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1901-11-15

Senate

The President took the chair at 10.30 a.m., and read prayers.

#### QUESTIONS

#### CUSTOMS AND EXCISE DUTIES

Senator PULSFORD

- I desire to ask the Vice-President of the Executive Council, without notice, whether he is yet prepared to lay on the table the return showing the suggestions made for Duties of Excise and Customs, which several times he has promised to do, and which last week he promised to do early this week.

Vice-President of the Executive Council

Senator O'CONNOR

- I am sorry to say that I have not got the return yet.

#### CUSTOMS REGULATIONS

Senator CLEMONS

- I desire to ask the Vice-President of the Executive Council, without notice, whether he will fix a day for the discussion of the regulations under the Customs Act.

Senator O'CONNOR

- Under the Act each House of Parliament has a right to object within a certain number of days to any of the regulations. If a motion is given notice of to deal with specific regulations I undertake to give some time for its discussion, but I do not intend to set a day apart for the purpose of raising any questions which it may be possible to raise on those regulations.

#### NUMBER OF UNEMPLOYED

Senator DAWSON

asked the Vice-President of the Executive Council, upon notice -

If he will endeavour to ascertain an estimate of the number of unemployed in the Commonwealth who are not registered at any labour bureau.

Senator O'CONNOR

- Endeavours will be made to obtain this information.

#### IMMIGRATION RESTRICTION BILL

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Debate resumed from 14th November (vide page 7291), on motion by Senator O'Connor--

That the Bill be now read a second time.

Upon which Senator Pulsford had moved, by way of amendment -

That all the words after the word "that" be omitted, with a view to insert in lieu thereof the following words :

- " While the Senate is of opinion that it is desirable that immigration to

Australia should be restricted to members of the white races, the provisions of the Immigration Restriction Bill do not commend themselves to the Senate as the best method for securing' this object, while they are calculated, to cause needless offence and embarrassment to. those who. are either our fellow-subjects or the subjects of friendly nations, and to produce complications with the Imperial Government, who, by treaties or other arrangements, are best able to secure the object ,desired without disturbing friendly relations with other countries."

Senator STEWART (Queensland). There is no doubt that this Bill is the most important piece of legislation which has yet been before the Senate. It deals with a question which vitally concerns the people who are living in Australia, and is of vast importance to the much larger population who will inevitably occupy the continent hereafter. I am sorry that the Government have not approached the subject in that spirit of high national responsibility, which I should have liked. Instead of grasping the question firmly, and dealing with it decisively, they merely make a tentative proposal, which may or may not work out successfully, just as the administration for the time being may desire. Some honorable senators have said that it is not an urgent question. I make bold to say that 'they are looking at it merely from their own local stand-point. They do not see Chinese, or kanakas, or Japanese around them in great numbers. They are not compelled to live in the same street, or even in the same neighbourhood, with them, and so they have come to the entirely unwarranted conclusion that in no portion of the continent is this an urgent question.

The total population of the northern portion of Queensland is 110,000. Of that number 62,000 are adult males, including no fewer than 16,000, or one in four, coloured people. For certain purposes, the State is divided into three distinct portions. The northern portion has a population of 110,000, the central portion a population of 62,000, and the southern portion over 300,000. In the State we have about 24,000 coloured people, of whom 16,000 reside in Northern Queensland. One efficient worker in every four in Northern Queensland is a coloured man. Surely that is a position sufficiently acute to make prompt action by the Government eminently desirable. We have been reminded of the negro problem in the United States. The condition of affairs in Northern Queensland is just as bad as is the negro difficulty in the United States. Out of a population of 80,000,000 in the United States there are 12,000,000 negroes, while out of a population of 110,000 in Northern Queensland we have 16,000 coloured people, or almost the same proportion as exists in the United States. Ill that portion of Australia at any rate the evil is sufficiently alarming to warrant instant and effective action. It may be advanced that this evil is not likely to spread over the whole of Australia, but I do not think that that contention would be warranted by the facts. I have not the slightest doubt that if time is given every portion of the continent will contain its quota of coloured people. We have coloured people in every State, or about 100,000 in all Australia. They are coming into Western Australia in large numbers ; they are in South Australia, Victoria, New South Wales, and Queensland, and I believe there are a few in Tasmania. Given the necessary opportunity, in the course of events we shall have a coloured problem here just as dangerous to the welfare of the Commonwealth as is the position which faces the people of the United States. It is proper that in these opening hours of the Commonwealth we should adopt a firm and settled policy with regard to the coloured races of Australia. At the federal elections a resounding cry went up from one end of the continent to the other that the coloured races must go. The verdict all over the continent was for absolute exclusion. I do not believe that any of the people of Australia contemplated that only the barrier of an educational test should be set against these races. What they contemplated then, and what I believe they contemplate now, is absolute exclusion. We do not desire to keep out these people simply because they are inferior to us, but because for racial, social, and economic reasons we cannot permit them with safety to enter. With regard to race, we cannot mix with them. There is no natural affinity between them and us. If an attempt were made to confine them and us within one bottle, so to speak, one or the other must be precipitated to the bottom. A compact and homogeneous community cannot be formed out of such heterogeneous compounds. The thing ought not to be attempted, because it is absolutely impossible. With regard to the social aspect of the question, these people are brought up under institutions entirely different from ours. Their religion, position, and customs are different; everything about them is different, and if we permit them to come here, instead of raising them to our level, the tendency will inevitably be for them to drag us down to theirs. With regard to economic reasons, some honorable senators do not seem to lay much stress on this aspect of the question, but I do. I cannot forget the desperate nature of the struggles which my forefathers in Great Britain underwent. I cannot forget that many of them went to prison, that many were transported, that some even went to the gallows so that we might enjoy the measure of liberty we possess, and might be in a better position than they were in. I should be a traitor to my country, to my race, and to those of our ancestors who have conferred benefits upon us, if I were a party to any thing which would allow these Asiatics to come here and destroy at one fell swoop all the efforts of centuries. For these reasons, I think, we are all agreed that the coloured man must be kept out, whether he is a Japanese, a Chinaman, an African, or a subject of His Majesty the King from Asia. We make no exception. We crowd them all into the one bunch, and say that for the reasons given, we cannot permit them to come here. This is really a matter of life and death to the people of Australia. How do the Government deal with it? How do they grasp a question of this magnitude ? Instead of declaring the policy of the Commonwealth in a straightforward and manly fashion, as they ought to do - instead of saying to the people of Japan and of China, and of other Asiatic countries - " We cannot, for certain reasons, permit you to come here, as we desire to reserve this portion of the earth for people of our own race and colour" - they propose this miserable subterfuge of an educational test. Why do they do this ? I do not suppose the Government does it willingly. I can hardly conceive that men charged, as the Government of this Commonwealth are, with the destinies of Australia, with laying the foundations upon which the Commonwealth is to be built, would be so unfaithful to the country they represent as to propose a measure of this character, unless extreme pressure were brought to bear upon them. We know

perfectly well that, long before this measure was promulgated to the people of Australia, it was submitted - to whom 1 To Mr.

Chamberlain, the Secretary of State for the Colonies ! Instead of asking the people of Australia how they would like this subject to be dealt with, the Prime Minister and his Government sent home to Mr.

Chamberlain, laid the question before him, and asked him what sort of measure would please him. I want to know whether this is a self-governing community or not 1 What is the value of our Constitution if our leading men have to send home to Mr. Chamberlain every five minutes, asking him whether they are permitted to do this, or that, or the other thing? Does not our Constitution give us the power to deal with immigration and emigration? What is the use of having this power conferred Upon us by the Constitution if we are not to be permitted to use it 1 Is the Constitution a subterfuge as well as the Bill we are discussing ? If we are a self-governing community, we have the right to deal with the matter in our own way ; and the way the people of Australia would deal with it if there were no interference would inevitably be by the absolute exclusion of the coloured races without any qualification. But the Government, long before this Bill was in our hands, and before it was prepared, sent to Mr. Chamberlain, asked him what would be agreeable to him, and acted accordingly. Now, Mr. Chamberlain has led the Government to believe that a Bill absolutely excluding the coloured races would not receive the assent of His Majesty ! But the best way of finding out whether a measure of this character would receive the Royal assent would be to send it home for that purpose. We should then know exactly in what position we stand. At present we do not. It has been said that measures of a similar character have previously been refused the Royal assent. I quite admit it. But we in Australia never before stood in the same relation to Great Britain as we stand now.

Then we spoke with six voices. If this measure is passed by the Parliament of the Commonwealth, it will have behind it the entire force of Australian public opinion. We shall then see whether Mr. Chamberlain is powerful enough, or arrogant, or presumptuous enough to insist that his opinion, and not the will of the people of this country, shall rule in Australia. Before coming to the conclusion that a measure declaring for the straight-out exclusion of Asiatics in an open fashion would not receive the Royal assent, we ought to give Mr. Chamberlain the opportunity of refusing the Royal- assent to the Bill. We ought to find out exactly where we stand, and know whether we govern Australia or whether Mr. Chamberlain governs it. I suppose honorable senators have read the fable of the camel and the tent. The camel first got his head into the tent, and then he speedily got his whole body in. It appears to me that Mr. Chamberlain in this case is the camel, that Australia is the tent, that the camel has got his head in, and that having succumbed to him in this particular we shall be called upon to prostrate ourselves in man}' other directions in the near future. If we are to have the complete management of our own affairs in our own hands now is the time to assert ourselves. If we permit the Home Government to influence us in this matter, very naturally Mr. Chamberlain find his friends will conclude that they have only to signify their intentions in other matters, and we shall immediately agree with them. If that happens, our existence as a self-governing community is entirely destroyed. I ask honorable senators to consider the unique position of Australia. I lived in the old country for more years than I believe will be given to me to live in Australia. I have a pretty intimate acquaintance with English politics ; and I can assure honorable senators that the vast majority of the people of the old land know very little about Australia, and care still less. They do not care whether this country is overrun with coloured people or not. The coloured man will never come to their doors. They are situated in a latitude where the people of Asia are never likely to invade them for industrial reasons. They stand secure in that fortress away up in the northern sea. But what is our position 1 We are situated in the tropics. We are making an experiment which has never before been attempted. We are trying to settle a tropical and semi-tropical country with European people governed by European institutions. The problem which we have set ourselves to solve is entirely different from any that has ever presented itself to the people of the old country, and, as I have said, they do not understand it. They do not take the trouble to master it, and care very little about it. I have said that for racial, social, and economic reasons we desire to keep Australia for white men. I have another reason. We hear a great deal about loyalty. There are many people whose loyalty goes no further than their lips. They are loyal from the lips outward. But I love my country - I mean the old land. I am loyal to my country, and believe in keeping this young virgin land away in the southern sea for the toil-ridden, landlord-cursed, capitalist-exploited people of the United Kingdom. The United States are fast filling up. Canada is rapidly being populated. South America is being rushed by people of the Latin races of Europe. Siberia has been

"collared" by Russia. Almost every other country upon the globe has been seized by some great power or other. Australia is almost the only place to which a British workman can now look for a shelter when he wishes to emigrate to some country where he can improve his position, enjoy a freer existence, have greater scope for his energies, lead a fuller life, and feel that he is a man and not the creature of a landlord, or the tool of a capitalist who looks upon him merely as an instrument out of which to make a profit. That is another reason why, for my own part, I shall insist upon keeping this continent for my countrymen in the old land. Could I invite people from the old country to come here and compete with Chinamen, Kanakas, and Japanese, and with the scum of Asia - to compete with the lowest paid labour in the world? No, sir! When I ask the people from the old country to come here, I wish to extend them an invitation to come from a country in which poverty has been their lot, in which political degradation has been thrust upon them, to a country where their position will be improved, where their numbers may be increased, where their manhood will be respected, where their liberties will be wider, and where their voice will have some influence in the government of the country. What does this educational test mean? Senator Pearce has told us that in Western Australia it has miserably failed. But even apart from that, is this an honest way of doing our business? Would it not be much better for us to say in a plain straightforward fashion to the people of Eastern countries - "You cannot come here for certain reasons," instead of setting up this miserable subterfuge of an education barrier? Figures have been quoted showing that education is proceeding rapidly in all Eastern countries, and that the people of Japan, China, and India are learning the English language in thousands. Suppose a number of these people came across to Australia under the impression - or rather knowing perfectly well - that English is the language of this country. Having equipped themselves with a knowledge of that language, they would come along to the Customhouse to be examined. I suppose the Customs officers, if they are to carry out this Bill with anything like decency, would have to be linguists of the most masterly description. Suppose a Japanese came up to a Customs officer stating that he knew English. Then, I suppose, this subject of the Mikado would be examined in German. The Japanese would say that he had seen in one of our Acts of Parliament that immigrants had to be examined in an European language, and that he naturally assumed that English would be the language in which he would be examined. He would say - "I have qualified myself in the language of your country, and now you set me a test in German. What is the object of this? Evidently your intention was not to establish an education test, but merely to keep me out altogether. Why do you not say so at once? Why put me to the trouble and expense of securing an education in the English language and the consequent expense of coming here? Why not say in your Acts of Parliament, in a straightforward and manly way, that you do not want us to come? Any person, whether a Japanese, Chinese, or Hindoo, who came to our shores under such conditions would have a fair ground for complaint against the Commonwealth. Let us not lend ourselves to subterfuge of that character. Let us rather advocate honesty of administration and legislation in these the opening hours of the Commonwealth. Mr. Chamberlain invites us to adopt his tortuous, crooked diplomacy.

The PRESIDENT

- I do not think the honorable senator should allude to the Secretary of State for the Colonies in those terms.

Senator STEWART

- Other honorable senators have been permitted to refer to Mr. Chamberlain.

The PRESIDENT

- But not in those terms.

