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1901-09-04

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

CUSTOMS BILL

In Committee(consideration resumed from 29th August, vide page 4293).

Vice-President of the Executive Council

Senator O'CONNOR

. - I find it necessary to propose a new clause to follow clause 30, which it will be remembered states the extent to which goods shall be subject to the control of the Customs.

As to all goods imported - from the time of importation until delivery for home consumption or until exportation to parts beyond the seas, whichever shall first happen.

Then it refers to goods under drawback and to goods subject to any export duty. The definition of Customs control contained in that clause is not sufficiently large, because it applies only to goods imported. " Goods imported" mean goods intended to be landed and entered for home consumption or dealt with under the drawback clauses and stored. In order to give the full powers which are necessary, it is obvious that there must be a Customs control over all goods imported. It is assumed that there is such control in several of the clauses, for instance, in clauses 179, 182, 183, and 184. Clause 179 says- Any officer may open packages, and examine, weigh, mark, and seal any goods subject to the control of the Customs, and the expense of the examination, including the cost of removal to the place of examination, shall be borne by the owner.

That implies that there shall be a control of Customs in all those cases where there is a power to open packages. It is quite obvious that the power which is given in other parts of the Bill to search goods, go all over the ship, and seal up whatever may be necessary, could not be exercised unless there was a power to deal with the ship generally. If it was a power to deal with only goods imported, it would be quite ineffective for the purpose of watching the revenue. Therefore, I move -

That the following be inserted as a new clause, to follow clause 30 : - " All goods on board any ship or boat from parts beyond the seas shall also be subject to the control of the Customs whilst the ship or boat is within the limits of any port in Australia."

Senator Sir JOSIAH SYMON

- This is a much more far-reaching proposal than it would appear at first sight, and I should say, subject to correction, that there is no such provision in any Customs Act.

Senator O'Connor

- Because the mode of drafting of this Bill is different. You would not find these powers in any one section, but you would find them scattered over many sections.

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Senator Sir JOSIAH SYMON

- I feel perfectly certain that they are not concentrated into one section. Whether we get them filtered down through a number of sections, I cannot say. But it is perfectly apparent that the effect of 'this new clause, taken in conjunction with clause 179, would be to enable any Customs officer to open all - the goods, or any goods and packages on any oversea ship, whether the cargo was : unbroken or not or whether she intended to land an atom of her cargo at a particular port of call or not, or whether she was a British ship or a foreign ship, or any other ship. That is in entire conflict with the principles of the Customs Bill. What do we levy duties upon ? We levy them upon goods imported into the Commonwealth and put into consumption. We do not intend to levy duty on the cargo of a ship that simply calls at a port and takes her cargo away again, and what right have we to place a ship under the control of the Customs officers with a view to enabling them under clause 179 to break open her packages, and to explore her cargo, when no portion of it is intended to be landed on our shores? This is a very serious provision indeed. I doubt very much whether it is lawful. Whether it is lawful or unlawful we need not inquire into, but certainly it applies to goods that by no possibility and according to no principle under which duties of Customs are levied can we exercise or have any control over. Clause 30 covers the whole ground so far as duties of Customs are concerned. First "all goods imported " are subject to the control of the Customs, that is, they may remain in bond or may be delivered out at once after entries are passed and the duties paid. Then " all goods under drawback," and "all goods subject to any export duty " are under the control

of the Customs. But the object of this new clause is to place under the control of the Customs the cargo on an oversea ship coming from Europe, not one ounce of which may be intended for importation into the Commonwealth.

Senator Charleston

- I cannot see what the object of it is.

Senator Sir JOSIAH SYMON

- It might have had an object if Senator O'Connor had left clause 184 as it originally stood. It might have given a pretext for retaining the latter part of that clause so as to make ships having touched at one port and had their goods sealed up, and having arrived at their final port of destination with their seals broken, liable to penalties because the goods remained subject to the control of the Customs. But as that has been eliminated I see no purpose in putting it in so far as the duties to be levied under the Federal Tariff are concerned.

Senator Dobson

- But there is another clause like clause 184 to go in.

Senator Sir JOSIAH SYMON

- There is a new clause to go in, but it is not like clause 184, because the object of the amendment made in that clause the other day, at the instance of Senator O'Connor, was to avoid the possibility of the words "under the control of the Customs" operating to prevent a penalty for a seal being broken upon a foreign-going ship arriving at her port of destination. It was supposed that that clause would not reach a foreign-going ship which had her stores sealed up in Fremantle, and which arrived in Sydney with the seals broken, because the words in that clause are whilst the goods "shall remain subject to the control of the Customs," and, of course, it is admitted that once an oversea ship gets away from her first port of call to the high seas she is, and the goods on board are, no longer under such control. That is, why it was omitted.

Senator Dobson

- But supposing that the goods under the new clause are all intended for consumption within the limits of the Commonwealth?

Senator Sir JOSIAH SYMON

- All that is covered by clause 184, if they are under the control of the Customs; but it is admitted that these goods are not under the control of the Customs if they are not imported or landed. 'Goods are not under the control of the Customs until they are imported and landed - either sent direct into the port of consumption, or subject to drawback, or intended for export.

Senator Dobson

- If we are going to charge goods consumed with duty, ought they not to be under the control of the Customs?

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Senator Sir JOSIAH SYMON

- But under this amending clause, if a ship happens to leave Fremantle with her stores sealed up and arrives in Sydney with the seals broken, we are going to penalize her whether the goods are under the control of the Customs or not. An illustration of what may happen is given by reference to clause 179, which enables the Customs authorities to open goods which are just as much within the country from which they come, in the eye of the law, as if they had never left it. If that is a provision which should be inserted, why does it not appear in some other Customs Act? But it does not. The object must be to facilitate the operation of clause 184, and it might have had that effect if that clause had been left as it was drafted originally, but it has been altered. We are now asked to agree to a provision to catch, if possible, oversea ships which consume their stores along the coast. Those vessels must be penalized by this clause if they arrive with their seals broken. Therefore, I trust that amendment will not be accepted by the committee.

Senator O'CONNOR

- It appears to me that the honorable and learned senator's objections to this clause are founded upon a misconception of the scope and object of it.

Senator Keating

- These powers are already given in clause 182.

Senator O'CONNOR

- Senator Keating refers me to clause 182. Power is there given to search " every part of any ship," to open " any package, locker, or place," and to examine " all goods." There are several other clauses of the same kind. It is quite obvious that if the Customs have power only over goods that are already landed, you are in this position : If a ship arrives in Perth with goods for all ports of Australia, some of her goods would be taken out at Perth, and the rest would go on. Is it to be said that the only power of control which the Customs officers are to have is over those goods which, according to the manifest, are to be landed at Perth, and that there is to be no power whatever to deal with any other article in the ship ? If so, the Customs officers must absolutely take the statement of the master or owner as to what goods are to be landed there, and will have no control over any other goods. It is clear that the whole scope of the clause is to give the officers power to board a ship, to inspect every part of her, and if necessary to seal up goods. They are to have power to examine packages, lockers, and places where goods are stowed. As Senator Keating has pointed out, clause 182 gives, that power, but in order to place the power distinctly in the hands of the Customs it is necessary to define what goods shall be under their control. It is necessary, therefore, if the Customs are to have control of the unloading of ships, that they shall not be bound to take the mere statement of the owner or master as to what goods are to come out at any particular port. They must have power to search, examine, and verify, and if necessary to seal up any goods on board the ship.

Senator Sir Josiah Symon

- They have that power under clause 182.

Senator O'CONNOR

- No ; because if it were left in that way it might be argued - though I do not think successfully - that the clause applied only to goods that were under the control of the Customs, and "a limitation of that sort would be most detrimental to the power which ought to exist of verifying any statements made with regard to the contents of a ship. Suppose there were certain goods to be landed at Perth, and that it turned out that some other goods on board were intended to be smuggled into Perth. If the master had power to say - " These are the only goods that are intended to be landed at Perth, and you have no right to examine any other goods, or to test my statement with regard to any 'part of the goods, except those going out at Perth," then, although there might be goods intended to be smuggled, there would be no power of inspection by the Customs over other goods than those stated to be intended to be landed at Perth.

Senator Clemons

- Clause 182 gives all the power that is necessary.

Senator O'CONNOR

- If that be so, what objection can there be to giving the power under this clause t

Senator Clemons

- There might be a slight objection to redundancy.

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Senator O'CONNOR

-The object of the clause is to see that the revenue is properly collected, and that there is no evasion. Something has been said about ships' stores. There is no doubt that the amendment which I am now proposing would touch that question. That is not in any way the most important view of it, though it is a view which of course has to be considered. If we are to make the power to deal with ships' stores effective, it is quite clear that there must be some power of control over them. The power must be worded in much the same way as the power with regard to Customs control of the goods given in clause 30. -The whole object and scope of the clauses giving power to search will be absolutely nullified if there is only power in regard to goods which are stated to be goods to be imported into a particular place.

Senator Sir Josiah Symon

- Will the honorable and learned senator state what other power will be given by this clause than the power to search and examine ?

Senator O'CONNOR

- There will first of all be the power under clause 179 to " open packages and examine, weigh, mark and seal any goods subject to the control of the Customs." There ought to be some power to verify statements that are made with regard to destination in those cases in which the Custom-house, officers think it

necessary. Then there will be the power under clause 181. That clause says that -

The power of an officer to board shall extend to staying on board any ship and the collector may station an officer on board any ship.

Then the following clause gives power to search " every part of any ship and to open any package, locker, or place." Clause 39 enables security to be required. It gives the Customs the right -

To require and take securities for compliance with this Act, and generally for the protection of the revenue, and pending the giving of the required security in relation to any goods subject to the control of the Customs "to " refuse to deliver the goods or to pass any entry relating thereto.

Senator Playford

- The point is : Have not the Customs already got all the power that is given under this amendment ?

Senator O'CONNOR

- No ; and it is because I am satisfied that we have not the power already that I think this amendment is necessary. Of course, if all goods in a ship were to be regarded as goods to be imported, there would be no difficulty. But the phrase " all goods imported," used in clause 30, means goods which are landed or intended to be landed.

Senator PLAYFORD

- It says, " For home consumption or until exportation."

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Senator O'CONNOR

- That would not prevent the ship sailing out of port with the goods. There has been a decision on the point which is quoted in Quick and Garran on The Constitution of the Australian Commonwealth, page 859. It says -

Questions may arise as to the meaning of the word "imported," and as to the precise time when the importation of goods is to be deemed completed. On this point some assistance may be derived from the decision of the Privy Council in the case of the Canada Sugar Refinery Company v. The Queen (1898), App. Ca. 735. By the Canadian Tariff Act 1895, which came into force 3rd May of that year, a duty of one-half cent, per pound was imposed on raw sugar "imported into Canada." On 29th April the Cynthiana, from Antwerp, carrying a cargo of sugar consigned to Montreal, put into the port of North Sydney, Cape Breton, Canada, in order to coal, and the master made his report inwards of his ship and cargo in compliance with the 20th section of the Customs Act. On the same day he made his report outwards, and obtained the Customs certificate of clearance for Montreal. On the 2nd May, the importers of the sugar made an entry at the Montreal Custom-house of the sugar, and a warrant was issued for its landing duty free. On 3rd May, the new duty came into force. The Cynthiana reached the wharf in the port of Montreal on the 4th May. The collector of Customs then cancelled the free entry, and claimed that the goods were liable to duty. On his behalf it was contended that the goods were not imported into Canada until they were landed, or at any rate until they arrived within the port of Montreal ; that the goods were not imported into Canada by the mere fact of the vessel entering a port of call within the Dominion on her way to her ultimate destination ; that " imported " meant at least arrival in the port of discharge.

