want to guard against any misleading statements which put the Customs authorities off their guard, and take away from them one of the safeguards they ought to have, because they should be entitled to rely upon the truth and accuracy of all the statements and declarations that we require shall be made. The person who makes the statement knows all about the goods, and he has it in his power to be perfectly accurate. It is easy enough for him to make the statement in such a way as not to mislead the Customs. The customs laws should be of such a character as to encourage persons to be careful. As I have said, we have nothing to do with the question of whether it is morally right or wrong, intentional or unintentional, in regard to a number of these instances in which forfeiture takes place. It does not matter whether the mistake is intentional or not, or whether there is a desire to deceive or not, if a person does certain things which break the Customs rule, his goods should be liable to forfeiture. There should be no room for doubt about a matter of this kind, under which we might leave ourselves in the hands of any designing persons who might invent excuses to avoid the forfeiture of his goods. It must be remembered that this particular clause will probably be very much used in a number of cases where ad valorem duties are under consideration.

Senator Walker

- Then we are going to have ad valorem duties ?

Senator O'CONNOR

- The honorable senator must ask somebody else. It is obvious that in any cases such as I have put, a great deal may depend on this clause, and in regard to any question of ad valorem duties we are very largely in the hands of the persons who own the goods. It should, therefore, be insisted on, not only that persons shall not do anything wilfully wrong, but that they shall be so careful in their statements that the Customs authorities shall not in fact be misled, whether there is an intention to mislead or not.

Question - That the amendment be not insisted on - put. The committee divided -

Ayes 13

Noes 13

Question so resolved in the negative.

Clause 224 -

No person shall smuggle or unlawfully import, export, convey or have in his possession any goods subject to the control of the Customs, and no master of a ship or boat shall use or suffer his ship or boat to be used in smuggling or in the unlawful importation, exportation, or conveyance of any goods.

Penalty: £100.

Senator O'CONNOR

- This clause as it came up to us was as it stands now, with the exception of the words " subject to the control of the Customs," which we inserted as an amendment. That amendment has been disagreed to by

the House of Representatives and the reason they give is -

Because the result of the amendment would be to unnecessarily limit the effect of the clause.

The clause says that no person shall smuggle or unlawfully import or export goods, and if we stop there it is quite clear that so far as those words are concerned we do not want the expression "subject to the control of the Customs." The clause further provides that no person shall convey or have in his possession any goods, and if we leave in the words "subject to the control of the Customs " it will not be an offence under the clause to unlawfully import, export, convey, or have in possession any goods unless they are " subject to the control of the Customs."

Senator Major Gould

- Was there not a new clause inserted earlier in the Bill to clear that all up?

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Senator O'CONNOR

- I will refer to that. We will find what the meaning of the words "subject to the control of the Customs " is if we turn to clause 30, which says -

Goods shall be subject to the control of the Customs as follows : -

As to all goods imported - from the time of importation until delivery for home consumption, or until exportation to parts beyond the seas, which ever shall first happen. " From the time of importation " means from the time when the goods are brought into port for the purpose of being landed. Clause 30 further provides -

As to all goods subject to any export duty - from the time when the same were brought to any port or place for exportation until the payment of the duty.

Then we put in a new clause 30a which says -

All goods on board any ship or boat from parts beyond the seas shall also be subject to the control of the Customs, whilst the ship or boat is within the limits of any port of Australia.

If honorable senators look at the definition of " port " they will find that it means " a proclaimed port."

Taking the result of the whole of the clauses together they define goods subject to the control of the Customs to be either goods in a ship in any port of the Commonwealth, or goods unshipped and landed in any port of the Commonwealth. It is quite clear, therefore, that there is a class of cases which that will not cover at all. Supposing a ship is what is called "hovering" a mile or so off the coast, and not opposite any harbour or port, that case would not be covered by the clause as we have amended it. If a ship is in some port, or in the mouth of a river, or some place of the sort which is not a proclaimed port, the goods then would not be under the control of the Customs. So that we would have probably a large number of cases, and they would be cases in which these provisions should necessarily apply, which the clause will not reach at all. This limitation of the control of the Customs is altogether unnecessary, and would really largely defeat the object of the clause. If we leave out the words the clause will read in this way-
No person shall smuggle or unlawfully import, export, convey, or have in his possession any goods, and no master of a ship

Of course the word " unlawfully " covers all the other words used, and it seems to me that if a person has goods in his possession unlawfully, whether they are under the control of the Customs or not, it is an offence under the Customs Bill which ought to be punishable. For that reason it seems to me that these words " subject to the control of the Customs " make a limitation which is unnecessary, and the striking out of them will enable the -cases to be dealt with to which I have referred. On the other hand, if it is limited to goods out of the control of the Customs, we cannot deal with a number of cases which are likely to arise. No harm can be done to the honest trader by striking out the limitation, but the law is made more complete. I move -

That the committee do not insist on the amendment.