Senator STEWART

- Some of them have referred to him in the most glowing terms. They have praised him, but I blame him. If an honorable senator has the right to refer to a public official of the Empire in terms of praise, I, as a citizen of the Empire, have an equal right to refer to him in terms of blame.

The PRESIDENT

- I do not think it follows that the language used by the honorable senator can be used.

Senator STEWART

- Then, sir, our liberty is a shadow. We can hurrah, but we cannot hiss. That is what it amounts to. "In my opinion, the right to do one involves the right to do the other. I believe that Mr. Chamberlain's policy has landed the British Empire in serious difficulties, and I would not be one to follow it."

Senator FRASER

- He is the best Secretary of State we have ever had.

Senator STEWART

- I differ from the honorable senator. Mr. -Chamberlain has brought more trouble on the British Empire than any other man.

The PRESIDENT

- The honorable senator is perfectly justified in giving expression to the opinion which he has just uttered. I did not intend to convey the impression that it was not competent for any honorable senator to throw blame upon Mr. Chamberlain. All I objected to was the language used by the honorable senator.

Senator STEWART

- I do not intend to say anything more about Mr. Chamberlain. The less we say about him, the less we are influenced by him, the better it will be for Australia. I do not wish to detain the Senate further. All that can be said about this question has been said. I intend to vote for the second reading of the Bill, because it contains the principle of exclusion, with which I agree. But I -shall vote also for the amendment of clause 4 in the way proposed by Senator McGregor.

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Postmaster-General

Senator DRAKE

. - In this long debate there seems to be a danger of the Senate losing sight of the question -which is before us. The motion of the Vice-President of the Executive Council is that the Bill be read a second time. Upon that a prominent and- esteemed member of the Opposition has moved an amendment to the effect that the Bill shall disappear, and that the Senate shall affirm in its stead that the Imperial Government should by treaty, or other arrangement, carry out the object of this measure. That is -perfectly dear, but in the speeches we have had - and -we have had a great number of very eloquent and interesting speeches from honorable members of the Opposition - the question before the Chair seems to have been forgotten entirely. Honorable senators on that side of the House have been discussing something altogether different. They have been condemning the Bill upon the ground that it does not contain something which they consider necessary, and they refer, as we know, to the amendment of which notice has been given by Senator McGregor. That amendment, however, has not yet been moved.

Senator Charleston

- The Opposition have been condemning the educational test.

Senator DRAKE

- Yes, and speaking in favour of a provision 'for the absolute exclusion of certain classes of persons. It seems, therefore, that the Opposition have abandoned their own gun, and that they are trying to get through with the help of a gun that does not belong to them. "Senator Millen. - Which shows that we do not approach the question from a party stand-point.

Senator DRAKE

- It appears to me that a strong party consideration is being brought to bear upon it. Senator Clemons, who spoke last night, told us that he was absolutely committed to nothing upon this question. I do not know -whether that is a happy position to occupy, but I must say that I do not hold it. I consider that I am as deeply committed, as any public man could be by his utterances .and writings in the past, to the principle of exclusion embodied in the Prime Minister's declaration. Therefore, the question for me is not whether I can follow gentlemen who are committed to nothing, so far as this matter is concerned, but what is the course -to be taken to best carry out the objects desired by the Government.

Senator Millen

- Senator Clemons said that he was not committed on this question by any election pledges.

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Senator DRAKE

- I think the honorable senator will find, when he gets the correct report that Senator Clemons said he was absolutely committed to nothing. He told us subsequently that his conscience required him to take a certain course. -What seems to have been lost sight of is the fact that in this matter the Government have followed exactly the same course as that adopted by them in dealing with nearly every other subject since

the opening of

Parliament. As a Federal Government we took office under these circumstances : There were six States, which were formerly semi -autonomous, each possessing certain legislation of its own. Our first duty was to endeavour to harmonize their legislation, to give to the whole of the States the benefits which some of them might have derived from legislation passed by them individually. We found -that three of the States had legislated in this matter. They had alien restriction Acts whose provisions were almost the same as those in the Bill before us. We found that in two other States, Bills of the same character had been brought forward, but not adopted, Queensland being the only State which had made no effort in this direction. To go back a little, what made the need of federation apparent to the people of Australia? Was it not that without some form of federation it was impossible to obtain that uniformity which was absolutely necessary in order to make their legislation effective ? There is no subject, I think, upon which the necessity of uniformity of legislation on the part of the States is -more apparent than that of the exclusion of undesirable immigrants. It is absolutely useless to bar the front door if we leave the back gate open. In the past, while one colony was legislating to exclude undesirable persons another was allowing them to come in, and consequently legislation in this direction by one State was rendered nugatory by the want of action in the other. To overcome that difficulty, action has been taken in several forms. The Federal Council .was created in 1886, in order that upon this and other matters of a similar kind uniformity of action should be taken throughout Australia. The Federal Council Act, as we know, did comparatively little good, for the obvious reason that the mother colony was never represented upon the Council, and that the representation of the other colonies, save in three instances, was not continuous. For those reasons the attempt to obtain uniformity of action through the Federal Council was' a failure. Conferences were also held to secure uniform legislation. One of the efforts made in that direction was the celebrated conference of Premiers, held in England in 1897, to which frequent reference has been made. The representatives of 'all the colonies met there to discuss this very subject. They decided that the proper course to take was to introduce Bills in all the colonies, on lines substantially the same as those those contained in the Bill now before us. As usual, however, the agreement broke down. In five of the colonies, Bills almost identical were introduced. In two States the passage of the Bills through Parliament failed, but in the other three cases they became law. Now, as a federation, we are practically endeavouring to make the legislation of those three States effective by extending its operations to the whole Commonwealth. The action we are proposing to take is of purely a federal character. It would be distinctly unfederal if we neglected to endeavour to make thoroughly effective the legislation adopted by those three States. We have been told that this form of legislation has not answered its purpose, and the experience of Western Australia has been quoted in support of that contention. Is it not perfectly clear that, even granting the correctness of the 'figures quoted in this connexion, the fault is entirely one of administration. No one contends that the 400 or 500 undesirable immigrants who have entered Western Australia since the passage of the present exclusion Act, could have complied with the education test. The contention surely is that the test was not applied to them. Therefore, it is obvious that the fault is one of administration. That cannot be cured by altering legislation. Senator Pearce knows that there are means by which a Government can be brought to a reckoning if they do not do their duty. If we have legislation that is good, but the administration of it is faulty, the cure is not to alter the law, but to improve the administration.

Senator Harney

- The point here is that however this Act may be administered it will be administered rightly.

Senator DRAKE

- I do not follow the honorable and learned senator in that remark. It is too profound for me. I do not know whether he followed me when I said that it is not contended that the aliens who have come into Western Australia since the passing of the Act could have passed the test.

Senator De Largie

- Where the education test has been applied in Western Australia it has failed.

Senator DRAKE

- The honorable senator said last night that it was applied to 36 of these men, and that only 20 of them passed. In all other cases the test was not applied, and clearly, therefore, the fault was one of administration. There is nothing to show that those who passed the test in Western Australia were undesirable immigrants. If we admit that there is good in this method of exclusion if it is properly

administered, then the cure for any defects in the past is to correct the administration. I think I have a right to presume that in this matter the Government have the confidence of the people of Australia. The Parliament has only recently been elected, the Government have only recently taken office, and surely those who have at heart the exclusion of undesirable persons from the Commonwealth cannot say that the Government, up to the present time, have done anything to forfeit the confidence of the people of Australia. We know the representatives of the people have recently said, in another place, that they are not prepared to intrust the work of administration to another set of men. If honorable senators are not prepared to say that the administration of the law at the present time is " untrustworthy, the only question is as to whether the proposed method of exclusion will work if it is 'properly and fairly administered, as, I think, we have every reason to believe that it will be.

Senator Harney

- What is proper and fair administration ?

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Senator DRAKE

- I think that the meaning of the phrase is perfectly clear. If undesirable immigrants attempt to enter the Commonwealth we have a certain test which we can put to them - a series of tests, in fact. If they pass all these barriers, then we cannot exclude them ; but if they fail to get over them we can exclude them. I think we may take the testimony, perhaps unwillingly given by several honorable senators opposite, that these tests will be effective, because the fault which they have found with this measure is that it will be too powerful in the direction of exclusion, and I think some of them have admitted that this Bill amounts to absolute prohibition. We are asked now why, instead of adopting the method adopted by three States that have already passed legislation of this kind, we do not strike out upon a new path, and go in for absolute prohibition. The answer to that surely is that, in adopting legislation already in force in three of the States, we know where we are, and we know to a certainty that if this measure now before the Senate passes this Chamber it will receive the Royal assent at once.

Senator Harney

- Does the honorable and learned senator feel sure of that ?

Senator DRAKE

- Yes, I feel perfectly confident of it. Why not ?

Senator Clemons

- " At all hazards, Australia can legislate."

Senator DRAKE

- Laws passed in three of the States, and containing practically the same provision, have been assented to.

Senator Millen

- They are nothing like the same provisions. In the State Acts there is one test for all people, but in this case there are different tests for different individuals.

Senator DRAKE

- No ; the wording is very nearly similar.

Senator Clemons

- Then the honorable senator thinks the Government will get this Bill accepted ?

Senator DRAKE

- I think so.

Senator Clemons

- I think they would get it accepted with a provision for direct exclusion in it.

Senator DRAKE

- I think it will be accepted with this test, because it is substantially the same as the test prescribed in the Acts passed in three of the States. There was no difficulty whatever in obtaining the Royal assent to these measures, and therefore, we may assume, with something nearly approaching certainty, that if this measure passes both Houses it will be assented to. If there is any doubt whatever about the matter, how much more doubtful is it that a measure will be assented to which contains the proposition which some honorable senators opposite have favoured.

Senator Harney

- There is no doubt about either.

Senator DRAKE

- I say there is a reasonable certainty that this measure, as it stands, will be assented to if passed by both Houses. But if the Bill contained a provision absolutely prohibiting the introduction of certain persons on account of their race and colour, the chance of such a measure being accepted would be extremely problematical.

Senator Clemons

- Mr. Chamberlain himself says that at all hazards Australia must legislate in this matter.

Senator DRAKE

- That is all right; but we must recognise also that in five cases British colonies have followed his recommendation that a test of this character should be adopted. He says, also, in a subsequent despatch, that if this is found to be ineffective, more drastic measures may be introduced.

Senator Millen

- Does the honorable and learned senator mean to affirm that if Australia makes it quite clear that she wishes a prohibitive test, the Imperial authorities will refuse to sanction it ?

Senator DRAKE

- I am not going to assert that, but I say it is problematical, and that, if we pass this measure as it stands, it is practically certain that there will be no delay whatever. I do not entirely agree with what has been said by some honorable senators. I consider this matter one of the most urgent importance, and there should be no delay whatever in passing legislation to deal with it. It cannot be asserted by any honorable senator that any injurious result can follow from the passing of this Bill. Supposing that next year it is found necessary to introduce more drastic legislation in order to prevent the introduction of undesirable persons, the fact of our having passed this Bill this year will not stand in our way in the slightest degree. Is it not better that we should adopt the means that we know will be effectual at once, and leave to the future, should the necessity arise, the introduction of legislation of a more drastic character ? Ought we to put into this Bill a provision - which will, at all events, involve the risk of delay, and lose the advantage of putting a law of this kind into operation at once ? It seems to me absolutely clear that we have everything to gain, and nothing to lose, by proceeding upon lines which have been already tried and found effectual. We are proceeding now under the leadership of a responsible Minister, we are following a beaten track which we know will lead us to the goal of a white Australia, and is it not better that we should persevere in that course rather than put ourselves under the guidance of leaders who have told us that they are committed to absolutely nothing, and whose fidelity to the cause of a white Australia is, perhaps, as uncertain and indefinite as is the path by which they propose to lead us ?

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Senator MCGREGOR

- In rising to address to the Senate a few remarks upon this question, I should say first, that I really have no reason to find fault to a serious degree with the action of the Government. I believe the Government are doing honestly what they think will accomplish the policy which they believe in. I, therefore, do not wish to blame them. I am sure that members of the Government will realize that no member of the labour party has any intention of embarrassing them in any way by the action we are taking. Our opinion is that, although the Government may be genuinely honest, they are not as strong as they ought to be in connexion with legislation of this description. . They do not show to the civilized world and to the other nations that we find it necessary to exclude from our shores the real position which we wish to occupy with respect to them. Senator Stewart has said that this measure affects the present population, and even more the future population of Australia. It also, as he has said, affects the population of Great Britain. But it further affects the greater populations of those countries whose people we wish to exclude, and we should be as truthful as we possibly can towards them. All the discussion that has taken place up to the present time has been on the educational test, and the prohibition as embodied in the amendment I have given notice of. But there is a great deal more included in this Immigration Restriction Bill than is embodied in paragraph (a) of clause 4. I do not think there is an honorable senator present who has any desire that the population of Australia should be burdened by the helpless paupers of other countries. I do not think they wish either that imbeciles, idiots, or lunatics should be brought to Australia. Nor yet do I think that they wish people of bad character to come here. All these things are embodied in this Bill, and



there is something else. In clause 9 it is provided that if any one who is not a subject of His Majesty, born or naturalized either in Great Britain or in some of the States of the Commonwealth, should commit certain offences he can be deported. Honorable senators, I think, should have paid some little attention to the advantages which might follow from such a clause as that. There are some honorable senators here who, although professing to believe in the amendment of which I have given notice, have yet signified their direct opposition to legislation of this description. I want just to say a word or two to those honorable senators, both by way of warning, and as an indication of the course we shall endeavour to take so far as they are concerned.

Senator Staniforth Smith

- Half-a-loaf is better than no bread.