The question there was whether goods which had arrived in port and were intended to be landed, but which were not landed until after the new duty was enforced, were goods imported. There is no doubt that as they were intended to be landed, they were goods imported. It is clear to me that the reference in the Bill is to goods which are either to be landed and used for home consumption, or to be kept under bond and re-exported, and consequently the words as used in the Bill do not give the power we require. We are dealing with a very important question, and I do not think any one will deny that it is necessary we should have this control. If we are to have effective control to prevent smuggling, we must have the power of search over all goods on a ship and not merely over goods that may come out at a particular port. The question is, have we that control without this clause 1 I have a very strong opinion that we have not, and if honorable senators are agreed that we ought to have that control, surely it is running a very great risk to depend upon the construction of the one word " imported " - which I am disposed to think is not sufficient - in order to found upon that the whole of the exercise of the power of control by the Customs. This is one of the cases in which we should be perfectly clear as to the power we are giving. An officer may require, for the protection of the revenue, to exercise stringently very extensive powers, and if that is so, the foundation of his authority should be put beyond all question. That cannot be done unless we make it

distinct and clear what the "control of the Customs" really is.

Senator Ewing

- Does not clause 180 do that ?

Senator O'CONNOR

- I am quite aware of that clause ; but the honorable and learned senator knows that it is one of the first rules of the interpretation of statutes that where you have a general power given, and it is too large for the purposes indicated by other sections, it is to be read as being controlled by the other sections. There is a strong probability, at all events, that the position will be taken up that this power exists only for the control of goods which are to be imported, as the words are used in clause 30, where there is apparently a limitation as to what "imported" means. It may then be held that this power can only be enforced within that limitation. I cannot understand why there should be any difficulty in accepting this clause. If honorable senators are agreed that this is a power we should have, there should be no objection to making it plain on the face of the Bill, and that is all we ask to have done. We ask it particularly, because almost immediately when we begin to put this power into force, which the committee has decided by a large majority we shall have in dealing with ships' stores, we may be well certain that every point that legal ingenuity can devise will be raised to defeat it. If that is so, why should we run any risk now by not making it perfectly plain what we intend, and that is that from the time a ship enters port until she leaves, she shall be subject to Customs control, and to have an officer on board with power to search, inspect, seal up, and do all those things which are essential to a real Customs control - the power to verify every statement made in regard to the destination of every package of goods on board the ship.

Senator Walker

- I presume all ships of war are excluded

Senator O'CONNOR

- No ; certain provisions extending to ships of war have already been passed by the committee in one of the clauses. I hope the committee will see the necessity for this power, which is absolutely essential in order to carry into full effect the powers which have been already given.

Senator Sir JOSIAHSYMON (South Australia). - I understand from the last few remarks of Senator O'Connor that this is really a sort of supplementary provision intended to deal with the question of ships' stores. If it is, we are raising that question again in another form, as I apprehended we should.

Senator O'Connor

- The honorable and learned senator must have misunderstood me. What I said was that this clause would have an application to ships' stores as well as to goods in general, although the application of it to ships' stores is not the most important part of its application. I pointed out just now that one of the reasons for making this perfectly clear is that the power in regard to ships' stores is likely to be early questioned, and questioned with a great deal of ingenuity.

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Senator Sir JOSIAH SYMON

- I cannot see myself why we are to have this introduced" by means of this new clause >if it is not to have relation to ships' stores, because, so far as regards the cargo of any ship coming to a port of call, it is totally unnecessary. We are all agreed that we should put a stop to smuggling, and that every power should be given to board ships arriving within the territorial waters of the Commonwealth, to examine their cargoes, inspect them, and make such search as may be absolutely necessary. We all admit that there must be the power of search. Clauses 179 to 183 give the most extensive and drastic powers which the human mind can conceive with regard to the boarding of ships. Immediately any ship, British or foreign, comes within the territorial waters of the Commonwealth, she is, in a certain sense, subject to the control of the Customs. She is subject to the laws of the Commonwealth, and we can board her, as this Bill empowers us to do, and search and examine every part of her with a view to preventing any infringement of the laws of the Commonwealth. I entirely agree with Senator O'Connor - and he is supported by the passage he cited - that goods are not imported when on board a ship simply on her coming into a port of call on her way to her final port of destination. I agree that that is not importation, and that was the point I intended to make when calling attention to the effect of this clause. It must be remembered that the expression "subject to the control of the Customs" has a technical meaning in this Bill. It does not mean merely being under the operation of customs laws for inspection and so on. And this clause says that

goods which are not imported into the Commonwealth at all shall be subject to the control of the Customs in the technical sense in which the expression is used. Senator O'Connor will see that in the earlier clauses of the Bill the expression only applies, and is only intended to apply, to goods which are imported, and that is why I have ventured to say that in no other Act is such a clause to be found. Under this clause a ship coming into a port with an unbroken cargo, not an ounce of which is intended to be landed at the port, where the ship may be calling only for orders, is to be subject to this technical expression made use of in this Bill for other purposes altogether than the giving of powers of search. I do not think Senator O'Connor has at all exaggerated the importance of this provision. From a different point of view it is of the highest importance, and I think it entirely inconsistent with the scope and operation this Customs Bill ought to have. If honorable senators will look at clauses 30 and 39, they will find that clause 30 obviously is intended to confine the use of the technical expression "subject to the control of the Customs" to goods imported, from the time of importation until delivery for home consumption, or until exportation to parts beyond the seas. The second paragraph of the clause applies the expression to goods under drawback, and the third to goods subject to any export duty. Honorable senators will see that from the beginning to the end of this Bill the expression "subject to the control of the Customs," refers to goods in these different categories, and not to goods that are really not imported at all. If honorable senators will look at clause 39, they will see that under it the Customs are to have the right to require and take securities for compliance with the Bill, and generally for the protection of the revenue, and pending the giving of the required security, in relation to any goods subject to the control of the Customs, they may refuse to deliver the goods or pass any entry relating thereto. It is clear that that is quite inapplicable to the whole unbroken cargo of a ship entering a port of call before her arrival at her final destination. Clause 179 provides that any officer may open packages and examine, weigh, mark, and seal any goods subject to the control of the Customs, and that refers to goods imported or subject to drawback or waiting re-exportation. It further provides that the expense of the examination, including the cost of removal to the place of examination, shall be borne by the owner. How can we possibly apply that provision to a ship-load of goods in a bottom merely making a call at Fremantle before going on to the final destination at Sydney. There is no application whatever. Again, if honorable senators will look at clause 32 they will find that no goods subject to the control of the Customs are to be moved, altered, or interfered with, and if the new clause were to apply to that the authorities on board a ship could not even re-adjust their cargo. Thus even if a ship-master wished to trim his cargo, he could not touch it without being liable to a penalty. Clause 33 provides that the Customs shall not be liable for any loss or damage occasioned to any goods "subject to the control of the Customs." And again, clause 35 provides that entries may be made and passed for all goods "subject to the control of the Customs." It shows that the intention in the use of that expression is that it shall be limited in its application to goods imported in the ordinary sense of the term.

Senator Glassey

- The new clause is simply an extension of that power.

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Senator Sir JOSIAH SYMON

- But under the new clause we are applying the expression "subject to the control of the Customs" to something to which it was never intended to apply, and imposing obligations and duties and penalties which are only referable to goods imported in the ordinary sense in which the term is understood under the Customs Act. We shall land ourselves in the greatest possible confusion by applying an expression which is confined throughout the rest of the Bill to goods imported, in the technical sense - so clearly explained by the Vice-President of the Executive Council - to a class of goods which are not imported at all. The object which Senator O'Connor says the Government have in view, and which we all have in view, to enable powers to be exercised by the Customs authorities in regard to inspection, and search, and so on, is met by the clauses that already exist, and which I have enumerated. There is, therefore, no necessity for this clause for that purpose. If we say that a cargo on board a ship making a call at Fremantle is to be under the control of the Customs in the same sense as though it were imported, then we shall land ourselves in very serious difficulties and give an additional power to the Customs authorities to be legitimately exercised.

Senator O'Connor

- Would the Customhouse officials have power to seal up ships' stores under the Bill as it Stands?

Senator Sir JOSIAH SYMON

- I think so. We are all anxious to make this Bill as perfect as we can. Whatever fiscal view a man may hold, so long as duties are imposed it is everyone's desire that they shall be collected from all goods from which they can be legitimately collected. The goods of a ship when she is in territorial waters are absolutely under the control of the officers of the Customs, but they are not in the technical meaning subject to the control of the Customs with all the attendant consequences given by the text of the Bill.

Senator CHARLESTON

- The Vice-President of the Executive Council has failed even now to explain how under this clause the Customs will be able to obtain control over ships' stores. It is quite evident that the honorable and learned senator has in his mind "ships' stores," although he is using the expression "goods." "Goods" and "ships' stores" are very different things. We have clearly given the Customs authorities power to deal with goods that are imported here for home consumption or other purposes already mentioned, but Senator O'Connor is desirous of giving the Customs control over ships' stores while ships are within the jurisdiction of the Commonwealth. Every expression he has used has gone to, point out that the object of the new clause is to give control over goods. From what has been stated I think there is ample power for the Customs officers to search any ship while she is in any of our ports for the purpose of ascertaining whether any contraband goods are stored away, but there is nothing in this clause now which would give the Customs power to impose a duty upon ships' stores consumed on board. The Customs officers seek to prevent ships from selling goods on board, not to prevent the consumption of ships' stores by those on board. They wish to be able to say - "We shall seal up these goods and leave you so much for your own consumption from day to day whilst you are in port, but we want to protect the revenue, and we cannot allow you to sell goods on board ship." I fail to see, however, that Senator O'Connor has shown us how this clause would give the Customs officers power to deal with ships' stores in the way that he evidently contemplates. The new clause deals with "goods" only.

Senator CLEMONS

- Whilst I entirely disagree with the object of the new clause, I will admit that I can clearly see the intention of it. It was at once disclosed by Senator O'Connor's last remark. We all know that this proposed new clause is to deal with stores on board oversea ships, and to enable duties to be collected on stores consumed on those ships. It is proposed that these stores shall be sealed up, and that a penalty shall attach to the offence of breaking seals if such offence is discovered when the ship reaches a Commonwealth port. If honorable senators read clause 179 they will see that the power given by this Bill to the Customs to seal up goods is limited to any goods "subject to the control of the Customs." I think it is quite obvious that the intention of the Vice-President of the Executive Council, in inserting clause 30a, is to give officers power to seal up these goods on oversea ships. There can be no doubt as to the object of the clause.

Senator O'Connor

- I stated plainly that that was the object.

Senator CLEMONS

- The honorable and learned senator made it clear in his last remark. The object of clause 30a, as a preliminary to the other new clause which Senator O'Connor proposes to insert, is to enable the Customs to seal up goods, a power which they would not have unless this clause were inserted.

Senator Sir JOHN DOWNER

- It gives the Customs a general control.

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Senator CLEMONS

- Yes, I quite agree with Senator O'Connor, that clause 30a is wanted. I simply rise to deprecate a prolonged discussion of this point, unless we are going to be immersed in the whole question at the present stage. But while clause 30a will secure Senator O'Connor's object, I contend that it will go beyond it. He desires that the Customs authorities shall have power to seal up stores on oversea ships, but when we come to deal with this question we are going to deal with goods consumed, and not merely with goods on board ship. Clause 30a, however, will enable the Customs authorities to seal up the whole of the cargo on any oversea boat. Of course the greater includes the less, but I distinctly object to the wide extension of power provided for in this clause. If the Vice-President of the Executive Council is to secure his object,

power must be given to seal up stores, but he must recognise that he is asking now for power to seal up the whole cargo of a ship - a power which, I think he will admit, goes beyond what is necessary.

Senator O'Connor

- I do not think so.

Senator CLEMONS

- I submit that we are going to consider and discuss the question of collecting duty from stores on oversea ships, by making it an offence to break seals and by imposing a penalty for that offence. That is our clear object. I am with Senator O'Connor in seeing that our legislation shall clearly enable the Customs authorities to do what they want in that respect. But he is asking for more, and, in asking for power for the Customs officials to seal up the whole cargo of a vessel, he is demanding something that seems repugnant to many of us. I should prefer to see this clause limited to the scope which Senator O'Connor wants, and then I should like to see it and the other new clause considered and discussed together on that basis.