Motion agreed to.

Clause 245 (Defendant a competent witness).

Senator O'CONNOR

- The clause, as it came to the Senate, was in this form -

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

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

prosecution shall be liable to cross-examination as a witness adverse to the prosecution.

We omitted the second paragraph, but the House of Representatives has disagreed with our action, and the reason they give is -

Because the amendment would prevent the truth from being elicited.

It will be remembered that this important matter was discussed here at some length, and the result was that the clause was carried in a form which I do not think represents the general sense of the community. The two parts of the paragraph which we struck out seemed to me to stand on a different footing. The first part is a provision which exists in several Customs Acts, and which, I put it to the committee as I did before, is absolutely essential for eliciting the truth in cases of customs prosecutions. The second part of the paragraph is an addition which we do not find in other Acts. I admit that it stands on a different footing, but it does seem to me that there is a necessity, if the truth is to be elicited at all in these prosecutions, to make a defendant not only competent but compellable to give evidence. The second part of the paragraph does not apply to prosecutions in the ordinary sense of the word. In a case of an ordinary indictable offence, where there is a prosecution before a jury, it does not apply, and in a case where a man is liable to conviction in summary jurisdiction it does not apply. It only applies to cases where money can be recovered. If we are to have the truth elicited in these matters, it is absolutely essential to give the power, not only to enable a defendant to give evidence on his own behalf, but to enable the Customs authorities to call him and make him give evidence.

Senator Playford

- You let the big, rogue - the indictable man - go free.

Senator O'CONNOR

- We do not deal with him under the provision.

Senator Playford

- You do not compel, him to give evidence 1

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Senator O'CONNOR

- We do not compel him to give evidence because the general principle of the criminal law does not compel a man to give evidence where he has tried, for a crime ; but we do not let him go scot free - we prosecute him. Inasmuch as it is more important, to bring one particular criminal to justice, to follow out certain principles in the administration of the criminal law, it is not desirable to compel him to give evidence ; but when we are dealing with the recovery of money there is really no reason why we should not proceed in this way.

Senator Major Gould

- This is not for the recovery of money, but for the recovery of a fine or forfeiture, and, of course, the imprisonment comes as an alternative.

Senator O'CONNOR

- As a means of recovering the money, but not as a punishment. If an imprisonment is to follow a summary prosecution, then the case cannot come under this provision ; but if there is a right to imprison in order to recover a fine, it can come under it, because there the main object of the prosecution is to recover money, and the imprisonment is a remedy only, just as the sale of a man's goods is a remedy. If we do not amend the Bill as I suggest, then if a man is proceeded against to recover a penalty of £500 the action is brought in a court in the ordinary way, and we can compel him to give evidence there. But if he is brought before a magistrate, and it is a matter of summary conviction - if it is what we may call a prosecution - he cannot be compelled to give evidence. There is no meaning in a distinction of that kind. Let me point out the necessity of having the power to compel the man to give evidence. In very many cases the question of whether a man ought or ought not to pay a fine or a penalty will depend upon information which he alone can give. "We may call upon him to produce his books. The question of values may depend entirely on his books. "We may want to show that he has been guilty of some misrepresentation in regard to some invoices of the value of goods. If we get him to produce his books we can put them in evidence ; but it may be that without his explanation of what certain items mean they are absolutely unintelligible to the court to prove either his guilt or his innocence, or to prove whether he ought or ought not to pay the money. Would it not be monstrous if we were not able to call upon him to answer a question which would clear up a mystery which might arise from his books, and which he alone

could explain? That is the reason why in the Customs Acts of other countries the law is as I have said it ought to be here - that is to say, that the defendant is not only competent, but compellable to give evidence.

Senator Sir Frederick Sargood

- It does not go further than that in the other Acts.

Senator O'CONNOR

- In the English Act, 1873, there is a provision of exactly this kind. Section 259 of that Act reads -

In case of forfeiture, or for the recovery of any penalty or penalties under the Customs Act, if any dispute arises where any such proceedings are had on the revenue side of the Exchequer division of the High Court of Justice,, the defendant shall be competent and compellable to give evidence.