Senator MCGREGOR

- We shall talk about half-a-loaf when we cannot get the whole loaf. Those who are opposed altogether to legislation of this description are opposed to it for various reasons. I propose to indicate some of those reasons, in my own way. Some say there is no necessity for this legislation. Others say - for the view has been given expression to here, if not directly, then inferentially - that it would not be advisable to exclude the people of some of the Asiatic countries, first, on account of the tropical character of some of our territory, and secondly, because some of them are British subjects.

Senator Millen

- Those views have been expressed by those who are opposing the honorable senator's amendment.

Senator MCGREGOR

- We shall see what we shall see. There is no need for Senator Millen to say anything of the kind, because, before I have finished, I shall show that there are honorable senators here who have declared themselves opposed to the Bill, and yet are going to support the amendment I have given notice of.

Senator Charleston

- Surely the honorable senator is not going to quarrel with his own supporters ?

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Senator MCGREGOR

- I am going to quarrel with any hypocritical supporter. I never want the support of any one who is only trying to make use of me in any direction he may choose. That is the position I shall always take up. I feel confident that the reason why Australia has not been invaded to a far greater extent by coloured aliens is that legislation has been passed in some of the States, and that very hazy ideas in their minds with respect to Australia put them in such a state of doubt that they can scarcely tell which State they can come to and not be debarred from entering ; and sooner than run any risk they stop away. I believe that several arguments have been used to show that there is no absolute necessity for aliens to be brought in to develop the resources of certain portions of the Commonwealth. All that is required is proper opportunity for the Australian people, and those who may come from countries more civilized than do coloured, aliens, to carry out that development. Even with the very limited opportunities which aliens have had for coming, to Australia, and in spite of the restrictive legislation in some of the States, a great evil exists. The first place I shall refer to is Western Australia. Senators Pearce and De Largie have pointed out clearly that in many of the towns in that State almost every calling has been invaded by Chinese, Japanese, and Hindoos. I have information on undoubted authority that in Coolgardie sixteen establishments are kept by Japanese for the purpose of washing and dressing linen and other clothing. By whom are they supported ? Not by the miners, because they do not very often wear starched shirts, nor by the poorer classes because they cannot afford to send out their wearing apparel to be treated by such individuals, but by the very class who are always prepared to take advantage of any kind of labour except that of their own kith and kin. Not only are there sixteen aliens conducting laundry establishments in Coolgardie, but the majority of them are keeping brothels. Is that a condition of things which the people of Australia would wish to continue in their midst ? Is that a condition of things which even the most earnest advocate of coloured labour in Australia would like to see grow up or be encouraged in our midst ? Instead of supporting the widow and orphan, whom honorable senators are always sympathizing with, but are never doing anything to give a living to, they can find the aliens- when they want their clothes to be washed. When they want to carry out evil intentions in any other direction, they can always find these aliens. who are a festering sore in our community. Coming to South Australia, Senators Playford and

Charleston know that in the west end of Hindley street and the east end of Rundle-street the very same condition of things exists.

Senator Staniforth Smith

- In the model State ?

Senator MCGREGOR

- Yes, in the model State. With all the advantages we have, there are people sordid enough, instead of endeavouring to do something for the unfortunate members of the British race, to support aliens and objectionable people of that description. The aliens there are not supported by the working classes, but by those who are always prepared to bring in coloured people for the purpose of degrading and keeping down the aspirations of their own fellow citizens. Coming to Victoria, we find the very same state of things existing, in Melbourne. Let honorable senators go down Little Bourke-street and Little Lonsdale-street and see what they will find, if they desire to find out what the truth is. Let them go into the market in Sydney, and they will find that scarcely a European is doing business, unless he is helping a Chinaman or other alien to load cabbages, turnips, or carrots. What a beautiful position for honorable senators to . put their own flesh and blood in - to make them hewers of wood and drawers of water for aliens ! Those who would encourage the aliens ought to be ashamed of the position they take up, and they cannot deny the existence of the state of things I have described. Honorable senators from Queensland have depicted the condition of things in their State, and Senator Dobson has .not said anything about the condition of things in Tasmania. We have heard that a " white Australia " is raised like a parrot cry. This expression came in the dulcet voice of Senator Macfarlane, who, I must admit, has had very little trouble with aliens in Tasmania up to the present time.

Senator Macfarlane

- I said that the danger of the Commonwealth is a parrot\* cry.

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Senator MCGREGOR

- Did not the honorable senator use the term " parrot cry " in a more extended sense than that t He said, in the words of a great man who is gone, that it is the virtues and not the vices of these races that we have to fear. Even against the authority of Senator Macfarlane and Mr. Gladstone I deny that it is their virtues that we fear. We are told that it is their frugality, industry, and energy that we fear. Is it thrift to live on rice, and almost the most degrading offal that our animals live on, when nature has provided us with a world that will give us everything of the best? Do honorable senators call it energy or industry for aliens to work almost all the night and the greater portion of the day for the purpose of getting together this heap of offal, so that they may live on it? Are the aliens to be compared with the Australian' people, who desire to get everything they possibly can from the land they belong to, to live in the best and most' civilized manner that nature will allow, and to do all this, in reasonable hours ; to have' sufficient time for recreation, the cultivation of their intelligence, and the development of the best instincts of our race ? Is that not more like energy and industry than this grovelling servility which honorable senators so much praise in alien races ? Is not our desire to live well, comfortably, and happily, and to have our children in the same condition grander and nobler than to live in the way in which these aliens live? Should honorable senators, with this knowledge placed before them, still advocate the introduction of such people on account of thrift or industry of that description they ought to be ashamed of themselves. Then we are told that because the evil has not assumed large dimensions we have no reason for alarm. If honorable senators like to go down to the southern portion of Victoria they will find Hindoos and Syrians working for 5s. per week or £1 a month in the potato and onion fields, and. there are some persons glad to get them. Is it the magnitude of the evil that honorable senators look at ? Do they want to wait until we have a million or two here before they begin to take action 1 Would it not be a very peculiar position for a civilized nation to put itself in if, when an injustice was done to its citizens in America, China, or elsewhere, it were to say - " Only two, three, or half-a-dozen are being treated in that manner ; wait until a million or two are abused, degraded, and ill-used, and then we shall take action "1 We have as much right to consider the workers who are displaced and degraded by a dozen of these aliens as we have to consider the privileges of thousands, and we must look at the question in that light. I was surprised at my worthy friend, Senator Downer, and at Senator Sargood, declaring that there was no especial need for hurry in connexion with this matter. The facts that I have stated, and many others that could be cited,

show that there is every reason to be in a hurry. Do Senator Sargood and others want these Asiatics to come here, and work for long hours at low wages in competition with our own workmen? Does Senator Sargood want to have Asiatics brought here as a menace to the 5,000 workmen employed by his firm, so that he may be able to compel them within a short time to work for longer hours and less wages? Look at the profit that could be derived if those 5,000 people could be compelled in consequence of this standing menace to work under harder conditions than at present! Then another section of honorable senators have declared on several occasions that they know of people who have been put to severe straits, because they cannot get domestic servants. Would it not be a grand thing if they could bring here a few thousand Chinese or Hindoos, so as to exercise a chastening influence upon Mary Jane and Sarah Ann? Would it not be a grand thing if they could put Asiatic girls into the kitchen or the scullery, or even into the bedroom, making housemaids of them? Think of the position our domestic servants would be in then! The most severe and arrogant mistresses would have them at their mercy. Not long ago I saw in Melbourne, a lady attended by two of these Asiatic individuals dressed in blue. One of them was nursing the baby. They were standing on the steps of a bank while the lady went in to cash a cheque or make a deposit. Was that not a nice condition of things to exist in Australia? There are people in Melbourne who would be prepared to hiss such a spectacle if the law would only allow them. There is an instance of one person who has the temerity to do such a thing under our civilization, but there are thousands more who, except for their cowardice, would be prepared to do it. They certainly have the inclination. . Those who advocate delay, and say we have no cause to be alarmed, must, I fancy, be the individuals who are prepared to bring Asiatics here for the purpose of lowering the condition of our people to the same level as theirs. Senator Pulsford said that he had great sympathy with the Government and with the Bill, but was not going to do anything to keep out his dear brethren from Japan, from China, and from India. Is the honorable senator going to support my amendment? Then we have our good friend Senator Harney - the kind, genial, generous, eloquent young senator - who was moved to positively voluble, virulent, vituperative, vindictive, and even violent, language after Senator Pulsford had spoken. He said that he would give no support to the Bill, but that he would vote for my amendment. When he went on, as he is so well able to do, in that eloquent style of his, denouncing the measure, he referred to it as "organized dissimulation," as "lying," as "hypocrisy," as "subterfuge," as "fraud" and as "chicanery." I thought, when I heard him making use of those expressions, that he was practising for the position of Customs officer under this measure. I am sure that no Customs officer, in selecting a passage for an Asiatic to write out, could do better than take his 50 words from Senator Harney's speech upon this subject as reported in Hansard. Senator Harney said that he would give no support to the Bill, but that he would support my amendment, which affects only a small portion of the Bill. That is a very important portion, I must admit.

Senator Charleston

- It is the contentious part.

Senator McGREGOR

- The honorable senator will find, before this Bill is passed, that there are many portions of it which are contentious. If I were to characterize Senator Harney's speech in language similar to his own, I should describe it as an ill-considered, heterogeneous conglomeration of cantankerous incongruities! It had no beginning and no end! When Senator Harney said that he was prepared to vote for eliminating clause 4, it really occurred to me that he had not read the clause. Because my amendment affects only a small portion of clause 4, and the rest of it is very important. Even if the portion which my amendment affects were struck out, the rest of the clause would still be important. It has been asked whether we are going to classify highly educated Hindoos and Japanese with idiots, criminals, those affected with contagious diseases, and other objectionable persons. I reply that in England itself a large number of worthy people are classified with such individuals. Even in some portions of Australia there are thousands of men and women, who, so far as the parliamentary franchise is concerned, are classified with idiots, imbeciles, and bad characters. In some places the very clergymen are so classified. If some honorable senators are prepared to maintain a state of things in which clergymen and respectable men and women are classified with criminals, idiots, and bad characters, I do not see why we should not classify Asiatics in the same category. I think the common sense of that argument will make itself apparent to everybody. We are told that the Japanese people do not want to come here. If that be so, how is it that the greater portion of the inhabitants of Thursday Island are Japanese, and that it is almost impossible for a British mechanic to

secure employment there in competition with those individuals! 21 k

Senator Staniforth Smith

- The Japanese want to come, but their Government want them to stay in their own country.

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Senator McGREGOR

- And that is the position our Government would be in if some such Bill as this were not passed. In &gt; a very few years there would be such a serious influx of Asiatics into Australia, that I have not the least doubt that Senator Staniforth Smith, and others, would be trying to get away to America or anywhere else out of the way of these thrifty,, industrious people of Asia. I do not doubt for a minute that under those circumstances the Commonwealth Government would have to resort to offering inducements to white people to stay in Australia. There' are millions of people in China who would - be glad to get away to a country like Australia, and they would be here in thousands within a very short time if there was nothing to prevent them. As to Senator Pulsford's " dear brothers " in India, who, he tells us, belong to the same Empire, and have fought the same fights with us, I reply - that I have some little knowledge of the history of the British Empire in India, and &gt; I think there has been as much British? blood shed there for the purpose of bringing the Indians into subjection as has been shed in any other part of the world. While we call these people our " dear brothers," " we cannot do it in the same sense as we should use the term if they belonged to our own race. They are brothers in the sense - that they are human beings, and in the sense that they owe the same loyalty to the British Empire as we do; but I altogether deny that if they came here they would be as loyal to Australia as are people of British descent. I speak upon this subject with some confidence, because\* I have come in contact with many Hindoos.. I bear on my hand the mark of a knife, the scar of a wound inflicted by one of Senator Pulsford's "dear brothers." Because he was defeated in a wrestling match, he drew his knife and was about to stab me but I grasped the blade in my hand. Afterwards I had to save him from being killed. Many years later this same Hindoo came to work in the shipping yard in which? I was employed. He was engaged in drilling, but was unable to sharpen his own drills\* I used to sharpen them for him, for I bore no malice. I always wondered whether he recognised me as the individual whom he tried to . stab many years previously. One day I referred to the matter, and asked him whether he remembered it. " Oh yes," he said, " I remember it very well. You have always been a good friend to me, and there is one piece of advice which I will give you. Never trust any one of my countrymen, because it does not matter what you may have done for him, or for any of us, our nature is such that at any moment we may turn on you when we see an opportunity for doing so." That was the advice of a Hindoo to a friend, and the wisdom of that advice has bee'n fully exemplified in connexion with the history of Great Britain in India. When we know these things we have to be very careful of our dear brothers, and our dear fellow subjects in India. If these dear fellow subjects in India came to Australia in any large numbers, what would be the position ? Senator Pulsford knows that with all the consideration which the Right Honorable Mr. Chamberlain - I do not want to speak of Mr. Chamberlain with any disrespect, although I have never believed in his policy - has shown for the coloured races of India, he has never attempted to give them a vote. Certainly not. What would be the position of Australia when they became the Uitlanders of the Commonwealth, and began to clamour for the rights which the white people enjoyed ? Would Mr. Chamberlain, or whoever happened to be in his place, be prepared to organize and send out an expedition from Great Britain to Australia, to compel us to give them the franchise1! Would Canada and New Zealand, and even South Africa herself, send contingents to Australia to force us to give the franchise to our "dear brothers," and would Senator Pulsford help them? Can he not see the absurdity of his position ? Although these people may be fellow subjects of ours - and " subjects " with a very big emphasis on the word - they are not our fellow subjects in the same sense as are the people of Great Britain and Ireland, Senator Pulsford should recognise that I have no animosity against the people of any country. If it were in my power to help a Chinaman to wheel his barrow up a lull or to help a coolie I would do so with a free heart. I will tell honorable senators why, and then they will understand that it is from no feeling of animosity on my part that I speak so strongly upon the question of the exclusion of these alien races. After I met with the accident which has made me to -a very large extent helpless in 'this world, I travelled on a steamer from Port Pirie to Adelaide. There were eleven other passengers on -board. I could not see to get a drink or do anything for myself, and the only man who helped me or took any notice of me Was a Chinaman. He was a resident of Clare in South Australia. He took me to Port