Senator Sir FREDERICK SARGOOD

- It is much to be regretted that it was not possible to circulate these amendments earlier. It is only since we came into the Senate that we have had an opportunity of seeing them. They are very wide in their scope, and are of sufficient importance to deserve a considerable amount of attention at our hands. Under the Bill at present the Customs authorities have full power to deal with all goods on board ship, and intended to be landed, either dutiable or free, as the case may be. The Customs have power over them while they are on board, while they are being landed, and until they are absolutely delivered, and also if the goods are left in bond they have control over them until they are re-exported, if that course be adopted. Thus, so far as goods for home consumption or for re-exportation are concerned, there is ample power. But the Bill goes further than that, because under clause 178 there is power for a Customs officer to search any vessel within one league of the coast.

Senator Sir Josiah Symon

- Clauses 180, 181, and 182 all deal with that matter.

Senator Sir FREDERICK SARGOOD

- Clause 178 goes to that extent. It provides that unless the vessel departs after being warned, the Customs officer may bring her into port ; and clause 180 provides for the boarding of vessels and so on, clearly showing that the intention is to give the Customs authorities power over all vessels within territorial waters. Now, we come to another question as to what that means. In view of the discussion which took place in the committee the other night upon the debatable question of ships' stores, I think it will be seen that we are pretty unanimous in the opinion that goods consumed on board ships within territorial waters should pay duty, so as to place all vessels, whether they be local or oversea ships, on exactly the same footing in that respect. I must confess that at the time I did not think the Bill fully conveyed that power, and I presume these clauses are intended to deal mainly with the consumption of ships' stores in territorial waters. If that be the object of these amendments, and they are not already embodied in the Bill, then I do not think we can very well oppose them but if, by any stretch of imagination the amendments can be read as giving power to Customs officers to act outside territorial waters, they go too far. I should imagine that these new proposals are really intended in some way to get at shipmasters who break seals outside territorial waters.

Senator Playford

- And why should they not be got at ?

Senator Sir FREDERICK SARGOOD

- I would say in passing that, in my humble opinion, it cannot be an illegal act to break seals outside the Commonwealth. To attempt to punish a man who comes into port, for doing that which is perfectly legal, seems to me to be a monstrous thing. But, so far as the consumption of goods within the Commonwealth is concerned, I think the Customs must have 'absolute power. I am told that the power of sealing all goods on a ship is possessed by the Customs under the existing Act - not merely the goods which are to be landed for home consumption, but all or any goods on board.

Senator Sir Josiah Symon

- Let us have the section.

Senator Sir FREDERICK SARGOOD

- I have not had time to refer to the Act, but I am assured by very good authority that the Customs have the power.

Senator O'Connor

- Where do they get power to seal ships' stores ?

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Senator Sir FREDERICK SARGOOD

- I am informed that the Customs can seal all or tiny part of the cargo on any ship which comes into port.

Senator Clemons

- Cargo too?

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Senator Sir FREDERICK SARGOOD

- Yes, and I can easily understand that it is absolutely necessary, in order to prevent smuggling. I should prefer to have had a little more time, not merely to consider this provision, but to consult commercial men who have had much more experience in this branch of trade than I have had. So far as I am advised, it is a necessary clause.

Senator PLAYFORD(South Australia). - When I first read this clause I thought it was surplusage, because this power has already been conferred upon the Customs. I have been somewhat shaken in that view by the speech of Senator Symon, who has contended that the meaning of the phrase " subject to the control of the Customs" is limited. The word "exportation " in paragraph (a) of clause 30 refers to goods imported, and not to goods that may be exported from a State. I contend that under that provision all the cargo of a ship in port is under the control of the Customs. Therefore, it appeared to me that the new clause was only a repetition in another way of what we had already provided. However, if it is not abundantly clear in the Bill, it should be made clear. I shall be found voting for the Government to give them the power which they ought unmistakably to possess. Not only goods intended to be landed at a port of call, but also goods intended to be landed at some other port, must, while the ship is within a federal port, be under the control of the Customs. The Customs must have power to examine anything and everything on a ship to see if smuggling is attempted to be carried on. I may tell Senator Charleston that in my opinion the word goods includes stores.

Senator Sir JOSIAHSYMON (South Australia). - We use the expression " under the control of the Customs " only in reference to goods that are imported - that is, imported whether they, are still on board the ship or whether they are landed and put into bond, or in whatever condition they may be. But owing to the existence of the Commonwealth we are faced with this position, that whereas formerly as a rule goods were brought by oversea ships to their ultimate port of destination and imported and landed it might be there, now it so happens that there is a series of ports of call in the Commonwealth to which these vessels go, it may be voluntarily or it may be under the obligation of a mail contract, but to which at any rate they go, remain for a few hours, and then proceed to another port of call, and ultimately to their final destination. That is what creates the difficulty here. If a ship comes here with a cargo of goods for Melbourne, the ship and her goods are, of course, within Customs control, and the cargo is a cargo of goods imported, because they are intended to be landed. But it is a very different thing when a ship arrives at Fremantle with a cargo consigned to Sydney. The goods in Fremantle are not imported, and they are not subject to the control of the Customs in the way which is intended by clauses 39 and 179. Those two clauses become impossible of being brought into effect, and we are using an expression - under the control of the Customs - which has no application to the cargo of a ship, unless where the goods are not imported. That is the difficult position in which we are landed. I press this upon the attention of honorable senators, that they are asked to agree to a clause which will create great confusion, which is utterly inconsistent with the rest of the scheme, and which will use an expression as to goods not imported that is otherwise confined in its operation to goods imported within the meaning of the Bill. But then, if Senator O'Connor will say definitely' that this is mainly directed against oversea ships' stores - that it is to 'fill a gap in the Bill in relation to ships' stores - it is a perfectly fair thing to try to get it put in, and to remedy the defect. Those of us who may be against the principle of levying duties on ships' stores when consumed on the high seas, can take an issue on it if we like, but the proper way in that case is to limit this new clause to ships' stores, so as to bring it in line with clause 184, and then we know exactly where we are. As to all goods, and all cargo on board a ship arriving in the territorial waters of the

Commonwealth we have ample power of inspection, examination, and everything else we like under clauses 179, 180, and so on. The officers can board the ships, no matter what their flag or nationality may be ; they can open packages, examine every part of a ship, fasten down a hatchway and other openings into the hold. In clause 183 the power of sealing is given in these words -
Sealing, marking or otherwise securing any goods.

What do we want this new clause for ? If it is intended to make it perfectly clear that an attempt is being made to seal up ships' stores with the view of securing, the penalties if the seals be broken on her arrival at the final port of destination, let us consider it when we come to the other new clause. I ask Senator O'Connor whether under clauses 178, 182, and 183, there is not the amplest possible power to do everything that is required to put a stop to smuggling ? Any part of a ship may be examined and inspected, any package may be opened, and any part of a ship may be sealed up. If this new clause is intended, as I think it must have been by the draftsman, to be ancillary to the proposed new clause 184a, then it ought first to be limited to ships' stores - the expression is used in clauses. 122 and 123- and considered together with clause 184; because if the latter is passed, and Senator O'Connor says he has any doubt as to whether clause 183 would give the power of sealing up ships' stores - I think it does in most express terms - I have no objection, if the committee affirm the principle of clause 184a, to that being put in as well. If the principle is affirmed that we are going to attempt to punish a man for doing what is a perfectly legal act, then I am quite willing, that the Commonwealth shall have the opportunity of exercising that power in the widest possible fashion ; but I. think, on reference to the clauses I cited, the Minister will see that the officer has ample power of sealing and doing everything else he desires, not only as to ships' stores, but as to the rest of the cargo so far as may be necessary.

Senator Sir WILLIAM ZEAL

- It would appear that all the members of the committee are unanimous that power should be given to the Government to have the fullest control over goods coming into a Federal port. Supposing, that a vessel bound from New York to Dunedin puts, into Port Phillip through stress of weather. This new clause would give the Government the necessary power to prevent any goods from being landed from that ship on our shores. Without this power in the Act vessel putting into our port in that way would be practically able to do what she liked..

But with this power in the hands of the Government, it would be impossible to land goods from that ship. Under those circumstances, and after the explanation of the Vice-President of the Executive Council, I shall support the clause.

Senator Sir FREDERICKSARGOOD (Victoria). - Senator 'Symon has very properly asked me to refer to the sections in the Victorian Act, in support of the statement I made that I thought that Act gave the Customs control of the whole of the cargo of any vessel, that came in to the port of Melbourne.

Senator Sir Josiah Symon

- .Every State has that power ; that is not the point. Is there any section in the Victorian Customs Act which states that goods on board any ship coming from beyond the seas are subject to the control of the Customs ?

Senator Sir FREDERICK SARGOOD

- Under section 165 of the Victorian Act No. 1081, every master of a ship that comes into port must within 24 hours give a report of the whole of the cargo of that ship in accordance with Schedule 6 of the Act. There is a penalty if he does not do so. Schedule 6 states, in column 6, that the master must report as to " particulars of packages and goods, if any, for any other port in Victoria." Instead of saying " every port in Victoria," we now read " every port in the Commonwealth." The seventh column of the 6th schedule relates to " goods, if any, to be transhipped or to remain on board for exportation." That is evidently referred to in this proposal. If the master of a ship coming to a port in Victoria fails to make that report under columns 6 and 7, the Customs may detain the whole of the goods that have not been entered, and may 'give them up on such terms as the Commissioner thinks fit ; or, failing that, can convey them to the warehouse. If a ship comes in having on board goods, we will say, for Sydney, and if the captain fails to report those goods as being for Sydney, the Customs can seize them, land them, put them in a warehouse, and only give them up on such terms as the Commissioner thinks fit.

Senator Sir Josiah Symon

- Is there any section in that Act which says that all goods on board any ship shall be under the control of

the Customs 1

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Senator Sir FREDERICK SARGOOD

- I think I have quoted it.

Senator O'Connor

- The expression " control of the Customs " is not to be found in any of those Acts in the way in which we use it here.

Senator Sir FREDERICK SARGOOD

- Surely the goods are under the control of the Customs if the Customs can seize them and only give them up on their own terms.

Senator Sir JOSIAHSYMON (South Australia). - I am much obliged to Senator Sargood, but I think he has misapprehended the position. Under the other provisions of this measure we have power with regard to the boarding of ships and so forth. They are contained in the clauses from 53 onwards. We have been spending days upon this Bill to no purpose if those powers have not been given. My point is that we give certain obligations and impose certain consequences with respect to goods as to which we use the expression "subject to the control of the Customs," which ought not to apply to goods not imported. We have the power of search, forfeiture, and so forth with respect to all goods, but not as to their being "under the control of the Customs."

Senator WALKER

- May I suggest to the Vice-President of the Executive Council that he should alter the word "goods " to "ships' stores." That, in my opinion, would be a useful alteration. We are shortly to have a vessel going to the Antarctic upon a voyage of discovery. In what position will she be if she comes into one of our ports ? Will her stores be subject to duty or not ? It also seems to me that this proposal should be read in conjunction with the new clause to follow clause 184.

Senator O'CONNOR

- Some question has been raised about the power exercised under the Victorian Act. Section 60 of that Act gives the fullest possible power to deal with goods of every kind in a ship, and also to deal with ships' stores.

Senator Sir Josiah Symon

- Does it go further than this clause?

Senator O'CONNOR

-- I think it does. The phrase " control of the Customs " is, I think, found for the first time in this Bill as applied in this way, and by reason of that expression having been used, it becomes necessary to define more directly than has been done that the goods are under the control of the Customs. Because with the use of that expression I am very much afraid - looking at this measure with the experience of a lawyer accustomed to construe Acts of Parliament - that the phrase, " control of the Customs " will be taken to weaken the meaning which otherwise would be given to those general clauses which have been referred to. Therefore, after the most careful consideration I think that this power is absolutely essential, and that unless we wish to involve the commercial classes of the Commonwealth and the Government itself in a mass of litigation, we had better make the amendment. Senator Walker has referred to the Antarctic expedition, and has asked whether, if one of the ships came into a Commonwealth port, she would have to pay duty upon her stores. She would have to pay upon the goods consumed while here, but we are not going to ask her to pay duty on the stores to be consumed in the Antarctic ice-fields.