The revenue side of a High Court of Justice means that where proceedings are taken; on the civil side of the court the defendant shall be "competent and compellable to give evidence." In the New South Wales Act there is a similar provision. Section 192 reads-

The defendant shall be competent and compellable to give evidence.

That is to say in cases similar to these.

Senator Major Gould

- There are certain specific cases, which would not include as many as this clause does.

Senator O'CONNOR

- The New South Wales section really includes more cases. I will read it -

If under any prosecution in respect of any goods seized for non-payment of duty and for any other forfeiture, or for the recovery of any penalty under this Act, or an³ other Act relating to the Customs any dispute shall arise ... in every such case the proof shall be on the defendant of such prosecution, and the defendant shall be competent and compellable to give evidence.

In New Zealand there is a similar provision. Section 273 of that Act, which was passed in 1882, says that

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If in such prosecution in respect of any goods seized for non-payment of duty, or in every case of forfeiture, any dispute shall arise as to whether the customs duties have been paid in respect of such goods . . . the defendant shall be competent and compellable to give evidence.

Senator Major Gould

- Are there any specific cases there ?

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Senator O'CONNOR

- The onus of proof is in specific cases, but the defendant being " competent and compellable to give evidence," refers to all cases in the section. I only mention this to show that there is nothing novel in this legislation. Altogether apart from this instance, I think it must be clear that if we are to have an inquiry which is to be of any value, the person who has committed the offence should be called upon to give evidence. He may be the only person who can give the necessary evidence in regard to the conduct of his business, and unless he can be compelled to give evidence, the customs law may be defeated. The defendant may say - "You may fight it out for yourselves ; there are my books, and I am not going to offer you any assistance in any way whatever." If we place the Customs authorities in such a position, the object of the clause will be defeated. Let me also remind the committee that where' we make a person " competent and compellable to give evidence," he is still surrounded by the protection of the law in regard to making any statement which will subject him to prosecution for a criminal offence. There is nothing which takes away from him the protection which every witness has, that he need not incriminate himself, and need not make any admission which will subject him to forfeiture or to penalties. That is part of the law, and it applies here as it applies in every other case. The defendant may be called as a witness, and he may give evidence, but his evidence will be given subject to such protection and privileges as every witness has. Therefore, the result is that, as the measure stands, the man is competent to give evidence, but is not compellable ; but as it would stand if the first part of this amendment were restored a man who is prosecuted for an offence, such as is described here, -may not only give evidence on his own behalf but may be compelled to do so. Why should he not be compelled t I should like to say at once with regard to the latter portion of the sub-clause that I do not wish to insist upon it j but I would ask honorable senators to agree not to insist upon the amendment in its modified form. I therefore move -

That the committee do not insist on the -amendment omitting sub-clause (2), except as to the following words : - "and if called as a witness for the prosecution shall be liable to cross-examination as a witness adverse to the prosecution."

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Senator Major GOULD

- I would point out in the first place that a good deal of the sting has been taken out of the clause as it originally existed. But there is no necessity for it even in its modified form in order to protect the Customs. We have to look not only to the clause itself, but to the other clauses that surround it with regard to these prosecutions. If honorable senators do that, they will find that the argument of the Vice-President of the Executive Council, that the defendant may say - "Here are my books, take them, and make the best you can of them ; I am not going to give you any explanation at all," does not hold good. Senator O'Connor thinks that the result might be the non-conviction of the guilty defendant. But let honorable senators look at what the surrounding clauses provide. In the first place clause 242 says that so far as any information or summons is concerned, no objection may be taken on account of an informality. That is one help to the Crown in regard to a prosecution. Under the next clause a prosecution cannot be quashed by reason of any defect in form. Then comes clause 246 which provides that -

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

Then the clause goes on to give certain exceptions ; but in all ordinary cases of prosecution, which would arise under clause 245, it appears to me that clause 246 would more than amply protect the Government from any fraud, because it absolutely throws the responsibility upon the defendant of showing that he has not been guilty of the offence of which he is charged. He may be enabled to show by extrinsic evidence that what he has done is fair and right. But it may be that a case, such as the Vice-President of the Executive Council points out, may arise, in which there will be nothing to show clearly and distinctly, so far as the offence is concerned, where the guilt or innocence lies. In that case conviction would follow.