Adelaide. When he saw that I was in trouble he led me to the railway Station, and then, noticing that I was still in difficulties, he took me to the Adelaide Hospital. When I offered him half-a-sovereign, he -said " You go, and if ever you see one of my countrymen in the same position as you are, do you the same to him." I would say, " the Lord do so to me, and more also "if I do not likewise. This little incident ought to teach honorable senators that I entertain no animosity towards either the Chinese, the Japanese, the Africans, or any other coloured race. They have good characteristics as well as other people. But I have seen conditions existing among these people in Australia which I have no desire to extend to the British. Senator Sargood and Senator Downer have never been compelled by force of circumstances to live in the same slums, the same streets or districts with these coloured people. They live on a far higher plane. If they ever see these aliens it is only when their servants buy their vegetables or something of the kind from them - because I believe they must patronize these people to a very large extent. They have not had to associate with them. If Senator Sargood, Senator Downer and others were compelled on account of their poverty to live in close proximity to these alien people ; if their wives and daughters had to associate with them continually - if their daughters or even their wives had not the same strength of mind as Dora Devlin, of whom we have read in the press, and who, when her mother was prepared to sell her, body, and soul, to one of Senator Pulsford^ "dear fellow subjects," left her home - would they relish those conditions? If they had. had the experiences through which some of us have passed, their opinions would be different. These honorable senators should consider well their position. They should pay some little attention to the opinions expressed by those who know a little more than, they do of the conditions that exist. If they are prepared to investigate the question, I am ready to take them to localities, even in the model city - which I believe is better off than any of the other States, so far as this matter is concerned - and show them where, owing to the greed and cupidity of some white people, these coloured aliens have been planted in the middle of the town. I would show them where some greedy individuals have bought an acre or two of land, and sooner than develop it themselves have let it to a few Chinamen. I have seen sixteen Chinamen living on 2 acres of ground only a few yards from the place where I have lived myself for twenty years. I have seen the progress and prosperity of a municipality retarded by this condition of affairs. Have Senator Pulsford and Senator Sargood witnessed anything of that kind? Even that is not the worst aspect of the case. I would, therefore, ask these honorable senators to give a little more credence to what has been said by some of those who have had experience in this matter. I hope that when the time comes consideration will be given to my amendment ; that everything will be done to make this Bill as perfect an instrument as possible for the protection of the British race and the Australian people. Although the labour party may be considered unwise in our day and generation, the Government must give us credit for some little knowledge. They must agree that our demands, although they may not be in accordance with the interests of the Government, go as far as possible in the direction of making our legislation as perfect as we should like it to be.

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Senator CHARLESTON

- When the Commonwealth was formed it was well known to every one who took an active part in the federal movement that a great question such as this would necessarily have to be dealt with. No doubt during the elections for the Federal Parliament the people raised the question whether candidates were in favour of a white Australia, and no one can say that we have not been returned with a mandate from the people to prevent as far as possible" a large influx of undesirable aliens into this territory. In speaking on the address in reply I referred to this question, and expressed a hope that we should be able to rise, as a people worthy of the race from which we sprang, and grapple with this question in a manner which would be a 21 k 2 credit to ourselves as well as to the mother country. I was extremely anxious that we should approach this matter in a way that would embarrass the Imperial Parliament as little as possible. I certainly thought that, with such honorable and learned gentlemen as we have at the head of affairs, we should have approached the subject in a way which, while calculated to be effective, would give as little offence as possible to the nations with which we are dealing, and cause little trouble to the Imperial Government. Japan is a nation equal to the other nations of the world - a nation which, springing into prominence within a comparatively short period, has shown herself by sword and pen worthy of taking her place among the nations - and I certainly thought that the Government would have approached her as they would approach the Government of any other nation with which they desired direct dealings. I fail to

see why the Government should not have procured by way of treaty with Japan all that we desire in the way of a white Australia. Surely our Government could also have made arrangements with the Imperial authorities for the prevention of any influx of Hindoos into this country ? But what do we find ? Instead of approaching the subject in a statesmanlike way, the Government have brought down a Bill which, on the face of it, is offensive to the very nation whose friendship England finds essential at the present time. They have made appeals to our loyalty to the Crown, but in my opinion the Government themselves have failed to grasp the situation. They have failed to deal with the question in a way that will give least offence to the nations. They tell us that they desire to meet the wishes of the Imperial Parliament. .If we pass this Bill as presented to us, then we shall no longer be able to claim that we have done all in our power to free them from embarrassment. The very fact that the Government have stated plainly that their aim is to administer the Act in such a way that people shall be excluded on the colour line, and not upon the educational test, should prove that this is a piece of hypocrisy. In my opinion the only manly and straightforward way is to set out plainly that which we desire. I am sure that the nations of the East would approve of our actions more readily if they were straightforward than if we practised any kind of deceit. When we speak of a civilized nation, what are we to understand by the term ? Is it not the power of the people to raise themselves from barbarism, to enact laws, and to observe them, to make advances in arts and sciences? If that is civilization, then some of the Eastern nations are far advanced in civilization. AVe find that in Japan the franchise is being gradually extended to the people, and they are learning what it is to have self-government. In everything that goes to make a great nation they are preparing themselves. Why then should we not approach them in a way which will be worthy of the Japanese and worthy of ourselves? The Government, have failed to do that. They say they intend to apply the educational test to all who come, but, while putting that in the Bill, they admit that they do not intend to apply it to any but the coloured races. I condemn the Government most strongly for introducing such deceptive legislation. We know that in countries not far from our shores there are hordes of people being crowded to such an extent that they must seek an outlet. The more they are brought into contact with British legislation and the civilized arts of Europe, the more their population will increase, and the greater will be their necessity to seek other lands. We have in Australia a vast continent, in the greater part of which it is difficult for a white man to live, and it would not be strange to find that these people, having over-crowded their own countries, should seek habitations here. But, as has already been stated, we are trying an experiment. We are trying, if possible, to preserve this great island continent for the surplus population of Great Britain and of Europe, and we say we are justified in attempting to keep out any race that may prove injurious to our industrial, social, or commercial life. We ought to do this with the least offence possible to the people whom we propose to exclude, and I therefore see no reason why they should not be approached in a manner different from that proposed in this Bill. It is true that we have a mandate from the people, but we have not been told by the people how we are to accomplish it. All that we know is they are desirous that it should be accomplished, but that the relationship between ourselves and other nations should remain as amicable as possible. I was surprised that Senator McGregor, who spoke with such eloquence, should seem to have condemned even those who were prepared to support him in carrying his amendment. We know that the honorable senator is extremely anxious to carry his amendment, even though it should be embarrassing to the Government, and it seems to me to come with a bad grace from the honorable senator that he should attack those without whose votes it will be impossible for him to accomplish what he desires.

Senator MCGREGOR

- I know the value of that kind of support.

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Senator CHARLESTON

-I do not know what the honorable senator has to do with the motives of those who desire to assist him in carrying his amendment. I prefer the amendment to the subclause of the Bill, because it has truth on the face of it, and says clearly what the honorable senator intends to do, while in the Bill the Government say that they intend to apply this educational test equally to all, and at the same time admit that it is their intention to apply it only to coloured people. Senator McGregor, by his amendment, says plainly that we are of the same race as Europeans, and we therefore do not desire to exclude Europeans. That is what the Government say also, but they do not profess it in the Bill. Because we are of the same race as the

nations of Europe, and they can assimilate themselves to us and adopt our forms of Government and civilization, we are anxious that they should come to our shores ; but because in the case of other races, their manners, customs, and civilization are not yet up to the standard we desire, we prefer to keep them out. Senator McGregor's amendment is a straightforward honest one ; I am prepared to support it, but if it were mine I should not be prepared to quarrel with those who would help me to give it effect. I feel that in dealing with the question, whether in the direct and manly way suggested by Senator McGregor, or in the way proposed by the Government, we may be placing the Imperial authorities in some difficulty. We are part of the Empire, and we have been granted by the Imperial Government full rights of self-government. We are told under our Constitution that we have the power to deal with immigration and emigration, and though some difficulty may arise in dealing with these questions, I feel quite sure that our wishes will be met by the Imperial authorities. We know that in these times when education has become so extended, and when newspapers are laid upon almost every table in every civilized part of the world, the days of diplomacy in the sense of duplicity have passed. I think I read some time ago that Mr. Chamberlain himself said that the ' days of diplomacy are past. These are days when we must tell the people we are representing what we mean, and in doing so we tell the whole world what we mean. We may, therefore, just as well be honest as attempt by any subterfuge to deceive the people. Do we not know that even while we are discussing this Bill the Japanese are themselves watching everything with intense interest 1 They are not only reading our reports, but they are gathering up every bit of information that can be gained as to the opinions of Australians respecting themselves. Gentlemen are employed to watch every paper published, and to mark any passage that may refer to that nation. When we see how closely they are watching everything, why should we pretend to deceive them, and why should we think that absolute exclusion would be more offensive to them when it is far more honest than the method proposed by the Government in this Bill 1 Japan is a nation capable of holding its own in arms against other powerful nations. It showed its powers as a military and naval nation in its attack upon China, and why should we not approach the Japanese as we would approach any other civilized nation 1 In dealing with the Pacific Islanders, who have no Government, we know we can absolutely exclude them without reference to any one else. With respect to China, we know that at present there is an unstable Government there, but the time is coming when China also will awake, and we should not think only of to-day. The time may come when England may see it to be to her advantage to say to us " Take care of yourselves." Then, if we have to take care of ourselves surrounded by nations such as I have been describing, will it not be better that we should have approached them in such a manner as to preserve their friendship, instead of having created all the ill-feeling which such a deceptive proposal as that of the Government will naturally create ? I believe that an Immigration Restriction Bill is entirely necessary, and I shall, therefore, certainly support the second reading of this Bill ; but for the sake of honesty, and for the sake Of the honour of the Senate, and of the Commonwealth Parliament, I shall subsequently be prepared to vote for what will be a straight-out declaration rather than for the duplicity which is contained in this Bill.

Vice-President of the Executive Council

Senator O'CONNOR

. - Whatever view one may take of this measure, I think the Senate is to be congratulated upon the manner in which the question has been treated. There have been speeches made here showing an amount of care, consideration, and research, as well as earnest feeling, which, I think, would do credit to any assembly. Having said that, I do not wish to say much as to the detail of those speeches. Arguments against this measure have been repeated over and over again by honorable senators, and, without special reference to any of them, I wish to deal generally with the purport of those arguments. Before I do so I think it necessary to call some attention to what has been referred to already in such strong language by my honorable friend, Senator McGregor, and that is the extraordinary attitude which our friends opposite, of the free-trade party, have taken in regard to this matter. We have, first of all, Senator Gould. He has not spoken - I do not know whether he will be here to record his vote - but he was a member of the New South Wales Government at the time when its Premier, Mr. Reid, brought in a measure practically identical with this one, in consequence of the conference of Premiers in England.

Senator Millen

- But, after they had passed a Bill providing for direct prohibition.

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Senator O'CONNOR

- How does that affect the question in any way 1 That Bill was brought in because of the failure of direct prohibition, and the Government have introduced this Bill because they know that the line upon which legislation is most likely to be successful is that which has been ascertained to be acceptable, and the line which, if they are in earnest, they are right in following. It would have been quite open to them to have provided for prohibition in words similar to those which Senator McGregor has used in his suggested amendment, and to those which were adopted in the Bills passed by the different colonies in 1896; and they might have claimed a certain amount of credit for what looks upon the face of it a bold declaration of their faith in a white

Australia. If they had been wishful simply to place against their names a big placard of their views on a white Australia, and considered that rather than the practical question of legislating to keep Australia white, they might very well have followed that example. But if they had done so, would they not have been open, and very justly open, to the reproach of having brought down a measure for purposes of display, knowing well that they were not going about in the most practical way possible to secure the end they had in view ? It is one thing for honorable senators in the happy position of Senator Harney, with no responsibility, who can tilt a free lance here and enjoy himself and amuse and interest us, to indulge in mere verbal dialectics ; but it is another thing to have the responsibility of carrying out the measures which are to place in an effective manner on the statute book the will of Australia. The Government would have been wanting in their duty if they had not looked at this question in a practical way ; and if, merely for the sake of carrying out in form and in sound the policy of a white Australia, they had neglected the real opportunity of practically carrying out the wish of Australia. What did they find when they entered upon the consideration of the question? They found that the method of direct exclusion had been proposed by the different States of Australia ; they found on reference to the Imperial Government and on consultation amongst themselves, that there were objections which they, and we as members of the Empire were bound to give consideration to. Let me mention them, because there has been a great deal of confusion shown here. The objection in the first place was that, inasmuch as the British Government are according to the Constitutions of the States and of the Commonwealth vested with the power of veto, they are in the position of having to assent or to refuse assent to these Bills. I have no doubt that the gift of free government to Australia will be allowed to be .exercised in reality. I have no- doubt -that if ever the determined will of Australia were expressed, even if it should happen to be against Imperial interests, the Imperial Government would not hesitate to grant in reality the boon of self-government, and to assent to practically any legislation which Australia chose to send forward. But that is all the more reason why we, on our part, should take care not needlessly to place them in the position of having to exercise that power in such a way as would embarrass them. If we are to be treated generously, if we are to be treated, not according to the forms of our Constitution, but according to that spirit which recognises freedom on our part to legislate as we think fit for ourselves, then, on the other hand, we should recognise in the same spirit of generosity the difficulties of the Empire. It has relations with many nations and with many peoples, and embraces millions of subjects of all shades of colour within its limits, and if we, consistently with 'carrying out our own objects, can save the British Government from embarrassment, we should not put them in the position of having practically to deny us self-government. The Government recognised that that was the meaning and the spirit of the negotiations between Mr. Chamberlain and the Premiers, and that was the spirit in which the result was- arrived at amongst the Premiers themselves - to respect the views put forward then by Mr. Chamberlain, and to endeavour as far as possible to carry them out in the legislation which was afterwards enacted. The objections which were raised at the time, and to which consideration was given, seem to me to have been very largely misunderstood in the method in which this matter has been dealt with here. Senator Harney, for instance, seems to suppose that there is much more offence in the speeches which are made in the Senate and in the House of Representatives than 'in anything which could be placed on the statute-book, if the suggested amendment of Senator McGregor were to become law. My honorable friend seems to me to have absolutely misconceived the position in which a country stands with regard to nations outside its borders. Every people, as I said in my opening speech, has a right to determine who shall be members, of its community, and no nation can deny that right.