New clause agreed to.

Senator O'CONNOR

- I move-

That the following new clause be inserted, to follow clause 36: - " Any person making any entry shall, if required by the collector, answer questions relating to the goods referred to in the entry."

This new clause seems to be essential in order to enable questions to be put directly in regard to entries. It does not really give any new power, but it makes it clear that there is authority to put questions.

New clause agreed to.

Senator O'CONNOR

- I move-

That the following new clause be inserted, to follow clause 37 : - " All goods in respect of which any entry has been made and passed shall forthwith be dealt with in accordance with the entry. Penalty: £30." It will be within the recollection of the committee that originally clause 37 was amended because it did not seem quite clear. The object of this amendment is to carry out what was aimed at in the first instance ; that is, that when goods have been entered for consumption they shall be taken away and dealt with as goods are to be dealt with which are entered for consumption ; or if they are entered for warehousing, they are not to be left for an indeterminate period, perhaps for months, at the warehouse, but are to be taken away.

Senator Sir Frederick Sargood

- By whom ?

Senator O'CONNOR

- By the person who enters them for warehousing.

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Senator Sir Josiah Symon

- What is the effect of the existing clause?

Senator O'CONNOR

-It simply gives an authority to deal with the goods in accordance with the entry, and provides that after the passing of the entry the goods shall be deemed to be entered, "and any entry so passed shall be warrant for dealing with the goods in accordance with the entry."

Senator Sir FREDERICKSARGOOD (Victoria). - I must confess that I am rather surprised at the explanation of the clause which has been given by the Vice-President of the Executive Council. Possibly the, committee will recollect that I moved an amendment in clause 37 for the purpose of making it follow the Victorian section. The words, the insertion of which I moved, were to follow the word "entry," and were as follows : -

And such entry shall be transmitted to the proper officer, and be his warrant for the delivery of the goods mentioned therein.

Senator O'Connor

- That is provided for in this amendment.

Senator Sir FREDERICK SARGOOD

- With all due deference, it is not provided for ; and, as a matter of fact, there is not at present the slightest instruction in the forms used, to deliver up the goods on which duty has been paid. It was to meet that that the Victorian section was passed. The shipping clerk of a firm makes an entry, which is duly signed by the collector ; the entry is then taken back to the landing waiter. But so far as this Bill is concerned, there is no instruction whatever to the landing waiter as to what he is to do with the goods. I may say that I have consulted with experts, not only in the commercial world, but in the Customs department itself, who say that this instruction to the officer is absolutely needed. Instead of giving instructions to the landing waiter to deliver up the goods, Senator O'Connor's proposal throws upon the importer the responsibility of removing them, which he would be anxious to do as a matter of course. But the first thing is to throw upon the landing waiter the responsibility of handing them over. I see nothing whatever in the form of the entry to direct a landing waiter to forthwith hand over goods. I want to have the words of the Victorian Act inserted here in order that a merchant, having received from the Customs a duly signed entry form, may be able to go to the landing waiter and say - " I demand my goods." There is a distinct direction to the landing waiter to deliver the goods, and there is no such direction in the Bill before us.

Senator Clemons

- Is it necessary?

Senator Sir FREDERICK SARGOOD

- I am assured that it is. In place of giving instructions to the landing waiter to deliver the goods, this Bill says to the merchant - " You must remove your goods as entered, or be subject to a penalty of £50."

Senator Clemons

- If he could prove that the landing waiter would not deliver the goods the penalty could not be enforced.

Senator Sir FREDERICK SARGOOD

- I cannot see the necessity for this amendment at all. As a matter of course the first thing a merchant wants, if he has paid duty, is to get hold of his goods, and the provision that if he does not take his goods

in accordance with his entry he shall be fined £50, appears to me to be an absurdity.

New clause agreed to.

Senator STEWART

- I move -

That the following new clause be inserted to follow clause 50: - "A. All tea imported as merchandise into the Commonwealth shall be examined by any officer of Customs appointed for the purpose by the collector."

In moving that as the first of the new clauses I desire to submit, I have no intention of taking up the time of the committee at any length in giving my reasons for their introduction. I think they will commend themselves to honorable senators, and I trust they will be accepted by the Vice-President of the Executive Council. The honorable and learned senator may claim that this is not a Health Bill, but if he will go back to clause 49 of the Bill he will find, under the heading of "prohibited imports," these words - Exhausted tea ' and tea adulterated with spurious leaf, or with exhausted leaves, or being unfit for human use or unwholesome.

The clauses I submit are merely for the purpose of supplying the necessary machinery for finding out whether tea is exhausted, adulterated, unfit for human use, or unwholesome.

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Senator O'CONNOR

- The clauses submitted by the honorable senator contain the elements of very useful legislation, but it seems to me they have no place in a Bill of this kind. The honorable senator submits five clauses which seem to provide a system for analyzing tea, to decide whether it has been adulterated or is unfit for food. That is obviously the proper office of an Adulteration Bill. The difficulty is that if we once begin to apply these principles to tea, there is no reason why they should not be applied also in respect to a great many other articles imported through the Customs. Spirits, beer, wine, and all articles of food might be made on equally good grounds the subject of similar clauses. In the list of prohibited imports we have already included exhausted tea, tea adulterated with spurious leaf, or with exhausted leaves, or being unfit for human use, or unwholesome.

Senator McGregor

- How are we to find that out?

Senator O'CONNOR

- The provision being in the Bill it will be a part of the duty of the officers of the Customs to carry it out, and it cannot possibly be carried out without the assistance of experts to examine the tea and pronounce judgment upon it accordingly. I understand that it is the practice of all Custom-houses to have experts to deal with these matters. We have dealt in quite sufficient detail with this matter under clause 49, and these proposals for special legislation with regard to the examination of tea are unnecessary. The Bill, as it stands, seems to me to carry out all the purposes which a Customs Bill can fairly have in view, and I do not think we ought to go beyond it.

Senator PEARCE

- The Vice-President of the Executive Council admits that in order to carry out paragraph (e) of clause 49, dealing with the introduction of exhausted and adulterated tea, an expert will have to be appointed to examine the tea. What objection can there be to saying so in the Bill?

Senator O'Connor

- What I said was that the services of an expert will be used, and I understand that there is already in all the Custom-house offices an expert who deals with importations of tea. There will be no new appointments.

Senator PEARCE

- Practically the clauses submitted by Senator Stewart say very little more than that. In dealing with this question honorable senators must remember that in the past there have been shipments of unwholesome tea brought into one port of the Commonwealth, condemned and refused admission there, and taken to another port of the Commonwealth where they have been admitted and have gone into consumption. These clauses are aimed at preventing that sort of thing.

Senator O'Connor

- The reason for that was that the tea was taken to a State where there was no duty on tea. One of

the results of tea being admitted free has been the importation of an enormous lot of rubbish.

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Senator PEARCE

- It may be that the Tariff to which the Federal Parliament will agree will also provide that there shall be no duty on tea, and if so the honorable and learned senator has given an additional reason why we should pass these clauses. These clauses simply amplify the provision in clause 49, and make provision for the appointment of an officer to examine importations of tea. They provide the only way in which we can prohibit the importation, of exhausted and adulterated tea, because a Health Act would only deal with articles of food already within the Commonwealth, . . and these clauses are intended to stop these injurious articles from coming into, the Commonwealth. When we take into consideration the fact that tea is an almost universal beverage in Australia,, we must admit that anything which we can do to prohibit the importation of tea which is unfit for human consumption should be done, even if we have to stretch the scope of the Customs Bill in order to achieve that object. Clause (d) of the new clauses submitted by Senator Stewart provides that if upon examination tea is found to have been, exhausted, it is not to be delivered for human consumption, and it is not to be allowed to be re-exported. I take that to mean that it will be destroyed. I trust the committee will agree to these clause's.

Senator CLEMONS(rj tasmania). - I intend to support Senator Stewart, who, I think, has given good reasons for the amendments he suggests. The Customs Bill itself gives special attention to this question of tea, and we have already passed in paragraph (e) of clause 49 a provision intended to keep out exhausted and adulterated tea. I agree with Senator . Pearce that tea is a very important article of food in the Commonwealth, and I believe that it. is because of its importance that it is given, a place in the Customs Bill. I regret that, the amendments suggested are rather long, but I can see no other reason whatever for the objection of the Vice-President of the Executive Council to them. I think they are eminently desirable, and will in effect be eminently satisfactory. I agree with Senator Stewart that we should have it clearly laid down in the Bill that we shall stop any tea from coming into the Commonwealth which is adulterated. I agree with the honorable senator further for the reason that if we are going to legislate upon a subject we must be satisfied that we have made provisions for carrying out everything intended by that legislation. If we do not insert the proposed new clauses we shall not be quite certain that we can effect what we intend by the Bill.

Senator Sir FREDERICKSARGOOD (Victoria). - I also intend to support the proposed new clauses, and I do so upon the ground that we have now had experience of the working of similar sections in Victoria since 1883, when they were introduced. They were absolutely necessary to stop a system of importing 'tea that was adulterated, and which the existing law was not found to be sufficient to prevent. The clauses are almost a verbatim copy of provisions in the Imperial Act, and having the advantage of the experience of Victoria in their operation since 1883, we cannot go far wrong in accepting them. Undoubtedly, since the introduction of these provisions in the Victorian Act, the quality of tea consumed here has very much improved, while, to my personal knowledge, considerable quantities of tea condemned in Victoria have gone away to other States, including the free-trade State of New South Wales. I feel that we are justified in taking all reasonable precautions, even at the risk of spoiling the brevity of the Bill, to insure that the population of the Commonwealth shall not be called upon to consume tea which is injurious to health.

Postmaster-General

Senator DRAKE

. - Before this matter goes to a division I should like to ask the committee whether, if we are to enlarge the Bill by making special provision in regard to tea, it is not equally necessary to make similar provision with regard to other imports ?

Senator Sir Josiah Symon

- One thing at a time.

Senator DRAKE

- If we are going to do this, should we not take elaborate precautions in regard to other things that may be imported? It is one thing to prohibit exhausted tea, and another to insert lengthy provisions in the Bill declaring what sort of tea shall be imported.

Senator Sir JOSIAH SYMON

- It is only to ascertain on what the law would operate.

Senator DRAKE

- It is proposed to insert these five clauses in order to lay down a rule for the guidance of the Customs officers.

Senator Pearce

- But the Government does not object to redundancy.

Senator DRAKE

- Redundancy, if it is necessary, is not objectionable, and in some cases may be almost desirable, but certainly provisions do not commend themselves to my mind simply because they are voluminous and redundant. The Bill as it stands, simply providing for the prohibition of exhausted tea; is sufficient. It may be left to the Customs officers to decide what is exhausted tea. It is not as though this were a matter in which the particular quality of the tea was concerned. Exhausted tea is well known to commerce. It does not mean old leaves, but an article consisting of leaves which have been used. The practice, principally in China, I believe, is to take leaves which have been used once, and from which all the virtue has been extracted, and cook them into a compound which looks like tea, but which is really spurious. We do not desire in this Bill to lay down the particular quality of tea that may be introduced, but simply to prohibit the importation of an article which practically is not tea at all. The matter stands on the same footing as oleomargarine, which we discussed the other night. The feeling of the Senate in regard to oleomargarine was that it should be excluded, not because it might be unwholesome, but because it was in itself a fraud, prepared in such a way as to enable it to be passed off on the public for another article. The object of providing for exhausted tea in this Bill is to exclude an article which cannot be imported for any other purpose than to be sold as the genuine article.