Therefore the necessity is thrown upon the defendant, if he cannot otherwise show the absence of guilt, of going into the witness box, in order that he may explain the charge which has been made against him, and satisfy the court that he has not been guilty of the offence. The moment he goes into the witness box the Crown has the right to cross examine him. He may be driven into the witness-box to excuse himself, and to show that he did not commit the offence. If he does that, as soon as his examination in chief is over, he may be cross-examined at the hands of the Crown. Can the Crown require more than that to enable it to be certain of getting a conviction against a guilty man ? If he fails to give any evidence the mere averment will be sufficient to convict him. If he goes into the witness-box with the intention of misleading the court, there will be persons there representing the Customs who will be entitled to cross-examine him.-

But if the Crown puts him in the witness box with the idea of proving him to be guilty out of his own mouth, and he chooses to give some plausible reason, he may, though everything appears to be against him, defeat the Crown, because the Crown will not be entitled to cross-examine him unless he is declared to be an hostile witness. If I thought it was necessary for the protection of the revenue to have this clause in the Bill, I would not say a word against it ; but I really do not think there is any necessity for it. In the first place, the offence in question is a criminal offence under this clause.

Senator O'Connor

- It is not a criminal offence. Such offences are expressly eliminated.

Senator Major GOULD

- Surely the honorable and learned senator does not say that only a criminal offence is an indictable offence ? A man is charged with an offence, the penalty for which is a fine of £20 or £50, or whatever it may be. If he does not pay that penalty, what is the result ? Imprisonment. He may be imprisoned because he may not have the means to pay the penalty. This law goes a step further, and says that even that shall not purge his offence, and that if ever he acquire any property, it shall be liable to seizure. It is not likely that a man would willingly go to gaol for two, three, or four months, when he would know that it would not purge his offence. Senator O'Connor has cited the New Zealand Act, the New South Wales Act, and, I think, the English Act ; but in each case there are specific offences in the section, and they do not include all the offences for which a man may be prosecuted under this clause. In England, I think,

they are generally cases on the exchequer side, where a man is competent and compellable to give evidence.

Senator O'Connor

- Just as there would be here.

Senator Major GOULD

- This clause goes further. It provides for prosecutions where a man commits a wrongful act in connexion with the Customs. It does not simply require a penalty to be imposed. It is a absolutely criminal offence, for which he may be prosecuted. The other case would be only a quasi criminal offence. It is not reasonable to introduce this system into our law. Senator Playford interjected that in this case there was an attempt to get at the little man, but that the man who committed the more serious offence would be allowed to go free. Why? Senator O'Connor said, " But that is a criminal offence. The criminal law provides that a man who deliberately tries to rob the revenue, who commits an offence for which he may be sent to gaol for two, four, or five years, may be tried." We are not to conclude that he is guilty in any way. We are not to be allowed to put him in the witness-box to extract from him evidence of his innocence or his guilt. I think it is a law in most States now that if a man sees fit he may go into the witness-box, but he cannot be compelled to do so. So that where a man is charged with a major offence we do not put him in the same disadvantageous position as the man who has committed a minor offence, and who may have to expiate that offence, if found guilty, in gaol. It is not a reasonable thing to do. The greatest boon we have ever had in connexion with the criminal law is the principle that a man shall be deemed innocent until he is proved to be guilty. We are departing from that principle, gradually. I admit that the proposal submitted by Senator O'Connor is not so obnoxious as it was in the first instance, but I still think it is unnecessary and undesirable. At the same time I admit it would be better to take this amendment than to allow the clause to stand as it did in the first instance.

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Senator DOBSON

- I spent a little time this morning in going through the Senate's amendments and the amendments of another place thereon, and I came to the conclusion that if this committee accepted all the amendments which that other place had made, the Bill would be made more workable and more statesmanlike. I have sat dumb here for about six hours, and I have marvelled at the eloquence of my- honorable friends opposite as to many clauses, which are purely machinery. I tremble to think of what their eloquence will be when we get to the Tariff. Another place has, in my opinion, done perfectly right in disagreeing with the omission of the second part of this clause. Honorable senators seem to forget that whenever this clause is put into effect something like a judicial proceeding takes place. An importer goes to the Custom-house with his entry and he makes a declaration, and upon these documents he gets away his goods. It is afterwards found either that he has got the goods away improperly and unlawfully, or that he has got them "away by paying less duty than the law requires. I marvelled when I heard honorable senators contending - with a knowledge of the law, too - that a man ought not to be cross-examined on what practically is in his own statement.

Senator Clemons

- This is for Customs prosecutions excepting indictable offences.