Senator STEWART



- Great Britain denied, it not long ago.

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Senator O'CONNOR

- Great Britain denied it, and always will deny it when it is necessary, as we can always deny it when it is necessary. Every nation, I repeat, has the right to determine who shall be members of its community. It is one of the first laws necessary for the preservation of nationality, and that power has always been inherent in the British nation, as well as in any other. Honorable senators, I dare say, will recollect that although as a general rule there has been the utmost freedom of admission into the United Kingdom, on countless occasions the Executive has exercised its right of preventing the landing of particular persons. It was under that right that Sir Henry Parkes very properly, opportunely, and courageously kept out that large body of aliens who attempted to land in Sydney at the time referred to by Senator Millen. Whether there was, or was not, legislation supporting it, that was a right which the Government had and properly exercised, and that is a right which any Government has now. If we exercise that right against Japan, India, or any other country, no one will have cause of complaint. Therefore, Japan would have no right to complain if, in the administration of our affairs, we chose to place an officer at the Custom-house to say, "We have decided that in the future we shall not allow Japanese or Chinese to land; we shall preserve our community for white races." No nation could possibly take offence at that provision. But if we put on our public statutes a statement that persons of a certain race shall not land, and placed the Japanese in the same category as the lowest negroes of Africa, as the most degraded people in the scale of humanity, then they would have a right to say, "We are practically your allies"; we are on friendly terms with you as to trade, intercourse, and social relations, and it is not right or friendly that in your public statutes you should place upon us a brand, which is implied in putting us in the same category as absolute savages." What they have a right to object to is not what is said in the Senate, not what is said in the other House, not what is written in the newspapers, but what the High Council of the nation says in its statutes. There would be very little peace between France and Great Britain if the British Government were to be affected by every speech which is made in the House of Deputies. If notice were taken of every newspaper which contained offensive references to Great Britain or to its King or Queen, what would be the state of feeling between the two nations? A nation speaks to other nations by its public documents.

Senator Millen

- And its administration.

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Senator O'CONNOR

- A nation speaks to other nations by its public documents, and, in regard to friendly nations, each has a right to demand that in public documents courtesy and international friendliness shall be shown, and when it is not shown it has a right of complaint. The complaint of Japan would be not that there was an exclusion of Japanese, not that there was an Act in the administration of which the Japanese might be excluded, but that we intended to place on our statute-book a measure which Great Britain had the power to veto, putting Japanese on the same footing as the most degraded savages of Africa. That is the objection which any friendly nation has the right to make; that is the objection to which Mr. Chamberlain called attention, and which he says will be removed if we follow the educational test which was adopted in the Natal Act. I should not have thought it necessary to make this explanation were it not for the observations of Senator Harney and some other honorable senators, who seem to suppose that the educational test, with the addition of the speeches delivered here, showing the ground upon which it was put forward, is infinitely more offensive than would be any declaration in a statute of the ground upon which the Japanese were not to be admitted into Australia. Following the same line of thought, let me deal with the argument of my honorable and learned friend, Senator Clemons, who, in an admirable speech - although it was defaced by some personal trivialities about myself, of which I need take no notice - put forward this position: He said that this test is insulting, not only because it is an offence to the intelligence of Eastern peoples, but also because it is a gross impropriety not to inform the people with whom we are dealing of what we are going to do with regard to their admission. Senator Clemons urged that when we put upon the statute-book an act which may be administered so as to admit the Chinese, but which in reality is going to be administered so as not to admit them, we are doing them an injustice. I traverse that position. The honorable and learned senator has lost sight of one of the first principles of

international comity, that every nation has the right to say who shall be members of- its own community, and owes no duty to any other nation in that respect. We are making  
Jaws for- the preservation of the purity of our own stock, and we have a perfect right to say to any other nation that we will not admit those whom we think will impair that purity. We have a perfect right to impose what conditions we choose, and no nation has the right to come here and claim admission. When the immigration of Chinese first became a serious question in Australia, it will be remembered that an attempt was made on the part of some Chinese to get damages from the Victorian Government. On what ground? Because, when certain Chinese came here they were not permitted to land. But the Privy Council decided in the Ah Toy case, on this first principle of nationality to which I have been referring, that a Chinaman had no right to claim damages against the Victorian Government, because he had no right to come here, and consequently had no right to take advantage of our laws or to claim admission to our community. So it is that no person outside Australia has a right to come and knock at our doors, and say - "I find that your acts provide a certain educational test and I demand admission in accordance with that provision." Foreigners are in no such position. They have no right to demand admission, and we have the right to legislate in -any way we think fit, and to administer our legislation as we choose. We have the right to say to foreigners : - " We will exclude you from our shores," or " We will admit you," just as- we like. We ourselves must determine who shall be the members of our community, and we should never place an enactment on our statute book in such a form as to entitle any person who is not a member of our community to come here, and, simply on presenting himself at our doors, demand admission. The only true position is to have in our hands a section which we can put into operation on any occasion we think right. That is the position in which Customs officers are placed under this Bill. It is true that a discretion is given to the officers. I said in my opening speech that that discretion could be used in such a way as to amount to prohibition, and I say it again. We are dealing with a great national matter, and we must not mince our words over it. With the utmost frankness I want the Senate to understand the power contained in this Bill. I say that this is a power which can be Senator O'Connor. exercised to absolutely prohibit, if necessary, the immigration of Asiatics. That is what we intend, and if we intended anything less we should be giving up part of one of the most important duties we are charged with, namely, the duty of seeing that this community is kept safe from the intrusion of nationalities which the public opinion of Australia does not wish to become part and parcel of this community. What is the position in which Customs officers are placed ? The complaint has been made that this measure depends entirely on the exercise of their ' discretion by the officers who administer it. That must be so. In any Act it would be so. It would be so under the suggested amendment of Senator McGregor. We must describe the persons who are not to be admitted in a general way. Senator McGregor describes them as the inhabitants of Asia, Africa, or the islands adjacent thereto. It must then be for the officers to say what individuals come within that definition. That discretion must necessarily be left to the officers. When a general prohibition of that kind is imposed, there must be a wide discretion to the officers to say who comes within it. As has been said by one honorable senator, difficulties may arise in the case of half-castes or quadroons, and it may become a nice question as to who is to be admitted or otherwise. We cannot get rid of the discretion of the officer. It is true that in this Bill we give a very wide discretion - as wide a discretion as is possible. We give the officer the discretion of being able to apply the test so as to allow an educated Japanese to come into Australia by submitting him to an examination in any language of Europe; and we also give the officer the opportunity of saying, if the occasion should arise, and it was found that Japanese were coming into Australia in such large numbers as to be practically crowding and flooding our territory, that he will impose such a test as will effectually exclude any Japanese however educated. Under this Bill the officer would have a perfect right to do that. I maintain that we should give that power. It is a discretion that should never be taken away from us, if we wish to preserve the purity of our race against all possible contingencies.

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Senator Harney

- Senator O'Connor did not put it as straight as that in his opening speech.

Senator O'CONNOR

- If I did not, it was because, perhaps, I have not the power of language which the honorable and learned senator possesses - because I have not the power of conveying my meaning as directly, perhaps, as he

can. But I certainly intended to imply as much, and I believe that I did.

Senator Sir Frederick Sargood

- Hear, hear.

Senator O'CONNOR

- I believe I did put the matter as straight and as frankly as it could be put. I emphasize it now, even at the risk of repetition, because I do not think it can be too strongly put before this Senate, that in the giving of this power and the regulation of it, we ought to have complete control over the admission of foreigners, and ought never to put ourselves in the position of having an Act upon our statute-book under which a foreigner coming under a certain description may claim the right to enter our community without our being able to say him nay. As Senator Downer has said, this is bigger than a mere question of shutting out Asiatics. It may be a question of preserving our own national life. We are dealing with a power which may have to be exercised in another direction. If it were known, for instance, that there were at sea, coming to Australia, a body of men holding the views of the unfortunate wretch who recently perpetrated that terrible crime against the people of the United States, would any one say that there should not be a power in our hands - whether by means of an educational test or by mere brute force - to keep such people from coming here ?

Senator Glassey

- We have it now.

Senator O'CONNOR

- And why? We have it now because of that innate power in every community to say who shall be its members. But what do my honorable friends opposite want? They want us to have the power of framing this measure in such a form that if Asiatics or people of any other nationality come here, and can write 50 words in English or any other European language, they may demand to be admitted. Those honorable senators object to this educational test because, they say, it is not a reality, and because if there is to be an educational test at all, it ought to be one which will entitle any man who can honestly come within it to present himself and be admitted. I am meeting that argument. I say that to give any one the right to come here upon passing an educational test, would be a wrong to this community, and would be abandoning the most salutary power of self-preservation which we have. I should like to ask my honorable friends who have advanced this objection what was the object of the measures considered by the conference in London in 1897 ? Their object was the exclusion of a particular class of immigrants likely to come into Australia. When Mr. Chamberlain discussed the matter with the Premiers he discussed the question of prohibition. When he offered them the educational test as " a substitute for these Bills, was there any doubt in the minds of the parties that the educational test would amount practically to prohibition ? The only difference between the two proposals was that the one method of exclusion was offensive to a friendly power, and to the Indian subjects of the Empire, whereas the other test, while equally effective, conveyed no offence to anybody. That was the issue discussed at the conference, and it was because the Premiers were satisfied that they could secure prohibition by means of the educational test that they agreed to adopt it. It was in accordance with that decision that, upon their return, measures on these lines were introduced in the State Legislatures, and three of them passed into law. I was very much amused by Senator Millen's indignant denunciation of this proposal as " thimble rigging." It is a most extraordinary fact that that honorable senator, as a member of the State Legislature of New South Wales, voted not only in favour ' of a piece of legislation which was open to the same objection - because it might be administered just as this measure might be administered, either to let in anybody or to let in no one - but that in speaking upon the matter he did not take the objection that there should be a straight-out provision for prohibition. He did not then take the objection that the education test might be used dishonestly, and therefore should not be placed upon the statute-book.

Senator Millen

- Does the honorable and learned senator refer to my speech on the second Bill after the first had been lost?

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Senator O'CONNOR

- Yes; on the 1898 Bill, which was brought in after the first had been lost. The position was exactly that' in which the Government is placed to-day.

Senator Millen

- No ; this Government has not tried first of all to secure direct prohibition.

Senator O'CONNOR

- I will deal with that later on. On the occasion to which I refer the honorable senator took up the position, not that it was politically immoral to adopt the education test, but that the education test proposed was not stringent enough. I am certain that honorable senators have such a regard for Senator Millen that they would like to hear some of the gems of wisdom that fell from his lips on the occasion to which? I refer.

Senator Millen

- I repeat now all that I said then.

Senator O'CONNOR

- That is a wise thing to do in view of the fact that I have Hansard before me. Senator Millen said at the beginning of his speech in the New South Wales Legislature, on the second reading of the Immigration Restriction Bill-

The only point upon which I desire to make a few observations now is with regard to the education test which the Bill proposes to apply. I feel that a great deal of what I wish to say has been anticipated by the statement of the Premier that he will insert certain words varying the form which those desiring to enter this country will be called upon to sign ; but it appears to me that the educational test, even with the alterations suggested, is hardly sufficient.

The honorable senator went on to refer - as he did last night - to the wonderful progress of education in India, and quoted facts similar to those which he has given us. Then he continued -

With these few facts before me I think I am entitled to view with some measure of apprehension the rather inadequate test submitted in the Bill, and I would ask the Premier if, without jeopardizing the ultimate success of the measure, he could see his way to accept an amendment providing a more stringent test, to accept it. He has told us that a similar Bill is working in Natal with some measure of satisfaction ; but I would remind him that it has been of too recent date to know how it is working or is likely to work out. I can quite understand that if a Bill of this character is passed to-day it will for the next few months have a tendency to check immigration ; but after the purpose of the Bill becomes understood, I think it is possible that steps will be taken by those "who desire to carry people from India to Natal to find ways and means to evade the test which the Bill provides.

He then went on to say -

Although, for the time being, those who work under the Act may have been brought to a standstill, I cannot help thinking that sooner or later the recruiting agents will adopt some means which will enable those they wish to deport to other countries to pass such a simple test as this-

Bill prescribes.

Senator Millen

- It was not the "test finally adopted.

Senator O'CONNOR

- I am not dealing with that point. The point is that the educational test was adopted, and that the honorable senator did not object to it. All that he desired was that it should be made more stringent.

Senator Millen

- I did object to it.

Senator O'CONNOR

- I have read the honorable senator's words.