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Senator KEATING

- I support the clause that has been introduced by Senator Stewart, and I must say that the argument of Ministers, that we are importing into this Bill other than machinery provisions which they think ought alone to be included in it, comes altogether too late in the session. The argument might have been used on a previous occasion, but it has very little force now. We have already legislated against the importation of prohibited tea, and we can, as a necessary corollary, go further in the direction indicated by the amendment. The clauses make it mandatory on the part of a Customs officer to examine all tea or anything purporting to be tea fit for human consumption. We have legislated against the importation of exhausted tea, and it seems to me that that legislation will be absolutely ineffective in many instances unless we throw upon the Customs officers the duty of examining all tea coming into the Commonwealth. As has been pointed out by Senator Pearce, the Commonwealth perhaps consumes more tea per head than almost any other part of the world. Further than that, we are absolutely dependent on the outside world for our tea supply. Under these circumstances the Custom-house is the proper place to intercept the introduction of anything which would be deleterious to the public health. It is all very well for Ministers to say that this proposal should form part of an Adulteration Act, or of some measure which is within the scope of the powers of the State Legislatures. It seems to me that arguments of that character could be applied with equal force to many other provisions that we have already imported into what, in the opinion of some people, should be ordinary machinery Bills. The Government have committed themselves to the utilization of machinery Bills in the interests of the health and morality of the individual and of other things, and I think that they can very well agree to the incorporation of these particular clauses, notwithstanding their length, in order to give effect to what is the desire, not only of the committee, but also of another place as expressed by the inclusion of sub-clause (e) of clause 49.

Senator STANFORTH SMITH

- I must admit that I cannot understand the attitude that the Government have taken up with reference to this proposed amendment. If it were a question of whether tea of an injurious character should be prohibited from Australia or not, I could understand their position, but that question has already been settled. Clause 49 provides that tea of a deleterious or exhausted nature shall not come into the Commonwealth, and these clauses lay down the process that must be gone through in order to ascertain whether tea proposed to be imported is of the proper kind. Therefore I cannot see any reason whatever why these clauses should not be inserted. The Government have raised no objections, except that the

Postmaster-General is opposed to the lengthiness of the amendment, and considers that if we legislate in 'this way in regard to tea, we should insert similar clauses in regard to other goods. Those points, however, do not affect the question in the slightest degree. We must bear in mind that this matter is a very important one to Australia. We are not only the largest tea drinkers in the world, but I have also seen it stated that absolutely the worst tea in the world is imported into Australia.

Senator Sir Frederick Sargood

- And some of the best.

Senator STANFORTH SMITH. I have seen it stated in the press that Australia is made the dumping-ground for some of the worst tea manufactured - I will not say grown - in the world.

Senator Sir Josiah Symon

- Russia has the best tea.

Senator STANFORTH SMITH

- I understand that that is the case. This is a question that vitally affects Australia, and, even although we may have to insert two or three additional clauses, I think it is absolutely necessary that we should insist on all tea being absolutely tested before being admitted to the Commonwealth. The Government admit that these provisions will have to be inserted in regulations if they are not introduced in the Bill. I have before expressed my opposition to leaving too much to regulations, and I think that by these clauses we should provide in the Bill the means by which all tea can be tested. Then we shall have an assurance that nothing but healthy tea will be imported into Australia. There is probably no commodity imported which 'is so likely to be adulterated with deleterious compounds as tea, and as the Government has admitted that similar provisions would have to be inserted in the regulations, I intend to support the amendment.

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Senator DOBSON

- I thought at first that there was a great deal in the arguments of Ministers when they pointed out that it was unnecessary to encumber the Bill with a page of printed amendments when three lines of a clause would suffice, but I am inclined to think that the amendment moved by Senator Stewart is necessary in order to protect the Commonwealth from bad tea. It is quite true that those honorable senators who are supporting these new clauses are desirous of inserting in the

Bill what ought to be placed in regulations, but I am inclined to think that there is one clause which Senator Stewart proposes to insert that could hardly be placed in the regulations. That is the one which deals with the question of who is to be the judge of whether tea is exhausted or adulterated. That is a question of fact. As in the three lines, referred to by Ministers, it is solely a question of fact. Thus when the Customs officers tried to forfeit tea as exhausted, the importer might deny it, and they might have to test the question in a court of law. The good to be derived from Senator Stewart's proposal, is that practically the analytical chemist is to decide the question. Nothing can be done to forfeit the tea for fourteen days, and the importer has the right of making a statement to the Governor in Council of any evidence he likes as against forfeiture, and then practically the Governor in Council and the collector decide the matter. That appears to me to be a very great advantage which we should lose if we did not adopt the amendment.

New clause agreed to.

New clauses 50b (And to chemical analysis), 50c (Tea unfit for food to be forfeited), 50d (Exhausted tea), and 50.b (Interpretation) proposed by Senator Stewart, agreed to.

Senator Sir FREDERICKSARGOOD (Victoria). - I move -

That the following be inserted as a, new clause to follow clause 52: - "There shall be publicly exposed at the several ports of Australia, printed lists of all books wherein the copyright shall be subsisting, and as to which the proprietor of such copyright or his agent shall have given notice in writing that such copyright exists, stating in such notice when such copyright expires (also lists of all works or articles which shall have been prohibited by proclamation as being blasphemous, indecent, or obscene)."

In clause 49, sub-clause (a), we have provided for works which appear to be an infringement of a copyright ; but we have omitted to provide any machinery to deal with that important question. It is fair that those who import books should have some idea as to what books are prohibited. The first part of the new clause I wish the committee to insert is a provision which is contained in section 58, and which was taken from an Imperial Act, which has been in operation since 1849, if not before that year. In Victoria it

has been found to work fairly to both importers and the Customs. The Custom-house of Victoria has added to the list from time to time, and in the case of the Commonwealth the Custom-house would send a notice to each port so that there could be no question, upon the arrival of the ship, as to whether these goods should or should not be prohibited. It appears to me to be an eminently fair proposal, and one which will meet the equities of the case on both sides. Up to that point, my new clause deals with sub-clause (a) of clause 49. I shall now deal with the remaining portion. In clause 49 there is a prohibition of blasphemous, indecent, or obscene works or articles; but there is no uniform definition of what works are prohibited ; so that it would remain with the collector or the Minister to decide whether a book should be prohibited. What has happened recently in the port of Melbourne ? Certain books were prohibited here fourteen or fifteen years ago and, so far as I know, rightly so ; but recently an order was issued allowing some of them to be imported. On the other hand, books which had been allowed to be imported for as many years have suddenly been stopped. The importers, who have acted in good faith and in accord, with the law, are suddenly pulled up, and their goods are seized. They naturally object to the prohibition, and there is an action pending in the Supreme Court of Victoria over this very matter. This has all resulted from the action of the Minister for Trade and Customs. I do not think it is reasonable that importers should be placed in that position. A list should be prepared and posted, so that all those who deal in a particular article may know exactly up to that time what they may or may not import. That is perfectly right up to a point, but from time to time new books come out, and frequently booksellers receive books of which they have not before heard. What is to be done in that case? The Customs clearly have the right to express an opinion that these books should be seized. In a subsequent new clause I provide that all such books as are not upon the list may be seized, examined by the Customs, condemned and added to the list, with a proviso to allow of their exportation within a certain time. That is perfectly clear so far as the stopping of improper books is concerned, and I would clothe the Customs with full power in that respect. But it is not fair that these sudden changes should be possible. The action of the Minister has placed the bookselling trade in a very unfair and unjust position.

Senator O'CONNOR

- The new clause may be divided into two parts, each quite distinct from the other. As to the first part, it is to be ancillary to paragraph (f) of clause 49. I intend to ask the committee to recommit that clause for the purpose of putting paragraph (a) into a different and what I think is a better shape. I do not intend to propose an amendment - which will substantially alter it. So I may take it that paragraph (a) of that clause treats as a prohibited work a reproduction or reprint of any copyright work in respect to which a written notice has been given to the Minister of the existence of copyright. I do not think there will be very much objection to having in the principal ports of the Commonwealth a list of all such works. If Senator Sargood would confine his new clause to either the principal ports of the Commonwealth, or to such ports as may be prescribed I would offer no objection to it. It would be rather useless to compel the Minister to post or publish at every little port a list of this kind. It is only necessary to do so at the principal ports.

Senator Sir William Zeal

- What are the principal ports?

Senator O'CONNOR

- That is a matter which will be left to the Minister to decide. It would be a very onerous task to post at the Custom-house of every port, no matter how small, to which goods are imported, a list of these prohibited goods. Really, it would be unnecessary, because, as a general rule, it is only at certain ports that such goods are likely to be imported. It might be very well left to the Minister to prescribe by regulation - I do not care whether it is the principal ports - the places at which the notice shall be posted. The particular way in which it is done is not a matter of very much moment. I have not very much objection to the posting of the list ; but Senator Sargood follows that provision with another, which I certainly oppose.

Senator Sir Frederick Sargood

- Will you deal with that one first ? I shall propose the second part as a separate clause.

Senator O'CONNOR

- If my honorable friend will confine what he is doing to the first portion of the clause, and if he will add the words " at such ports of Australia as may be prescribed," I shall have no objection.

Senator Sir Frederick Sargood

- I shall only ask the committee now to agree to the new clause down to the word "expires."

Amendments (by Senator O'Connor) agreed to -

That the words "the several," line 3, be omitted, with a view to insert in lieu thereof the word "such."

That after the word "Australia," line 4, the words "as may be prescribed" be inserted.

That all the words after the word "expires" be omitted.

Senator Sir WILLIAM ZEAL (Victoria). - If it is left to the Minister to prescribe the ports and he is antagonistic, he will not prescribe any ports. I think Senator Sargood is defeating the very object he has in view.

Senator EWING

- There is no doubt that if the Minister is to prescribe the places at which the notice is to be given, and he is against the provision, as he appears to be, he will not prescribe any places.

Senator O'Connor

- Surely my honorable friend does not charge the Minister with such dishonest administration as that - not to carry out the law.

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Senator EWING

- The Minister might honestly believe that the course was not necessary. Parliament, and the country might think the course was necessary, and if he did not choose to prescribe the place then there would be no necessity for him to have the notice. It would be well either for Senator Sargood to persist in the spirit of his amendment and have it inserted in the Bill, or leave it out altogether. I can see no possible good to be derived from moving an amendment and then having it absolutely nullified by a suggestion from the Vice-President of the Executive Council. If Senator Sargood thinks his amendments are right, I hope he will press them, and not be "hoodlumed" into the position in which he has been put this afternoon. This is not the first time the same thing has occurred. The honorable senator has before now moved amendments which have afterwards been nullified by suggestions from the Minister.

Senator CHARLESTON (South Australia). - I should like to know the reason why the words under discussion should be omitted? It is highly essential that the list of prohibited books or articles should be exhibited.

Senator Sir FREDERICK SARGOOD (Victoria). - In discussing the question with those interested in the book trade it occurred to me that we might very well pass a provision providing for exhibiting a list of prohibited books. Hence I prepared an amendment to that effect. Subsequently it was found that it did not thoroughly cover the ground. Then I prepared another amendment, which I shall move directly. Having gone as far as we can go in the matter under discussion, my desire is to have a similar provision made with regard to prohibited books.

Senator Sir JOSIAH SYMON (South Australia). - I suggest to Senator Sargood that he should add to the new clause some such words as : "such ports to be the principal ports." We ought to provide at which ports the list is to be exhibited. A particular Minister of Customs might insist upon the list being hung up only in Sydney or Melbourne. We in the other States might be desirous that the same care should be taken in regard to our ports also. It would be an absurdity to hang up the lists at all ports, but they should certainly be hung up at the principal ones.

Senator Sir FREDERICK SARGOOD

- I am much obliged to the honorable senator for his suggestion. I move -

That the words "such ports to be the principal ports of Australia" be added to the new clause.

Amendment agreed to.

New clause, as amended, agreed to.

Senator Sir FREDERICK SARGOOD (Victoria). - I desire now to deal with prohibited books. I move -

That the following new clause be inserted to follow clause 52a: - "No works or articles shall be deemed 'blasphemous, indecent' or 'obscene' under section 49 unless the same have been so declared by proclamation. Provided that any works or articles not so proclaimed at the time of importation may be detained by the Collector for a period not exceeding one week, and if so proclaimed within such period such works or articles shall be destroyed by the collector unless within a period of one week from such proclamation the owner shall export the same. There shall be exposed at the principal ports of Australia as may be prescribed printed lists of all books or articles which shall have been prohibited or proclaimed as being blasphemous, indecent, or obscene. .