Senator DOBSON

- It excepts any indictable offence, and any offence directly punishable with imprisonment ; and having given effect to that part of our criminal law which says that no man shall be bound to be called upon to incriminate himself, and to which all of us want to pay deference, it goes on to introduce the very law that obtains in so many States and in Great Britain as well.

Senator Clemons

- Not the last part of the clause.

Senator DOBSON

- It appeal's to me that Senator O'Connor has made a mistake in abandoning that part. In any case where a defendant is compelled to give evidence he will prove in the first answer he makes that he is hostile, and the bench will at once allow the prosecution to cross examine. We ought to have that power, because he has put forward his entry and declaration on oath by which he has become a party to a kind of contract and got his goods away on payment of an illegal duty. Having done that, and it being in the

nature of a judicial proceeding, he is bound to submit himself to cross-examination. It is in the interests of the Government, and certainly of the Crown, to put in this provision ; it is one which the Crown has a right to retain. On a previous occasion Senator O'Connor made a very effective appeal - he has not done so this time - on the ground that provision would be welcomed by the honest trader, and would be a terror to the dishonest trader. Do honorable senators want to wipe out legislation of that sort 1 Any honest trader who has made a mistake and unintentionally deceived the Customs, will be only too glad to get into the witness-box with his invoice, his correspondence, and his books, and prove his innocence ; but the man who has been playing tricks, who has been trying to mislead, or has misled the Customs, will shrink from getting into the witness box. That is the very man whom the clause says must go there, and that is in accordance with all the laws of justice and evidence.

Senator Major Gould

- And the averment convicts him.

Senator Sir JOSIAH SYMON

- I certainly shared Senator Dobson's marvel, when I listened to his speech. If he had lived three or four hundred years ago he would have been a splendid candidate for the position of chief inquisitor in that glorious institution, the Spanish Inquisition.

Senator Dobson

- My law is up to date, but my honorable and learned friend's is not.

Senator Sir JOSIAH SYMON

- I always knew that my honorable and learned friend had a great veneration for the past, but I was not aware that he would extend it so far as to justify this particular clause, which would drive us back, not only to the days of the inquisition, but to the days of trial by ordeal, such as putting an accused person's hands into a pot of boiling water.

Senator Dobson

- My honorable and learned friend is wilfully ignoring the evidence which is given.

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Senator Sir JOSIAH SYMON

- My honorable and learned friend lectures us all, and he has, I will not say the effrontery or audacity, but the assurance to complain that he has been sitting here for over six hours and that the whole of that time has really been wasted. Surely we are not to submit to that kind of thing without resenting it. I do not resent the lectures which my honorable and learned friend is in the habit of addressing to us as to the time occupied, when the honorable and learned senator is not on his legs himself. This clause, as even Senator Dobson will admit, is according to modern principles of criminal -law in England exceedingly obnoxious. I am talking now of the clause as it stood originally, and as the House of Representatives wish us to pass it. There is no precedent and no authority for such an infringement of the humane laws of England. I have always opposed the introduction of compellability in connexion with the giving of evidence in relation to anything that savours of a criminal prosecution. In such cases we should shrink, unless we find it absolutely necessary, from making a defendant compellable to give evidence, and so placing him in a position in which he may happen to say or do something that would incriminate himself. That is the principle upon which we have always acted in modern proceedings, and we know that, apart from these Customs proceedings, with which I shall deal directly, the only exception is found in the bankruptcy law, the reason for which is that when a man surrenders himself into the hands of his creditors, he gets in exchange liberation from his debts and liberation from imprisonment for debts. In consideration of that he submits himself to examination to the fullest extent. That is a reasonable thing. It seems to me that the Vice-President of the Executive Council has exercised a very wise discretion in cutting the provision in two, and excising the latter portion of it, which is the more mischievous. That latter provision simply meant that a man handed himself over to the tender mercies of prosecuting counsel, and in that case virtue would consist of brazen effrontery, as the man with the least sensitive conscience, who could get into a witness-box and face a severe cross-examining counsel, would be the man who would probably get off scot free. So far as I am concerned I do not even like the principle of making the defendant compellable, but I am prepared to accept the proposal of Senator O'Connor, and I suggest to my honorable and learned friend Senator Gould that he should also accept it.

Senator DOBSON

- What ! Go back 500 years to the Inquisition?