Senator Millen

- Only a portion of them.

Senator O'CONNOR

- I have read practically all that has any bearing on this matter.

Senator Clemons

- In fairness, Senator O'Connor should read the concluding remarks of his own speech upon that occasion.

Senator O'CONNOR

- I would willingly read the whole of them, if it were not that I do not want to detain the House. I know full well that the lynx eyes of Senator Clemons would be quick to discover any observations of mine, and that

he would be ready to drag them up here, if there was anything in them that could be used against me.

Senator Clemons

- That is unfair.

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Senator O'CONNOR

- I give the honorable senator credit for being a skilful, energetic, lynx-eyed leader of his party - because he is the leader of the party, I presume, in the absence of Senator Symon. I give him credit, at all events, for being a good fighting man. If he could have found anything against me the Senate would have had it before this. He knows that in 1896 I voted for the total exclusion of undesirable aliens. I did so because it seemed to me that that was the method best adapted to secure the end in view. When I found that that method was surrounded with difficulties, which had been pointed out to the Government, I readily fell in with the view that our object would be attained by means of the educational test, and that it should be adopted. I therefore voted for that proposal. That is exactly the position in which the Senate stands to-day. It would be making a farce of parliamentary procedure if, with the knowledge possessed by the Government of what took place in 1896 and 1897, they were to bring down a measure that would lead to the same difficulties and delay, and to the same representations, that took place in those years. I referred to Senator Millen's attitude on a previous occasion for the purpose of showing the extraordinary way in which some of my honorable friends opposite seemed to have regarded the education test. I do not want to question their sincerity in any way. It would be unparliamentary for me to attempt to do so. But it seems to me that there is a very curious coincidence between the sudden conversion of these honorable senators to these extraordinary views and the opportunity of joining hands with my honorable friends in the labour corner - who undoubtedly are sincere - for the purpose of carrying an amendment which they think may embarrass the Government. We are enjoying all the benefits of party government, such as they may be ; and, of course, honorable senators are quite right in taking advantage of it. I am rather curious to learn the way in which Senator Pulsford will vote. I think I can guess. My honorable friend made a very able, sympathetic, and eloquent speech, if he will allow me to say so. It was to the effect that we should not have exclusion under any such brutal method as an Act of Parliament; that we should enter into treaty with Japan, and make some arrangement with the British Empire by which all the different inhabitants of that vast domain might be admitted here. In other words, he said that, in order that this country should be for ever a white Australia, we should enter into negotiations which, probably, might be completed in the course of ten or twelve years. The honorable senator's methods do not commend themselves to us. From all I could gather from the expression of his views he was totally against this brutal method of exclusion, and against any other way except the consent and agreement of the parties concerned. Holding the same views, the honorable senator voted against the exclusion Bill introduced in New South Wales in 1896. Senator McGregor has given notice of an amendment excluding these men with whom my honorable friend wants to make treaties, and with whom he fs on such terms of brotherly love, by a direct declaration on the ground of race and colour. If the honorable senator supports that amendment I really do not know that there will be any explanation of his vote at all. If he does not support Senator McGregor's amendment I shall say that he is consistent. It really may be that my honorable friend is tired of being alone. - " It is' not good for man to be alone." The honorable senator has long occupied the position of a political Mrs. Gummidge. We can all remember how in David Copperfield Mrs; Gummidge says to Daniel Peggoty, " I know I am a lone, lorn critter. Everything goes contrary with me, and I go contrary with everybody"; and perhaps upon this alien question the honorable senator finds that it is not good for him to be alone. He does not like our company and, therefore, he may be found in the company of my honorable friends in the labour corner when the division comes about. It is an interesting question, but no person can solve it but our honorable friend opposite by means of his vote.

Senator Pulsford

- The honorable and learned senator knows there is no chance of a reply.

Senator O'CONNOR

- There is another member of the party opposite whose vote we cannot determine. I suppose it is not right to anticipate in what way the honorable and learned senator will vote, but I find that our honorable friend, Senator Gould, was a member of the Reid Ministry at the time that right honorable gentleman introduced his first Bill, when he was at the conference, and when he introduced his second Bill, and the honorable

and learned senator was therefore of course a party to the policy that brought that about.

Senator Pulsford

- Senator Gould has paired.

Senator O'CONNOR

- I did not say he had not, and the honorable senator has therefore made a perfectly irrelevant observation.

Senator Pulsford

- It is a sufficient indication as to what the honorable and learned senator's vote will be.

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Senator O'CONNOR

- I do not know, it will depend on what side the honorable and learned senator has paired. I do not want to refer to any of these matters\* which are more or less of a personal nature, except as showing what has a good deal to do with politics, and as showing the practical position which exists here. We have brought down a proposal which we say will give everything which can possibly be given by the amendment proposed by Senator McGregor, which, will give it at once, and will give it beyond all question. That must be obvious to everybody who reads the history of the matter. Yet we find that an endeavour to carry something, which although it conveys in language more plain than the Bill as it stands what the desire of the labour party is, is an amendment which will have a tendency to delay and defeat the object of the Bill, and that amendment is supported by our friends opposite. I have spoken of the educational test, founding my observations on what seem to me to be the underlying principles, in order to show what really is the power in this community, as in any other, of dealing with these questions. I am free to admit at once that it would be quite competent for the Government to exercise all the powers which they can exercise under the Bill without any legislation whatever. It might be asked, what then is the necessity for legislation 1 The necessity for legislation is this : If we leave this power to be administered by the Government it must be administered more or less capriciously, unless we lay down certain lines on which the administration is to go. Those lines are laid down in this Bill, not for the purpose of giving rights to any person outside of Australia to come here, but for the purpose of laying down instructions to be followed by the Government and their officers in carrying out the law in a particular way.

Senator Charleston

- We trust to the caprice of a Custom-house officer.

Senator Sir John Downer

- Honorable senators opposite mix up free-trade and protection with the question, though they have nothing to do with it.

Senator O'CONNOR

- We give them discretion, which may be exercised in the widest possible way, but, remember, it is a discretion which has to be exercised subject to the control of Parliament, of public opinion, and of the press. Remember that regulations will be issued under this Bill, and instructions will be issued to officers under it. Officers will be chosen to administer the Act, let us hope, not without some regard to their power of enforcing a test of this kind but the whole matter of administration will be under the direct control of Parliament, which can at any time come down upon the Ministry,. and if they neglect their duty, and do not administer this law in such a way as to carry out the wishes of Australia, Parliament will soon find a means of saying so.

Senator Millen

- Pretty in theory, but it does not work in practice.

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Senator O'CONNOR

- Are there not thousands of matters of administration which must be left to the discretion of officers ? Why, the greater part of the administration of our Customs laws, with all the stringent and extreme powers which we give to Customs-house officers for the purpose of carrying out those laws, are left to the discretion of those officers. In thousands of ways in which the Government brings itself into contact with the people, we must depend upon the discretion of our officers. There is no other way by which we can carry out the will of the people as expressed in Acts of Parliament. We cannot express every detail, and we must leave a certain amount to the discretion of officers, and here we leave these matters of exclusion

to the discretion of officers as other matters are left to their discretion under other Acts. That being so, I should like now to say a few words to my honorable friends in the labour corner, who undoubtedly are in earnest, and who have the best reasons for being in earnest, because from the very fact of their representation, no one knows better than they do the urgent necessity, not only for the future political protection of this community, but the immediate necessity for legislation of this kind. I say it would be indeed a great credit to them and to this Parliament if we could, before this year closes, say to the public of Australia that we have completed this piece of legislation beyond all question. If this Bill is passed in the form in which it stands now, there is nothing which will cause its being reserved by His Excellency the Governor-General. We know from what has gone before, from the attitude of the Colonial Office, from all the circumstances that have already been dealt with in this debate, that immediately this Bill is passed by both Houses in the form in which it stands, there is nothing to prevent its receiving the assent of the Governor-General and becoming law. On the other hand, if this amendment is carried, what will be the effect of it? In the first place I venture to point out to my honorable friend, Senator McGregor, that his amendment does not give power to Australia to protect herself to anything like the same extent as the educational test does. The power given by the amendment is a power to protect us against the immigration of certain persons. It gives a power to protect us against any person "who is an aboriginal native of Asia, Africa, or of the Islands thereof." But if the power has to be exercised as it may have to be exercised in the future, and as it may at any time have to be exercised, of keeping out not only those persons, but undesirable immigrants belonging to any nationality, we shall want the power which is given by the educational test as well. If the educational test will give all that honorable senators want, and give something more besides, what is the use of putting upon the face of this measure an insult to a friendly power and an embarrassment to the Empire? Does it not, then, become not a necessary embarrassment, not a necessary insult, but a wholly unnecessary insult? Does it not then become a piece of surplusage in the administration of the desire of Australia, and a piece of surplusage which embarrasses the Imperial authorities and insults the people of a friendly power?

Senator Stewart

- Have we not the power to keep out the other people to whom the honorable and learned senator refers, in any case?

Senator O'CONNOR

- We have the power without any Act of Parliament at all, but as I pointed out it is a very undesirable thing to leave the matter in that condition, because the exercise of that power is a high Act of State; and it could not be exercised by any official who happens to be at hand when the necessity for it arises.

Authority for such an act must be obtained from head quarters, and a power of that kind could not be exercised without most serious consideration by the Prime Minister, and probably after consultation with his Cabinet.

Senator Stewart

- It has been exercised before.

Senator O'CONNOR

- It has been exercised and may be exercised at any time. We always hope that it will be exercised if the necessity for it arises, but I say the power is of such a serious nature that it would not be exercised without a great deal of consideration and care, and that it is not a power applicable to every-day use.

What we want is a power applicable to every-day use, a power which may be applied at any time, and within a few hours' notice when it becomes necessary, and the only way in which we can provide for that is by giving such a power under an Act of Parliament to officers appointed for the purpose of carrying it out. What I desire to ask my honorable friends opposite, who have such an earnest interest in this measure, is this: If they get all they want - and they cannot want more than prohibition - if they get all they want by the educational test which we propose, is there any use whatever in encumbering the Bill with this declaration, which must raise difficulties, and delay the passage of the measure, even if it is afterwards assented to?

Senator Clemons

- The honorable and learned senator is no judge. He has been wrong on the point before in this Chamber.

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Senator O'CONNOR

- I may not be, but I have, I think, the faculty common to every honorable senator here, to draw inferences from facts which have been put before us, and to base conclusions upon well-known premises. I am not appealing to any knowledge which is peculiar to myself. I am appealing to the knowledge which every member of the Senate has of what has gone before, of the principles which have actuated the British Government in the past in relation to this very matter, and I say that as it is perfectly plain that if the educational test, as we propose it, is inserted in this Bill, there is nothing in the world to prevent the measure being assented to at once, although I do not presume for a moment to predict what the action of His Excellency the Governor-General will be in reference to a matter of this kind. I do say that, considering what has taken place in the past, nobody could be surprised if, with such a clause in it, as is proposed by Senator McGregor the Bill was reserved for the signification of His Majesty's pleasure. -If it was reserved, delay would, of course, ensue, and whatever the ultimate effect might be, the carrying of the amendment proposed would delay the realization of a white Australia, which I am certain my honorable friends, as well as the Government have at heart. I am putting the question practically. If this amendment is carried, what will be the result when the Bill goes down to another place ? It is well known that the Government have taken up an attitude there which makes it impossible for them to do other than ask the House to reject the amendment. What happens then ? Either the Bill has to be dropped or it comes back. If it comes back what is the position of the Senate ? To choose between having no Bill, and backing down from the attitude which has been taken up. In either case, is it worth while, when we want to get a practical result, to incur the certainty of delay or to risk the probability of being deprived of the opportunity to complete this piece of legislation ? For what purpose ? For the sake of inserting some provision which . practically does not carry it any further, and which amounts to nothing more than a declaration of the opinion of the Senate on these races.

Senator Clemons

- Let them do in the other House what they made the honorable and learned senator do here - that is the answer.

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Senator O'CONNOR

- I am not going to take any notice of that somewhat venomous observation. Let me refer to another matter which, I think, is plain on the surface of the amendment. I do not complain of its wording, because I do not think it could be worded to carry out its idea in any less general way. The expression is used - Any person who is an aboriginal native of Asia, Africa, or of the islands thereof.

Senator Staniforth Smith in a speech which showed a great deal of research, just touched on the question of the enormous number of races that inhabit India. Often it may be very difficult, indeed, to say whether a person is an aboriginal native of India. "What is an aboriginal native of India ? The probabilities are that if it is a difficult matter to get a Customs officer with sufficient linguistic attainments to administer this test, it may be a much more difficult matter to get an officer with such a knowledge of ethnology as would enable him to determine in any particular case whether a person came within the test. That is not a main matter of objection, but still it is one of those things which show conclusively that honorable senators cannot get away from discretion in administration, that whether the test is educational or whether it stands on the footing of race, they must allow somebody placed in a position to represent the Government to decide. We want this prohibition passed as early as possible. What is the condition of things now? In three States, New South Wales, Tasmania, and Western Australia, this law exists. It has been administered with such stringency, or if not with stringency, with such keenness of observation that during a period of two years and eight months only 51 males have been admitted. In other States it has not been administered so stringently. I cannot tell how it has been administered in Western Australia. If the figures which Senator Pearce referred to are read one way they mean a great deal of laxity ; on the other hand one may read them in another way, and the apparently large number may depend on the provisions of the Act under which they are admitted. But, anyhow, there is nothing to be made out of them as against this Bill. The opinion of Australia, with regard to coloured aliens has been growing and hardening, and in no part of Australia will the administration be permitted ever to administer this Act with the laxity with which the State Acts have been administered. When honorable senators give a power of administration which is equal to exclusion if necessary, I think they may safely trust the Government, which knows so well what is the feeling of Australia on this matter, to administer it to the fullest extent that may be



necessary to protect Australia from influx of coloured aliens. We want this measure, which will enable exclusion to take place. In three States a law exists : in Victoria and Queensland there is no law which gives any power of exclusion. The Pacific Island Labourers Bill, which will be dealt with very shortly in the Senate, and which, I hope, will become law before the year closes, will enable the Government to deal with a large proportion of the aliens that come into Queensland, but there is no power except under an Act of this kind to deal with an influx of Japanese, or other aliens, except the power of interference by Executive control. It will be a most unsatisfactory thing if, while in New South Wales, Tasmania, and Western Australia there is a power to exclude these persons by an educational test, we leave Queensland and Victoria absolutely unprotected in that way. Is it not advisable that we should have a law as soon as possible ? I ask honorable senators to pass a Bill which will make the federal law uniform with that which exists in three States and in New Zealand, and which will give immediately all the power they require, whereas if they follow out the view which my honorable friends opposite wish them to take, they must enter upon a course which will inevitably lead to delay, which may lead to failure, and which certainly is a dropping of the substance for the shadow.