The principle is exactly the same as that of the clause we have already adopted in regard to copyright books, namely, that there shall be lists of the " prohibited " works. Any books sought to be imported, if they are upon the list, will, of course, be subject to being prohibited at once, and the owner must consent to their being destroyed, or may have an opportunity of re-exporting them.

Senator Sir William Zeal

- We should want a board to decide what books are blasphemous.

Senator Sir FREDERICK SARGOOD

- The present board is the Minister for Customs.

Senator Sir JOSIAH SYMON

- The Moderator of the Presbyterian Assembly would do !

Senator Sir FREDERICK SARGOOD

- There are a number of books constantly sold that have been from time to time stopped by the Customs authorities.

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Senator O'CONNOR

- This amendment would .afford a convenient way by means of which certain young people could accumulate a library. They could go down and look at the list and see what books to get. I object to the amendment. It is altogether different from the new clause we have just adopted. There is no reason in the world why a list of copyright books should not be printed and made public so that such works may not be improperly imported. But this is a different thing altogether. We have given power to the Minister to prohibit the importation of " indecent, obscene, or blasphemous " articles. Any honorable senator who has had experience of Customs work will bear me out that a number of such books and articles are imported through the Customs, and there must be power for the officers to act upon the spot. If a list is published of the books or articles to be prohibited it would not require very much ingenuity to bring in undesirable works: Importers would get over the difficulty by changing the name or title of a book or article. For what purpose would fi list of blasphemous or indecent books be printed 1 For the dissemination of information with regard to them. As to the articles, it would be impossible, without the most disgusting indecency, to describe some of them. No good purpose is to be achieved by this proposal. . It would tie the hands of the Customs ' officers, and would be useless. We must trust that this power will be exercised for the public interest and for the general good, and with a sense of responsibility. The power is one that should be very seldom exercised unless there is ample justification for it. I would ask the honorable senator to consider whether he is not frustrating the exercise of ti proper power by the amendment.

Amendment, by leave, withdrawn.

Senator Sir FREDERICKSARGOOD (Victoria). - I move -

That the following new clause be inserted in the Bill : - "The owner or occupier of any licensed warehouse shall, previously to the issue of any certificate in respect to goods stored in such warehouse, cause the rate of rent payable for the goods specified therein, and also the Customs quantities of such goods, as furnished by the proper officer of Customs, to be marked on the certificate thereof, and. "o person other than the proper officer of Customs shall erase or alter any such Customs quantities as marked. Penalty : One hundred pounds."

This is a clause that is taken from the Victorian Act. It was passed as the result of very large forgeries that were committed, and I see that Dr. Wollaston, in his notes, refers to it as being necessary.

Senator O'Connor

- Where would it be put in the Bill ?

Senator Sir FREDERICK SARGOOD

- It does not very much matter where it is put. The Minister might be left to decide that.

Senator O'CONNOR

- As a matter of practice I think that when an honorable senator moves a new clause he should take the responsibility of making a selection as to where it should be placed in the Bill. Otherwise it would be open to an honorable senator to move a list of eight or ten new clauses in a lump, leaving the responsibility of distributing them to the representatives of the Government. I am not going to take a responsibility of that kind. It may make a considerable difference to the meaning of the measure, whether a certain new clause is put in before or after another clause. I suggest to the honorable senator that the amendment ought not

to be inserted here, following upon the track of these prohibited articles.

Senator Sir Frederick Sargood

- I shall propose the insertion of these amendments later, to follow clause 254.

New clause withdrawn.

Senator Sir FREDERICKSARGOOD (Victoria). - I have a new clause to propose to follow clause 149, which provides that the value of the goods shall be taken to be the fair market value in the principal markets of the country whence they are exported, and provides also for the verification of value and the production of the genuine invoices. Some years ago it was found that importers were in the habit of deducting from the invoice value of the goods the value of the inside packages as distinct from, the outside packages. They were in the habit of dealing very liberally in their own interests with the value of these inside packages. To take a particular case, where goods were put up in cardboard boxes, the practice was to fix a value upon the boxes,, which was very considerable, and this became such a scandal that the provision I now propose was inserted in the Victorian Act. I move -

That the following new clause be inserted to follow clause 149 : - "For the purpose of calculating the amount of ad valorem duty chargeable on any article on importation into Australia, whether by land or sea, when such article has both an inside and outside covering, the value of any inside case, covering, or material used for the picking of such article, shall be added to the value of such article, and such duty shall be payable on the value of such article and such inside case, covering, or material."

The effect of the insertion of this clause will be to considerably increase the amount of revenue paid to the Customs, and at the same time to put an end to a very important fraud. This is one of the matters that the deputation which waited last week on the Minister for Trade and Customs, brought under his notice. The deputation were under the impression that the honorable gentleman entirely agreed that the provision, in addition to protecting the revenue, would protect the honest from the dishonest trader, and put all on the same footing. All the honest traders are in favour of this clause, and strongly recommend it. To take a particular case to illustrate the difficulty, honorable senators will understand that such goods as shirts for instance,, are imported in more or less expensive cardboard boxes, and it is in connexion with .shirts that the fraud was first perpetrated.

Senator O'Connor

- -That was because of" the form of the Victorian Act. But under this Bill the value is the value of the goods " free on board," and that includes the cost of everything.

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Senator Sir FREDERICK SARGOOD

- The honorable and learned senator will pardon me if I say I think it does not, and that because the word " goods " is used it is absolutely necessary to insert this clause. " Free on board " does not include the cost of packages, but it is a technical

term, covering the cost of bringing the goods from the manufacturer down to the port of shipment. The deputation which waited on the Minister were anxious to assist in protecting the Customs revenue and in protecting the honest from the dishonest traders. The difficulty is in connexion with the inside packages, because duty is really not charged upon the outside packages, since there is usually a very heavy loss in connexion with their sale. Packages which cost at home 30s. or 40s. have to be sold here for about 2s. 6d.

Senator Sir Josiah Symon

- I do not think there is any need for this new clause.

Senator Sir FREDERICK SARGOOD

- I am bringing it before the committee in the interests of the department and in the interest of honest traders, and if the committee does not accept it the difficulty to which I have referred will arise again. The Ministry, of course, must please themselves as to whether they will take advantage of the opinion and strong advice given as the result of past experience. If they do not, all I can say is that the Customs and the honest trader also will suffer.

Senator O'CONNOR

- I quite appreciate the spirit in which the honorable senator has moved this amendment, but I assure him the matter has been carefully considered, and there is really no necessity for it. Clause 149 says -
The value shall be taken to be the fair market value of the goods in the principal markets of the country

whence the same were imported, in the usual and ordinary commercial acceptance of the term, and free on board at the port of export in such country, and a further addition of . 10 per cent, on such market value.

Now, " free on board " means with every charge paid for all that is necessary to be done to place the goods in the ship's slings. It includes not only the value of the outside packages, but of the inside boxes. This is a mode of fixing the values which I think is new in these Customs Acts, and at all events, it is quite different from the law in Victoria. Under the Victorian law, there was a right to deduct the value of the outside package, and that is what led to so many frauds. It was necessary, I believe, to pass some other provision to deal with these inside packages. The section in the Victorian Act was as follows : - For the purpose of calculating the amount of ad valorem duty chargeable upon any article on importation into Victoria, whether by land or sea, when such article has both an inside and an outside covering, the value of any inside case, covering, or material used for packing of such article shall be added to the value of such article, and such duty shall be payable on the value of such article and such inside case, covering, or material.

It became necessary then to provide that, although the outside covering was not to be paid for, the inside covering should be paid for. That was necessary where a distinction was drawn between an inside and an outside covering. But under this Bill we draw no such distinction at all. Here we say that the inside and outside coverings and all that is necessary to have the goods placed on board the ship shall be added to the value, and we take the value of the goods for purposes of duty as "free on board." We cannot have anything more comprehensive than that. I am afraid that in making a limitation of this kind with regard to the inside packages it will be difficult to say what the effect may be on this expression " free on board," which may in this way be inferentially limited. I understand the spirit in which the amendment is moved and in which the importers brought the matter under the notice of the Minister. It is very natural because they have been living under the Victorian law, and dealing with the Victorian administration of that law, and they do not sufficiently realize that this Bill puts the matter upon a different basis altogether,' and does away with all these difficulties which arose from the distinction drawn between inside and outside packages. Under this expression " free on board " everything necessary to set the goods on board the ship is covered. That is the simplest way of dealing with the matter, and the way which is least open to fraud.

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Senator PULSFORD

- I desire to make a suggestion to the Vice-President of the Executive Council which I think will end the trouble. I quite appreciate the new clause moved by Senator Sargood, and my experience leads me to say that there is a good deal of reason for it. At the same time I think the object could be more easily and more clearly attained by the withdrawal of this amendment and the recommittal of clause 149, with a view to amending it so as to make it read -

The value shall be taken to be the fair market value of the goods in the principal markets of the country whence the same were exported, in the usual and ordinary commercial acceptance of the term and free on board, packages included, at the port of export in such country.

Senator Sir FREDERICKSARGOOD (Victoria). - Although I am not very much surprised at the position taken up by the Minister, I again warn the committee that without this provision the Bill will be largely evaded. In saying so I am giving the committee the benefit, not only of my 50 years' experience, but of the experience of others engaged in importing. If in the face of that, Ministers who have had really no practical experience, such as we have had, still oppose this proposal, well and good. I can do no more.

Senator WALKER(New South Wales). - It seems to me that Senator Sargood has given good reasons why we should support his proposed new clause. To begin with, he has shown that a similar provision exists in the Victorian Customs Act. They have had experience in Victoria, such as few other States have had, of the consequences of a heavy protective duty, under which some people are continually trying to swindle the Customs. The honorable senator has given us the benefit of his experience in mercantile life. I think we should avail ourselves of it, and support his amendment.

Question - That the new clause proposed to be inserted be so inserted - put. The committee divided -

Ayes 11

Noes 16

Majority 5

Question so resolved in the negative.

New clause negatived.

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Senator O'CONNOR

- The committee will remember that a good deal of discussion took place on clause 150 when it was last before us. It is the clause which defines what is a genuine invoice. It gives rise to a difficulty that was pointed out by Senator Sargood, particularly in regard to goods being bought not from the manufacturer but from the buyer from the manufacturer in another country, and imported from the place of manufacture. Take a case in which the seller lives in London, and the manufacturer in Amsterdam. The goods are really sold in London, and the invoice goes from London, but the goods are supplied from the factory at Amsterdam. It is suggested that there are cases where there may be difficulty in producing the original invoice from the place of manufacture. A deputation of persons interested waited upon the Minister for Trade and Customs, and it is at his suggestion that a modification of this clause has been made to meet the case I have indicated. As they now stand, clauses 149 and 150 must be read together. Clause 149 provides that -

When any duty is imposed according to value -

The value shall be taken to be the fair market value of the goods in the principal markets of the country whence the same were exported in the usual and ordinary commercial acceptance of the term, and free on board at the port of export in such country, and a further addition of 10 per cent, on such market value.

...

Then "the genuine invoice" is defined in clause 150 as meaning -

The original invoice prepared and issued by the seller in the country whence the goods were exported showing the true description of the goods and the actual money price paid or to be paid for the goods by the purchaser in the country whence the same were exported without any deduction.

Then there is another sub-clause in which very much the same provision is made in regard to goods consigned." As the Bill stands, under these clauses it is necessary in the case I have mentioned, not only to produce the invoice of the London seller of the goods, but the invoice sent by the manufacturer with the goods to the person with whom the Customs are dealing. No doubt, in many, if not in most cases, there will be an invoice sent with the goods, and it will be highly desirable to obtain it. But there may be cases in which it is not sent, in which there has been no attempt at fraud, and in which the Customs are able to see perfectly well that no fraud is possible. To meet such cases, I move -

That the following new clause be inserted to follow clause 150 ; - 150a. If the original invoice prepared and issued by the seller or consignor in the country whence the goods were exported cannot conveniently be obtained, the collector may permit to be substituted the original invoice prepared and issued by the last seller or consignor and the invoice so substituted shall be deemed the genuine invoice but so that -
) The collector shall first be satisfied that the value shown by the invoice of the last seller or consignor is not less than the fair market value in the country of export ascertained according to section 149.