Senator Sir JOSIAH SYMON

- That shows the evil of following my honorable and learned friend's example. But I am willing to do it in this case for the sake of getting the Bill pushed through. I would direct attention to the position in which the matter is placed under the English Customs Act, where the competence and the compellability of the defendant are expressly confined to proceedings on the revenue side in the Exchequer division of the High Court. The reason for that is obvious. It is one thing to make a man compellable, in a semi criminal prosecution, to give evidence before justices ; and it is a very different thing to make him compellable to give evidence before trained Judges, who will see that he is properly protected. We know well that there is a great distinction between the two, and clause 259 of the English Customs Act provides that in all prosecutions for penalties, non-payment of duties, forfeitures, and so on, the defendant is neither competent nor compellable unless the proceedings are taken on the revenue side of the Exchequer division of the High Court. There is some reason for the contention of Senator O'Connor, that if the defendant is compellable where a prosecution takes place before some other tribunal, he should be equally compellable here, where it is not with a view to direct imprisonment or in respect of an indictable offence. Therefore, so far as I am concerned, I welcome the suggestion of Senator O'Connor, who has exercised a wise discrimination in eliminating the most noxious portion of the provision.

Senator Major GOULD

(New South Wales). - Would it not be possible to get an expression of opinion upon the clause as a whole without interfering with the amendment unnecessarily, or with the proposal of the Minister? The committee, for instance, might insist upon the amendment, and we might take a division upon that, when, if the division was adverse to the view I take, no doubt the amendment as now proposed would be carried on the voices.

Senator O'CONNOR

- I would like to suggest to the honorable and learned senator that, after all, this is a question of practical politics. I think there will be found to be very few supporters of the view taken by the honorable and learned senator that there should be no such clause at all. Under the circumstances is it worth while going through a debate and taking a division when the result must be to carry the amendment as now submitted and as supported by Senator Symon?

Senator Sir JOSIAH

SYMON (South Australia). - I should like to ask also if it is worth while to take a division on the amendment as submitted by the Vice-President of the Executive Council, under the circumstances in which we are placed, and seeing that the question was exhaustively fought out before, and all the principles thoroughly discussed ?

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Senator Sir JOHN DOWNER

- I also suggest to Senator Gould that the amendment as now proposed does not alter the clause as it originally stood in the slightest degree. The words now proposed to be eliminated, with so much satisfaction to some honorable senators, had no operation at any time, and the result will be just the same whether they are in or not. Under the circumstances, I think there is no necessity for further discussion.

Senator Sir JOSIAH

SYMON (South Australia). - I should like to ask the Vice-President of the Executive Council whether that is so. If

Senator O'Connor

agrees in that view of the proposal I think

Senator Gould

is right in his contention.

Senator O'Connor

- I do not quite understand what Senator Downer's point of view is.

Senator CLEMONS

- I do not desire to interpose at any length, but I must express my surprise and sorrow at the words which have fallen from Senator Downer. I should like the Vice-President of the Executive Council to face the

position in the interests of us all. With a certain desire to have harmony and peace upon the subject, we have consented to accept the Vice-President of the Executive Council's amendment, and as soon as that acceptance is made obviously public, Senator Downer rises to say that the amendment which Senator O'Connor is offering is worth absolutely nothing from our point of view.

Senator Dobson

- I do not think it is either.

Senator O'Connor

- Does the honorable and learned senator expect me to say that I do not think it is worth any thing?

Senator CLEMONS

- I would like the honorable and learned senator to say whether he agrees with the statement of Senator Downer or not.

Senator O'Connor

- I think it is a very different thing.

Senator CLEMONS

- That is all I want.

Senator Major GOULD

(New South Wales). - There is a good deal of force in what

Senator Dobson

has said, that as soon as a man goes into the witness-box to give his evidence the court may say, "We regard the witness as hostile," and counsel may cross-examine him. While I do not think I would be left in such a minority as the Vice-President of the Executive Council appears to think, the probability is that I would be left in a minority, and, as I do not wish to waste time, I shall not submit any amendment at the present.

Motion agreed to.

Resolutions reported and adopted.

POST AND TELEGRAPH BILL

Bill returned from the House of Representatives with amendments.

DISTILLATION BILL

Report adopted.

Vice-President of the Executive Council

Senator O'CONNOR

. - I move-

That the third reading of the Bill be an order of the day for Wednesday next.

When a Bill is ordered for its third reading it is still in the power of the House to recommit it, and, as I promised before, I shall not allow this Bill to get into such a position that it will be out of the control of the Senate until we have had an opportunity of considering the Excise Bill.

Senator Major Gould

- That is perfectly satisfactory.

BEER EXCISE BILL

Report adopted.

Senate adjourned at 10 o'clock p.m.

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22:00:00

Senate adjourned at 10 o'clock p.m.