Amendment negatived.

Original question resolved in the affirmative.

Bill read a second time. In Committee :

Clause 3-

The State Acts mentioned in the 1st schedule are hereby repealed.

Senator HIGGS

- I desire to ask Senator O'Connor whether we have any power to repeal the State Acts, and if not, whether the clause should not be so amended as to provide that any State Acts which run counter to this Act shall not be in force.

Vice-President of the Executive Council

Senator O'CONNOR

. - There is no power to repeal the State Acts. Senator Clemons raised the question on the Customs Bill or another Bill, and the conclusion we came to was that we could not affect anything by purporting to repeal the State Acts, and that really their repeal rested on the provision in the Constitution that where a State Act and a Commonwealth Act on the same field of legislation conflict, the Commonwealth Act shall prevail. I think it would be better to use some such form as we used in the Distillation Act.

Senator PEARCE

- In my speech on the second reading I drew the attention of Senator O'Connor to the fact that the Imported Labour Registry Act of Western Australia deals with much the same kind of question as does this Bill, but that it is not included in the list of State Acts to be repealed under this clause, and I was told by him that the State Act would not be repealed unless it covered the same field of legislation as the Commonwealth Act.

Senator O'Connor

- It may not be necessary to repeal that Act.

Senator PEARCE

- Why is it necessary to mention the Immigration Restriction Act of Western Australia ? I submit that, if it is necessary to repeal one Act, it is equally necessary to repeal the other, because both Acts deal with the same class of legislation - one with restriction of immigration and the other with the class of immigrants who shall be admitted under an educational test.

Senator O'CONNOR

- In the schedule we are dealing with three Acts which undoubtedly are directed at the same object, but the Act to which Senator Pearce refers is an Act limiting the immigration of labourers. We do not want to interfere with that which may be to a certain extent a State matter. No doubt the immigration of labourers is a matter with which only the Commonwealth can deal. As I understand, there are certain provisions in that Act relating to the employment of labourers when in Western Australia. The question is a very important one, and really depends upon what the Western Australia Act provides. I find that in it a labourer is defined to mean any male person, apparently a native of India, Asia, Africa, or any island adjacent thereto, brought into Western Australia for service or any similar employment. When once he is brought in, certain provisions of that Act apply. Amongst them are certain provisions as to sending back

labourers. It is quite clear that that must be allowed to continue. It would not do for us to repeal that Act.  
Senator Pearce

- Could labourers be imported into West Australia after the passage of this Bill ?

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Senator O'CONNOR

- No, certainly not. If this Bill were passed it would entirely over-ride all other legislation, and would be administered in priority to other legislation. A labourer who might be entitled to admission under the Western Australian Act, would nevertheless be refused admission by a Commonwealth officer J who could say to him - " If you cannot pass this test, we will not admit you, and we do not care about your rights under the Western Australian law." In the case of a conflict of legislation, the Commonwealth Act must prevail. The only question is as to the form in which we should refer to the other legislation. In the Post and Telegraph Act we have provided that certain local Acts " shall cease to apply to the Postal and Telegraphic services of the Commonwealth." There is no doubt that in its present form the clause would not do, and the only question is whether it would be better to leave it out altogether, or to put in some form of words which will follow the Constitution.

Senator HARNEY(Western Australia). Sections 109 and 110 of the Constitution clearly contemplate that all the existing

State laws may continue, but that we can pass in addition Commonwealth laws, and that it is for the Judge to decide in any case whether the old law conflicts with the new law, or any part of it conflicts with any part of the new law. That is an answer to Senator Pearce as to whether such portions of the imported Labour Registry Act as conflict with this Act would be operative. But we have no power, by any Commonwealth Act, to repeal a State Act, or even to refer to a State Act with the view of affecting it, though we may refer to it for convenience. I think the better way would be to strike out clause 3.

Senator HIGGS(Queensland). - I understand that the matter has now been cleared up, and that clause 3 is unnecessary. I think, therefore, that it should be struck out.

Postmaster-General

Senator DRAKE

. - This matter has been brought up in connexion with several Bills since this Parliament was opened. In each case it has been decided, I believe, that some such clause as this should be inserted to indicate that the measure we are passing will override certain provisions of the State Acts. Even though that is provided for in the Constitution, it has been thought desirable to insert such a clause. I quite admit that if we stated in the Bill that we were repealing the State Act, and the Constitution did not cause it to be repealed, that provision of the Bill would have no effect ; on the other hand, if we went out of our way to say that a Bill we passed did not repeal a local Act, and if the Commonwealth Act and the local Act were repugnant, the local Act would be repealed. In a series of Bills relating to Customs we inserted such a provision. For instance, in the Distillation Bill, the provision was in the following form : -

This Act shall apply to the distillation of spirits on which any duty of excise is imposed by the Parliament, and to the exclusion after the imposition of such excise of the operation of all State Acts relating to distillation.

It is only declaratory. In some of our Acts we have gone to the extent of repeating word by word a section of the Constitution.

Senator Sir FREDERICK SARGOOD

- Is the Postmaster-General correct in saying that we have inserted, such a provision in all the Bills relating to the Customs 1 I have here the Excise on Beer Bill where the particular words quoted by the honorable and learned senator have been struck out. Section 3 of that Act simply reads as follows : -

This Act shall apply to any excise on beer imposed by the Parliament.

All the other words which formed part of the original clause were struck out.

Senator HARNEY

- By the Constitution, any State Act that is inconsistent with a Commonwealth Act is repealed. If we refer in any Bill to certain State Acts having been overridden by a Commonwealth Act, shall we not embarrass the Judges in the work of administration ? Because the Judges may say that in point of fact a certain section in a Commonwealth Act' is inconsistent with a certain section in a certain State Act to which no reference has been made in the Commonwealth Act. Take the example given by Senator Pearce. In the

Bill before us there is no reference to the Imported Labour Registry Act of Western Australia. Suppose a Judge found that a section of this measure was inconsistent with a section of the Western Australian Act. Under the Constitution the Imported Labour Registry Act would be overridden, but the Judge would find no mention of it in this Bill, whereas other State Acts would be referred to. It would,, therefore, be argued that the Commonwealth Act making no reference to the State Act, the State Act was not intended to be repealed.

Senator O'Connor

- That would make no difference to the Constitution.

Senator HARNEY

- But it would be embarrassing to the Judge, who would say that, on the face of it, this Commonwealth Act does not repeal the Imported Labour Registry Act, whilst at the same time the Constitution makes the Commonwealth Act override the local Act whenever there is an inconsistency.

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Senator DE LARGIE

- I advise the Government to adopt the suggestion of Senator Higgs, and to omit the clause, or else to include the Western Australian Imported Labour Registry Act in the schedule. I believe that the failure of the educational test in Western Australia has been largely owing to the operation of the Imported Labour Registry Act. It was owing to the granting of permits by British representatives abroad to Asiatics to come into Western Australia that the educational test was evaded. I have a suspicion that the inclusion of this clause might possibly be the means of defeating the object of the educational test in this Bill. If we are going to include other Acts in the schedule I fail to see why this Act which has been responsible for so much harm in Western Australia, where it has defeated the educational test, should be allowed to remain on the statute-book. Clause 3 should either be omitted, or the Imported Labour Registry Act should be included among those in the 1st schedule, if we wish to place matters on a satisfactory footing so far as Western Australia is concerned.

Senator PEARCE(Western Australia). - I hope the committee will pardon me for again rising to speak on this subject, for I feel some anxiety in regard to it. I am confident that the Act to which reference has been made, has been a loophole through which many undesirable immigrants have been able to pass into Western Australia and defeat the administration of the State Restriction Act. Owing to the conflicting nature of the two measures - one ostensibly to restrict immigration, and the other to control immigrants - undesirable immigrants have been able to come in by means of a certificate of exemption under the one when they should have been stopped by the other. Doubtless the figures which I have given may be accounted for in that way. I should like to see the Imported Labour Registry Act repealed, although I understand from Senator Harney that it is repealed by the operation of our Constitution, in so far as it applies to immigration. There is one matter to which I wish to direct the attention of Senator O'Connor. There are a number of coloured aliens in Western Australia who should be deported.

Senator GLASSEY

- Have they come in under false pretence ?

Senator PEARCE

- No: but under the Imported Labour Registry Act which provides for their deportation at the end of their period of service. In reply to a question which I put some time ago, Senator 'O'Connor said that the deportation of these persons was a State matter, because up to that time the Commonwealth had not passed any legislation on the subject of immigration or emigration. He stated, however, that as soon as the Commonwealth passed any legislation on the subject the operation of the Imported Labour Registry Act might well become a Commonwealth matter. We have a number of these undesirable 211 people in Western Australia, under agreement to be deported at the end of their term of service to those Asiatic countries from whence they came, and I desire to know whose duty it will be to deport them. The Act has been administered in the past by the Custom-houses authorities, who are now under the control of the Commonwealth. That seems to indicate that the administration of that portion of the Act which relates to deportation is now a part of the functions of the Commonwealth. If my view of the case is correct, should it not be provided in this particular clause that the provisions of the Imported Labour Registry Act of Western Australia in so far as they apply to the deportation of these persons are taken over by the Commonwealth ? I want to bring this matter under the attention of the Government, because the people

of Western Australia desire to get rid of as many of these people as can be sent away legally. I know that they can legally deport some 496 of them, who have either dodged, or are at present working under their agreements. As a representative of Western Australia, I consider that those persons whom we have a legal right to deport to Asia should be sent back, and, if that is the function of the Commonwealth, we should have it clearly stated in this Bill.

Senator Sir Frederick Sargood

- Would not the deportation take place under the contracts ?

Senator PEARCE

- Yes; but seeing that Senator O'Connor has informed us that as soon as we pass legislation dealing with this subject it becomes the province of the Commonwealth to deal with this matter. The question is whether we should not repeal so much of the Imported Labour Registry Act as applies to this subject.

Senator Sir JOHN DOWNER

- Does the honorable senator ask whether it is the duty of the persons who contracted to bring these undesirable immigrants here, and to return them, to carry out that contract ?

Senator Pearce

- No ; I ask who will compel them to do so - the "State or the Commonwealth 1

Senator Sir JOHN DOWNER

- That is a fair question.

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Senator GLASSEY

- The question raised by Senator Pearce is one of considerable importance, and requires serious consideration. The people to whom he refers have been brought here under special contract, and under a special Act in force in Western Australia. The importation or exclusion of aliens is now under the consideration of the committee, and the question naturally arises who should enforce those contracts.

Senator Playford

- The States, of course.

Senator GLASSEY

- The State has the power to do so at the present time, but if we pass this legislation will it supersede the Western Australian Act ?

Senator Harney

- The contract has nothing to do with the immigration.

Senator O'Connor

- That does not get over the difficulty.

Senator GLASSEY

- The two matters seem to be so closely allied that I fail to see why we should take over one Act and leave the other to Western Australia.

Senator Pearce

- The officers who have hitherto administered that Act are now under the Commonwealth.

Senator GLASSEY

- It is just as well that this matter should be cleared up while we are dealing with the repeal clause. The Custom-house officials are under the control of the Commonwealth, and it will be their duty to deal not only with persons who come here, but with those who have to be deported under the law now in operation in Western Australia.

Senator Playford

- The police would have to deal with that matter.

Senator GLASSEY. - The Customs officers will have to move the police to perform their office in order that they may be able to discharge their own duty. Inasmuch as the Commonwealth assumes supervision over everything connected with the Customs, I think it is no longer a matter that rests with the States. I think the State would be glad to get rid of a matter of this kind.

Senator Playford

- I do not see why we should take it on our shoulders.

Senator GLASSEY

- Unless we do so ^ the great bulk of these people are likely to remain here. That is what we desire to

avoid. It would be a most serious matter if between the States on the one hand, and the Commonwealth on the other, it was thought to be nobody's business to see that the law in regard to deportation was carried out. The Commonwealth would deal more effectively with a matter of this kind than the State, not because the State is likely to shirk its responsibility, but because the Commonwealth has taken over the whole question of immigration.

Senator Sir FREDERICKSARGOOD (Victoria). - Practically the difficulty is that under the Constitution Act the Commonwealth has power to deal with immigration, but Senator Pearce's proposal is that we should deal with contracts that were in existence before the creation of the Commonwealth. I do not think we have any power whatever to deal with contracts made prior to the passing of the Constitution. They are ordinary contracts, and the State will have to see that they are carried out.

Senator DOBSON

- The question raised by Senator Pearce points to one of two courses which ought to be taken. Either we should strike out the repeal clause, or, if we deal with the question, we should look into it more carefully than we are doing at present.