The value shown by such invoice shall, for the purpose of duty, be taken to be the fair market value of the goods in the country of export, ascertained according to section 140.

The effect of the amendment really is that if it is not convenient to produce the original invoice of the manufacturer, and the collector is satisfied that the prices charged in the invoice put before him are not lower than that of the country of manufacture, then he may permit the use of the invoice of the seller. I think this is really going as far as is necessary, and as far as the Custom-house officials can reasonably go in meeting the case which I have indicated. It will put the power in the hands of the collector, in all cases, of deciding whether he will allow this to be done or not. I think it may be taken that the substitution will be allowed wherever there is an honest transaction, and where it is evidently impossible to produce the original invoice which came with the manufactured goods. Therefore, to meet the case which has arisen, and which, in the opinion of the Minister for Trade and Customs and myself, should be met, I propose this new clause.

Senator Sir FREDERICK SARGOOD

- There is no doubt that the Commissioner of Customs has endeavoured to meet the views of the deputation which waited upon him last week so far as he has understood the matter ; but I am sorry to

say that this proposed new clause does not meet it, and that the greatest fraud will still be possible under clause 150. That clause provides that - " The genuine invoice " means (a) the original invoice prepared and issued by the seller in the country whence the goods were exported. . .

I have pointed out that a very large and increasing portion of a certain branch of the trade is done by men selling in London, and the money is paid in London. The goods, however, do not come here from London ; they are manufactured in Austria, Germany, Switzerland, and other places, and the manufacturer never sees the buyer, and knows nothing about him. He has an agent in London through whom he sells. Those firms who buy in London wish to submit to the Customs the genuine invoice under which they buy, showing absolutely the amount of money they pay for the goods. The Customs want no more and no less. Under this clause, however, a certain class of importers in Victoria and the other States will adopt this practice : They will produce the manufacturer's invoice, but the manufacturer's invoice in nine cases out of ten will be made out in London, and the Customs authorities will not be able to discover the fact. They will say at once to the Customs officials, although such an invoice may be 15 per cent, or 30 per cent, less than that of other firms we buy from in London - and I am referring largely to foreign importers and consignors - " You asked for the original invoice, and there it is." They will to that extent get in goods at a lower price than that at which the honest trader, who wishes to show the genuine invoice, will be able to obtain them. That case is not met. I know it is difficult to explain these technical matters, but surely the Government might accept the advice of those who have been connected with commerce for a great many years, and whose character will bear investigation.

Senator Sir Josiah Symon

- What does the honorable senator suggest?

Senator Sir FREDERICK SARGOOD

- I suggest that the only way to meet the case is to make the amendment which I proposed before - to strike out the words " in the country whence the goods are imported."

Senator O'Connor

- Then you lay down an entirely different basis of value.

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Senator Sir FREDERICK SARGOOD

- I do not. The clause should be amended so as to read in this way : -

Genuine invoice means the original invoice prepared and issued by the seller, showing the true description of the goods and the actual money price paid or to be paid for the goods by the purchaser to the seller.

That covers the whole of the ground. What more can the Customs want ? If you pass the clause as it stands, and with that amendment, you open the door to legalized fraud, and those who attempt the fraud can turn upon you and say, "we are simply giving you what you asked for." This is not an imaginary danger. Within a day of the passing of the Bill in this form telegrams will go home directing invoices to be made out in the way I have indicated. You will get apparently the invoices of the manufacturers in Austria, Switzerland, France, and Germany, but they will be made out in London, and most likely the invoice forms will be printed in London. That has been done before, and it will be done again.

Senator O'CONNOR

- The whole question depends upon what is the basis of value. What we take in the Bill is the value of the goods free on board at the port of export in the markets of the country whence the same are exported. That basis of value is not a new one. It is the basis of value in all the States. Let me state the reason of it ? When you deal with the places where the goods are first exported you have something definite to go upon. The goods must be accompanied by an invoice, and by means of such an invoice you can trace the value right back to its source. What Senator Sargood proposes is that you should give the go-by to that, and that your invoice should be the invoice of the last seller. Now, goods exported from some place in Germany, may perhaps change hands four or five different times.

Senator Sir Frederick Sargood

- That is not a fact.

Senator O'CONNOR

- When I say the goods may change hands I mean the property in the goods.

Senator Sir Frederick Sargood

- No.

Senator O'CONNOR

- It is not only quite possible, but very likely in the way I shall put it. The goods may change hands two or three times. A seller in London may sell to a merchant in London, and the second merchant may sell to another merchant, and the third merchant may sell to a person in Australia. What Senator Sargood wants is that the Custom-house shall be satisfied with the invoice furnished to him by the third merchant representing the last transaction. We do not want that, we want to go right back to the value in the country whence the goods were exported. I do not care how many transactions there may have been. That is the value, and that is the invoice we require.

Senator Glassey

- You do not want the highest value.

Senator O'CONNOR

- Not necessarily, we want the right value. We have already determined what shall be the basis of value, but we say to meet a case which may be a hard case in some circumstances, where the original invoice does not come out with the goods, that if the collector is satisfied that he is not being swindled, that the value put on the seller's invoice is not below the real value at the country of export, he may accept that. Senator Sargood has suggested that immediately it becomes known that this will be the basis of value adopted we shall have fraudulent invoices sent out here. He seems to assume that this is a new departure. It is nothing of the kind. In all the States this law has been in existence.

Senator Sir Frederick Sargood

- And has never been carried out.

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Senator O'CONNOR

- I am assured by the Custom-house officials that it has been carried out, and that there has been no difficulty, but to meet any case in which there would be hardship, or which would be difficult, we propose this amendment. That is as far as we can go to meet the kind of transactions which Senator Sargood has referred to. I am quite satisfied that we protect the revenue, and that any other course would simply lead to a great leakage and a great insecurity in the estimation of the true value.

Senator Sir FREDERICK SARGOOD (Victoria). - This is very disheartening to one who is trying to protect the revenue, and also the commercial public against fraud. It is difficult to convey to those who have no practical experience of commercial matters or dealing with customs, what we know to be the case and what we know will happen. I cannot conceive of why the Ministry want more than that the duties shall be charged on the absolute price paid for the goods. I repeat, without the slightest reservation; and with a full knowledge of what has been done, that if you pass clause 150 even with these amendments you will legalize fraud. I speak from an experience of many years. To a large extent it is not a question of meeting convenience at all. The honest trader cannot get what we call the original invoice from the manufacturer. Here are some invoices which I picked up from amongst a number in my office. We cannot get what the Customs want, that is, if we are honest; but we might do what has been done, and will be done again - get so called manufacturers' invoices printed and made out in London, and sent out as coming, say, from Austria. I should not be doing my duty to the committee, to the commercial world, or to the Government if I did not plainly state these facts, and, having warned the Government of what will happen, I must leave the responsibility with them. If they insist upon the clause being passed in this form they will act most unjustly to the honest trader, and play into the hands of the dishonest trader.

Senator O'Connor

- The difficulty is that the honorable senator wants an entirely different basis of value from that provided in clause 149.

Senator Sir FREDERICK SARGOOD

- I frankly acknowledge that it is a difficulty. The provision in the State law has never been carried out. The formal declaration which I hold in my hand has been forced upon us. The whole of the trade kicked against it, but either they had to sign or they could not get the goods. All these years the shipping clerks of the various firms have been compelled every time they have gone down almost to sign their name to what they knew to be a lie.

Senator McGregor

- They ought to be in gaol.

Senator Sir FREDERICK SARGOOD

- No ; those who compel them to do so ought to be in gaol. That provision was passed by Parliament without a knowledge of the facts. A large proportion of the goods came in that way, but the mode in which business is being done in the old country, London becoming more and more every year the centre of commercial matters, is different now. If the Government follow out that plan they will continue to compel shipping clerks every time they go down to sign a lie.

Senator O'Connor

- Will the honorable senator tell me that the clause I propose will not relieve the difficulty in any case where it is impossible to get the original invoice.

Senator Sir FREDERICK SARGOOD. It will not get over the difficulty I have referred to, which the Minister does not seem to appreciate. From the honest trader you will get invoices such as I have here, made out, and rightly made out in London by the party who sells to us.

Senator Clemons

- What about an invoice of French champagne sent from London to Australia ?

Senator Sir FREDERICK SARGOOD

- Sometimes, you can get the invoice in France. It is not in the case of large transactions that the trouble will arise. I am referring to special transactions in the whole covering a large sum, but individually representing comparatively small sums. In Austria and elsewhere there are small manufacturers who have very little knowledge of business, and their goods are sold through an agent in London. Some of the invoices I have here represent probably goods from four or five manufacturers, although, perhaps, the value does not amount to over £30 or £40. It is an entire change of the trade.

Senator Sir John Downer

- Is not the honorable senator's objection really to clause 149?

Senator Sir FREDERICK SARGOOD

- I am quite with the honorable and learned senator, and I declare honestly that that provision cannot be carried out. I have maintained all through that what we want is the invoice of the man who sells the goods. We discussed this question with Mr. Kingston, and he said " Then your shipping clerks have been declaring a lie all these years." That is perfectly true, and they are doing it to the present day. The printed form which I have before me absolutely compels this to be done. I do not think we want clause 149 at all.

Senator O'Connor

- There is no such provision in the Victorian Act.

Senator Sir FREDERICK SARGOOD

- I am aware of that. You do not want clause 149a, but you want clause 150 amended as I suggested and nothing more.

Senator O'Connor

- Without any invoice from the manufacturer?

Senator Sir FREDERICK SARGOOD

- You cannot get it. Take our trade, which is one of the largest, there is hardly a manufacturer's invoice. The goods do not come from the manufacturers, but from other people. I am anxious to protect the Customs and the honest trader, but this proposal will not do it. Paragraph (a) of clause 149 ought to be struck out. In fact, it cannot be carried into effect.

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Senator O'Connor

- The honorable senator says that the basis of aiming at ad valorem value should be changed ?

Senator Sir FREDERICK SARGOOD

- No ; I say that what has been should continue, without encouraging or continuing the means of fraud. What the Customs want is the invoice of the price actually paid for the goods, and there is the beginning and end of it. Whether that price is the fair market value or not does not matter one iota. No one can tell. It may be said that the fair market value of certain classes of goods is the value in Leicester, where they are made. But that is not where the goods are bought, in a large number of cases ; they are bought from a house in London. I am speaking now of goods of which I have special knowledge, but the same remark applies to the iron trade and other trades. I strongly urge the Minister to reconsider this matter. The

Government are not carrying out what they want, but exactly what they do not want. They will not prevent fraud, but they are legislating to compel the committal of fraud. They want to get the duty on the price paid for the goods, but they are legislating to get something else. They want to protect the honest trader, but they are legislating to protect the dishonest trader.

Senator DOBSON

- As Senator Sargood has said, we are now dealing with a very important matter, and few of us understand all we ought to know about it. Senator O'Connor has rightly pointed out that clauses 149 and 150 and the amendment which Senator Sargood suggests, proceed on different principles altogether. The first thing the committee should do is to go back in their minds to the consideration of clause 149 and ask themselves - "Are we going to impose duties in future on the fair market value of the goods in the principal markets of the countries whence they are exported, or are we "going to charge duty on the exact price which the goods cost the purchaser or importer"? I am inclined to think that we ought to proceed on the latter assumption, and that we ought really to get the original invoice - the invoice between the seller and the purchaser - for the purpose of charging the purchaser duty on the exact price he gives for the goods. But Senator O'Connor points out that if we do that we are altering the old established basis of charging duty ad valorem. I am inclined to think that the words "fair market value " ought to be so used in this connexion that the Customs would charge the duty upon the price which the seller gets from the purchaser, and that, in order to protect the revenue, we should say that "such price shall not be less than the fair market value." We might introduce the words " fair market value " in that way, but to make that value the evidence of the price of the goods is, to my mind, a mistake.