Senator O'Connor

- There is another matter which we have to consider, namely, whether we want to insert anything in the Bill in order to hand over the administration of the Western Australian Act to the Commonwealth, or whether we should leave it to the State.

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Senator DOBSON

- That question does arise, but I am inclined to agree that the Commonwealth would do well not to take up what I conceive to be the duty of the State in looking after immigrants who have arrived in the State under contract. So far as I understand the law, we might under this measure repeal the Imported Labour Registry Act, and although we did not go on to say " save all contracts entered into thereunder" the contracts would be saved. It would rest with the State, whether the Act was repealed or not, to deport immigrants in the exact terms of the contracts, which would remain perfectly good. What I fail to understand is that only three Acts are proposed to be repealed by the measure now before us. There must be a number of other important enactments dealing specially with the admission of Chinese, which should be repealed to some extent, or at all events, enquired into by us. Senator Harney has expressed the opinion that in some circumstances the High Court might feel itself embarrassed when dealing with this matter, if upon looking at our various acts it found that in some of them we had attempted to repeal State Acts, while in others no mention was made of State measures dealing with the same questions. I quite agree with him, but in a matter of this kind I do not think the court would be embarrassed seriously, because it would see that the Constitution gives us the exclusive right to deal with all questions relating to immigration. After we have laid down the law, as we are going to do, in regard to the exclusion of certain persons, or the terms upon which certain persons shall be admitted, that law alone can prevail; but, nevertheless, all the State Immigration Acts should be carefully looked at. We must either strike out the proposal to repeal some of the Acts dealing with immigration, or look into and schedule the whole of them. It cannot be contended, for instance, that after this measure becomes law a Chinaman will be able to enter Victoria upon payment of the poll tax of £100. It is plain that our Constitution, as well as this measure, overrides the State provision.

Senator Sir Frederick Sargood

- He would still have to pay the £100 poll tax.

Senator DOBSON

- My point is that a Chinaman could not be admitted under the State Act, because the moment there was a conflict between the State and the Commonwealth law, the Custom-house officer, if he knew his duty, would point to the Commonwealth Act and say, " This is the only door by which you may enter ; if you cannot comply with the conditions of this Act you cannot come in." If in some of our Acts we have attempted to repeal State Acts or to put in certain words of limitation, just as we have done in the Postal Bill, we ought to go on in this measure and deal with the repeal of Acts. We should say that every law of every State which deals with the admission of immigrants into the State shall be null and void.

Senator Fraser

- Is that not so whether we say it or not ?

Senator DOBSON

- It is, but I am pointing out that this is one way of dealing with the matter, in view of the fact that Senator Harney has said that if we repeal some Acts and not others, it may lead to the embarrassment of the High Court. I point out that we have dealt with the repeal of State Acts, and as to the embarrassment to which Senator Harney refers, there is no doubt that the persons called upon to decide may feel some embarrassment when they find that, in an unimportant Commonwealth Act, State 21 I 2

Acts are repealed, and yet in this most important Commonwealth Act ever passed there is nothing said about repealing any State Acts at all. I am, therefore, inclined to suggest that, so far as any State Immigration Act lays down any laws which are not in agreement with the Commonwealth Act, it should be repealed. If there are other parts of a State Act dealing with matters over which the Commonwealth has no control, they would still remain in force. Senator Sargood has referred to the Beer Duties Act. We had the State Acts before us when we were dealing with that subject, and I recollect it was pointed out that there were certain provisions in the State Acts which they required to retain for their own purposes, and as they did not affect the Commonwealth law, it would be a mistake for us to say that they should be repealed.

Senator HARNEY(Western Australia). - I understand that the Vice-President of the Executive Council sees the force of the argument for omitting clause 3 altogether.

Senator O'Connor

- In its present form, yes.

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Senator HARNEY

- In its present form, and I should say in any form, for this reason : that since, by virtue of the Constitution, where an inconsistency exists between a State Act and the Commonwealth Act, the Commonwealth Act prevails, if we have a reference to any State Acts at all, it is open to this construction : The Judges may say - " The Commonwealth was empowered to make any law it pleased. It was empowered to inferentially effect the repeal of all previous Immigration Acts, or only such of them as it referred to, and although a certain section is inconsistent with an Act not in the schedule, we have also to consider that section of the Act which refers to the schedule.' And since that is specific, and the other is only inferential, they might feel bound to give effect to the specific one, and in that way they might thwart the purposes of the Constitution itself. But I believe the great difficulty in the honorable and learned senator's mind was upon the point raised by Senator Pearce, as to whether it was not necessary to preserve some administrative control of the Commonwealth, having regard to the fact that Custom-house officers in the past have administered a State Act in Western Australia, and that henceforth those Custom-house officers are servants of the Commonwealth. We have this Imported Labourers Registry Act in Western Australia. AVe are all agreed that this Bill will not refer to past contracts, and, therefore, persons are to be, in reference to those contracts, wholly under the State Act ; but the Custom-house officer no longer is the servant of the State, but a servant of the Commonwealth, and it is said that if we do not say something in our Commonwealth Act to transfer his administrative capacity from the service of the State in this respect to that of the Commonwealth, there will be no authority to deal with this class of persons. My answer is that' I do not think we can by any law give administrative power to a State officer that really does not fall within the purview of the Bill itself. We have no power to legislate with reference to these contracts, and therefore we have no power by any clause introduced into this Bill to say to the servant of the State that he shall administer that in reference to which we cannot make a law. The difficulty need not, however, remain unsolved, for this reason : that, although by virtue of the Constitution the officers who in the past have administered these State Acts are no longer servants of the State, what is there to prevent the State from saying: - "We shall vest in these Custom-house officers the State duty as well, or we shall appoint independent officers " 1 My suggestion to the Vice-President of the Executive Council is that he should strike out of clause 3 all reference to State statutes, and leave the States to take care of themselves, either by appointing independent administrative officers to perform the duties formerly performed by persons in their service, but who are now in the service of the Commonwealth, or by intrusting the double duty to the servants of the Commonwealth.

Senator GLASSEY(Queensland).- This question has, I think, a wider significance than some honorable

senators seem to suppose. I enlarge upon the question because it possibly has some bearing upon my own State. If the contention is correct that the Commonwealth cannot interfere with contracts entered into by the States with certain persons brought into the Commonwealth by the States, it may have some effect upon contracts entered into with a large number of persons introduced into Queensland, and whom we hope to get rid of under a measure which we hope to see passed before we go home for Christmas. I am referring, of course, to kanakas, and I would like to know from the Vice-President of the Executive Council what power we shall have of deporting this large number of persons we are anxious to clear out of the State within a reasonable time. I suppose we shall be able to do what we desire under the measure we hope to see passed, because it will specifically deal with those persons. Still, the question is one which deserves consideration. The Commonwealth having taken over the officers who had the administration of the matter to which Senator Sargood has referred, I am hardly inclined to agree with the honorable senator's contention that we cannot deal with the persons under contract to whom he referred, and that we cannot deport those persons.

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Senator O'CONNOR

- Senator Pearce has raised two very important questions, with one of which I think we may easily deal, and I am very much inclined to agree with Senator Harney that it would be much better to have no clause relating to repeals, because then the operation of the Constitution will be left absolutely untrammelled by any declaration in the Bill itself which might be embarrassing. There is, however, a more difficult question raised by Senator Pearce as to what is the position of the Commonwealth in regard to existing contracts made under the Imported Labourers Registry Act, and in regard to the duties which the State Government now performs under the Act. Of course, with regard to contracts entered into under the provisions of the State Acts, we do not interfere with them in any way. If it were necessary I should take care to have a clause inserted in this Bill saving all existing rights under contracts, because I am sure the Legislature has no intention whatever of interfering with any existing rights. Then arises another question. If certain conditions are not complied with, a duty is thrown upon the State Government, and the question now is whether it shall still be carried out by the State Government or by the Federal Government. It is a very difficult question to decide at once, and as with a great many questions which arise under the Constitution in evolving the rights between the States and the Commonwealth, I am not prepared to say off-hand what the position is. Although I will not express an opinion now, I may indicate what the difficulty is. So far as immigration is concerned, and so far as the entry of the labourer into the country is concerned, the administration belongs to the Commonwealth and there is no doubt that any part of the State law dealing with that matter will be superseded by the Commonwealth law. But the State law deals with more than that, and after the labourer has once entered the State it deals with his relations with his employers and with sanitary matters affecting him. He has to be vaccinated within a certain time, for instance. There are a number of matters of that kind which are State matters, and in so far as they are purely State matters there is no doubt that the Commonwealth could not interfere. But then there are some other powers under the Act by which the State Government has to carry out a duty which really deals with immigration. For instance, certain conditions have to be observed, which if they are not observed the labourer is not deemed to have properly entered the State, and must be deported. With regard to a power of that sort, I am not certain that it is not one which the Commonwealth ought to exercise. It is a power necessarily and essentially connected with entry into the Commonwealth under certain conditions, and involving deportation where the conditions are not observed. The matter is one which requires to be looked into very carefully, and I shall undertake to have some clause ready which will carry out the views of the Government in regard to it. I would prefer that the clause be postponed in order that I can consider it and have some amendment prepared.

Senator HIGGS(Queensland). - On this clause I desire to refer to a matter of very urgent importance. A girl named Ennis Dora Devlin, fifteen and a half years of age, ran away from her home in Numurkah, in this State. The mother took out a warrant, and the girl was brought up, as being a neglected child, in the City Court here before Mr. Panton, the P.M., who described it as "a monstrous and shameful thing," and expressed the hope that the press would draw particular attention to it. The report says : - Detective Arthur went into the box, and stated that the girl was arrested by him at Rathdown Street Carlton, in the house of a Mr. Ryan, who is a connexion of Devlin's by marriage. The girl had told him that

she ran away from home because her mother wished her to marry an Indian or Afghan hawker. Mrs. Devlin, added the detective, had been down to Melbourne, and he had tried to induce her to remain until the case was heard, but the woman refused, saying that she had to go back to Numurkah at once to feed some goats and fowls she had tied up.

Mr. Ryan, with whose wife the girl is now staying, corroborated the main points of the detective's evidence. The girl told witness and his wife that her mother wanted her to marry the Indian. She said she would never go back to her mother while the Indian was there; she would rather stay in Melbourne and work for her living, or even go with the Salvation Army. He (witness) and his wife would give Devlin a home, and see that she got decent work.

Mr. Pantou. Is there any evidence that the mother wants her daughter to live with this Indian ?

Ryan stated that his wife had received a letter that morning from Mrs. Devlin, in which she spoke of " the great love the Indian had for the girl." " The Indian," the letter continued, "would settle 10s. a week on the mother" if he could have the daughter.

Mr. Pantou. Settle 10s. a week on the mother for her daughter's defilement ? How monstrous !

Senator Playford

- I read the account of the last trial, and it appeared to me that the case broke down.

Senator HIGGS

- It did not break down. The father put in an appearance and said he was willing to take the girl back, and the magistrate said he had no power to detain the girl. According to the law, apparently, this girl of fifteen and a half has to return to her parents, and, I suppose, be threatened and frightened into forming an alliance with this Hindoo, who is anxious to settle 10s. a week on her mother.

Senator Playford

- But there was a statement of the detective afterwards that the case was not half so bad as was stated at the first trial.

Senator HIGGS

- By whom was the statement made ? By the counsel for the mother and the Indian. Inasmuch as Mr. Devlin appeared to be very poverty stricken, on his own showing, who provided the money for the counsel to appear ? It is a very bad state of affairs when a child is compelled to go back to such parents, who, no doubt, will force her into an alliance which the magistrate described as a " filthy one." If the Federal Government have any power under the Constitution, they should step forward and endeavour to prevent this alliance by deporting the Hindoo.

Senator Millen

- And the mother.

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Senator HIGGS

- It would not be a bad thing to deport the mother, since she seems to be willing, for the sake of getting 10s. a week, to allow her child to be married to a Hindoo. I hope that the people of Numurkah will see that justice is done to the child when she goes before the court tomorrow to be charged with being a neglected child. They should endeavour to see that an alliance does not take place, by some means or other, even if they should have to take the child by force from her parents.

Senator O'CONNOR

- I really do not see, at the present time, how the matter to which Senator Higgs has referred, however regrettable it is, can come within the scope or function of the Commonwealth Government. The question as to the power of deportation is a very important one. It has been dealt with, to a certain extent, in clause 9, but the aspect with which we were dealing before was whether it could be exercised under this Act, without some additional powers in so far as the Imported Labour Registry Act of Western Australia is concerned. The whole question will be looked into.

Clause postponed. .

NUMBER OF UNEMPLOYED

Ordered (on motion by Senator Dawson) -

That a return be laid upon the table of the Senate showing the number of unemployed registered at the different labour bureaux in the States of the Commonwealth on the 30th of June last.

ADJOURNMENT



Order op Business. Senator O'CONNOR (New South Wales - Vice-President of the Executive Council). I move -

That the Senate do now adjourn.

It is the intention of the Government, on Wednesday next, to proceed first, with the New Guinea motion, next with the Pacific Island Labourers Bill, and when that Bill is finished, with the Immigration Restriction Bill.

Senator Millen

- -Why the change 1Senator O'CONNOR. - That is my business.

Senator Millen

- It is ours, too.

Senator CLEMONS

- I take advantage of this opportunity, sir, if I may be permitted, to say that this is a distinct violation of a promise which has been made in this Chamber by Senator O'Connor.

Senator O'Connor

- This is out of order.

The PRESIDENT

- It is out of order.

Senator CLEMONS

- I know that it is out of order. A distinct promise was made in this Chamber by Senator O'Connor, and he has broken it.

Senator O'Connor

- Nothing of the sort.

The PRESIDENT

- Under the standing order there can be no debate.

Question resolved in the affirmative.

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15:45:00

Senate adjourned at 3.45 p.m.