Senator O'Connor

- Does not my new clause provide for that?

Senator DOBSON

- I do not think it does. If it does, it is rather inconsistent with clause 149.

Senator O'Connor

- No, because it gives the option where it is inconvenient to produce the other invoice to produce the original one.

Senator DOBSON

- If, as the honorable and learned senator says, this proposal will carry out what I am suggesting, I should agree with it, but I do not think that it does. We want, first, to obtain the exact price which the seller pays for the goods, and to prevent collusion we could provide that that shall not be less than the fair market value. What is the use of saying that the invoice of the last seller may be substituted? The Customs want to get at the price charged by the manufacturer, which is the fair market value in the market from whence the goods were imported. On that price, free on board, duty will be paid. There has been a gross inconsistency throughout the whole of our Customs laws for several years past, and now is the time to put that right. No matter what time we spend, it will be time well spent, and if we make such an amendment as I suggest it will prevent some men swearing what they know to be incorrect, without any desire on their part to swindle the revenue, and will prevent * other people doing the same thing for the purpose of swindling the revenue. We ought to be very much obliged to Senator Sargood for pointing out this matter. The use of the word " substitute " will conduce to fraud, and it should not be used.

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Senator PEARCE

- In dealing with a subject like this, if a concrete instance can be quoted, it may tend to clear up any doubts that may exist in our minds. I can bring before the committee the example of one class of imports which would be dealt with satisfactorily under the proposal of the Government, whereas Senator Sargood's proposal would allow a loop-hole for escape in the payment of duty. I have been told, on the authority of those interested in the manufacture of cement, that it is a common practice for manufacturers on the Continent of Europe to sell cement for purposes of ballast to ship-owners whose vessels are coming to Australia to take back cargoes of produce. The ship-owner brings the cement to Australia, and can afford to sell it at a sacrifice, because he has used it for ballast. It is the practice for the cement to be sold lower than the original price for which it is manufactured on the continent. I am assured that the cement manufacturers of Victoria have to compete against shipments of cement brought to this State in that manner. If Senator Sargood's- amendment were adopted the cement would be charged duty on the

price paid for it by the buyer in Melbourne.

Senator Playford

- Cement comes in by the barrel and will be charged a fixed duty.

Senator PEARCE

- Probably the same illustration would apply to other articles upon which duty is charged ad valorem.

According to Senator Sargood's amendment, the invoice of the seller's price is the value on which duty would be charged. In the case of cement the seller is the ship-owner.

Senator Sir Frederick Sargood

- No, he is the buyer.

Senator PEARCE

- The ship-owner sells the cement off his ship.

Senator Sir Frederick Sargood

- He must buy it first.

Senator PEARCE

- He buys it outside the Commonwealth. The ship-owner does not pay the duty. The man to whom he sells it in Victoria pays ' the duty, and the duty in that case would be paid, under Senator Sargood's proposal, on an invoice which would be altogether false as to the actual manufacturer's price for the goods, although the invoice would give a correct statement as to the price paid by the buyer.

Senator Playford

- You have to trust to the Custom-house officers to know the value of goods.

Senator PEARCE

- I dare say the officers have means of ascertaining the actual manufacturer's price ; but I believe this instance could be extended to other articles. I should like Senator Sargood to apply his argument to this instance.

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Senator Sir JOSIAH SYMON

- I think we are all greatly indebted to. Senator Sir Frederick Sargood for reviving this point, which is of very great importance. It was debated at considerable length upon clause 150, when a large number of honorable senators were agreed that the invoice upon which duty should be charged ought to be the invoice furnished to the buyer - that is, the person in Australia who imports the goods - -by the seller, wherever he may happen to be. If the goods are sold in London, the invoice furnished by the London salesman to the Australian buyer ought to be the genuine invoice. There is no getting away from that position. It was pointed out on a previous occasion that large quantities of goods are sold in London that are not manufactured in London at all. The sellers in London do their business usually by means of samples. The buyer goes into a little room where samples of German, American, French, and English manufacture are spread out. That is where purchases are made. The price paid there is the price which includes the commission to the seller's agent, and all other charges, which increase the price to the 'buyer or 'importer. If duty were paid on that it would mean that the buyer or importer would have to pay duty ad valorem, not on the manufacturer's price, which is the market price, but on the seller's price, which is very much larger. Therefore the interests of the Customs will be best served by taking as the genuine invoice the actual invoice supplied by the seller of the goods. That point of view has, it seems, come home to the Minister for Customs, and with the view of alleviating the mischief which would be created by clause 150 as it was passed by the committee, a new clause has been brought down. Undoubtedly to a certain extent that provision does result in some alleviation, although it is plain from what Senator Sargood, with his vast practical experience, has said, that it may lead to very great frauds. There is no doubt that it (alleviates the objection to clause 150, but at the same time it propagates the opportunities for fraud. I do not quite agree with the view that the proposed alteration in clause 150 would be inconsistent with clause 149, which could stand absolutely as it is. I think we shall be endangering the principles of the Bill by changing the basis upon which ad valorem duties are collected. Clause 149 embodies the principle that ad valorem duties are to be charged on the fair market value of the goods in the market from which they are exported. That is the true principle. How is that value to be ascertained ? "We cannot get records of the prices in the markets of the country whence the goods are exported, and we cannot get the newspapers of the country to lay before the Minister for Customs to enable him to arrive at an estimate of

what the fair market value is. We, therefore, take the genuine invoice ; that is the basis upon which the market value of the goods in the country whence they are exported is to be ascertained. Clause 149 provides that the value shall be the fair market value of the goods. It provides that that value shall be verified ; in what way? By the production of the genuine invoice. What is the genuine invoice? Clause 150 says that it means the original invoice, prepared and issued by the seller in the country whence the goods were exported. That is where the difficulty comes in, because the genuine invoice cannot possibly be the invoice prepared and issued by the seller in the country whence the goods are exported if the goods are sold in London and exported, from Germany. It seems to me that clause 149 can stand as it is, while clause 150 should be amended as Senator Sargood has suggested. The proposed new clause is a mitigation of the mischief, but it entails or may entail worse evils. The actual and genuine invoice is the invoice of the seller where the goods are bought. If we stick to that we cannot go wrong, or at all events, the possibility of fraud is reduced to a minimum. If we make a man produce the invoice furnished to him by the seller, it will be higher than the invoice furnished to the seller by the manufacturer. We should not forget that ; and the Customs revenue will profit by it. Let us have that invoice to verify the value of the goods. A capable Customs officer will be able to say in the case, for instance, of cement, which has been referred to - "We know that the price of the article is 10s. a barrel in the country whence it is exported. Your seller's invoice in London is at 8s. a barrel, and we cannot possibly accept that." But if the seller's invoice is at 12s. a barrel, which it very probably will be when commission and other charges are added, the Customs officer will say, "Certainly; we accept that." There is the genuine invoice, and the ad valorem duty attaches to it at once'. Senator Pearce put a very good illustration, but it had an assumption which does not affect the question. I have no doubt whatever that cement will have a fixed duty, but suppose, for the sake of the argument, that it has an ad valorem duty. If casks of cement are brought here as ballast for a ship, and the owner of the ship lands them within the Commonwealth and sells them to a purchaser when he has no further use for them, the purchaser will have to- pay duty not upon the price which he paid in the Commonwealth for the cement, but on the price which the shipowner paid in the country in which he bought it for the purpose of ballast.

Senator Glassey

- He might not pay at all ; it might be intrusted to him merely for sale.

Senator Sir JOSIAH SYMON

- If it is intrusted to him merely for sale there is another provision in the Bill dealing with that, and the duty will be charged upon the value based upon the original invoice prepared and issued by the consignor, showing the true description of the goods and the actual money price for cash at which such goods were saleable in the principal markets of the country whence they were exported. So that there is every possible check. I hope the request of Senator Sargood will be complied with, as I am sure it will be best in the interests of the Bill. Instead of passing this new clause 150a, it should be withdrawn for the present, and clause 150 reconsidered so as to enable the Customs authorities to get first the actual genuine invoice of the seller, and secondly to get what is the best tiling for us in the interests of the revenue - -the highest value of the goods for the purpose of arriving at the ad valorem duties.

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Postmaster-General

Senator DRAKE

. - Senator Symon appeared to me to argue that there was an inconsistency in the words used in clause 150, that the invoice shall be - " The original invoice prepared and issued by the seller in the country whence the goods were exported," because he said that if the goods were sold in London, and exported from some other country, then the invoice of the exporting country would not be the invoice of the seller. But surely the honorable and learned senator will not contend that in the case of goods brought out to Australia under these circumstances there are not, for the purpose of ascertaining their value, more sellers than one. There is the seller of the goods in the country from whence the goods were exported, and the seller of the goods also in London.

Senator Sir Frederick Sargood

- I assure the honorable and learned senator there is not, and I am speaking with knowledge.

Senator DRAKE

- Senator Sargood may not follow me. What I mean is that some one manufactures the goods in the

country from which they are exported, and someone there sells them. They must have been sold to the person in London by somebody in the exporting country.

Senator Sir Frederick Sargood

- - -The person in London may be simply acting as the agent.

Senator DRAKE

- He may be, but there are instances in which goods sold in London for exportation to Australia are goods which have been previously purchased by the sellers in London from the country whence they were exported.

Senator Sir Josiah Symon

- It is generally the other way; they are sold in London by an agent of the manufacturer in Germany.

Senator DRAKE

- If that is so, the seller is in Germany. But there may have been cases where goods were sold first of all from Germany to London, and then by the merchant in London to the merchant in Australia. What I want to point out is that under clause 150 there is no inconsistency in the words used, because it refers clearly to the invoice of the man who sold the goods in the country whence they were exported. If the honorable and learned senator will look at the new clause he will see that the invoice provided for is the invoice of the seller in the exporting country, and that if the original invoice cannot conveniently be obtained, the collector may permit to be substituted the original invoice prepared and issued by the last seller or consignor.

Senator Sir Josiah Symon

- If we ask for the original invoices we will get fraudulent invoices manufactured in London.

Senator DRAKE

- That is a different thing altogether, and a matter which the Customs authorities will have to look after; but it is perfectly clear that there must be in the first place a seller's invoice in the country where the goods were first produced or manufactured.

Senator Sir Josiah Symon

- If there was, how could we get it 1

Senator DRAKE

- It could certainly be got, even if the goods had first been sold, and the man who purchased them from the country in which they were made afterwards sold them to the importer in Australia. If he had not the original invoice he would have the means of getting it. Seeing that Senator Symon is willing to allow clause 149 to stand - and it must stand, because it is the basis upon which the value has been assessed in all the States, and is the natural basis of value - what objection can there be to the Bill going through with the amendment now proposed which provides that where the original invoice from the exporting country cannot conveniently be produced, the importer may produce the invoice which has been referred to frequently, the invoice supplied by the seller in London to the importer here 1 We have first of all the proper natural means of finding out the value provided for, and where there is evidence that that is not forthcoming we can substitute the invoice which honorable senators admit is always obtainable from the person who sells in London.

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Senator MCGREGOR

- I think we have all a right- to be grateful to Senator Sargood, for the way in which he has approached this subject. I believe he has dealt with it honestly for the purpose of enlightening honorable senators and for protecting the revenue, but after all that has been said I am still convinced that under the amendment referred to by the Postmaster-General we are in the safest position. A great deal has been said about the market value in the country from which the goods have been exported. Much turns upon that, and from this position we must not depart, that the men engaged in our Customs department must be intelligent men, and we must depend to a great extent on their intelligence and sagacity. Senator Sargood and other honorable senators must know that if I had them here I could produce documents to show that so far as the market value in the country itself is concerned, the manufacturers are in the habit of selling at even as much as 50 per cent, discount, and when goods are bought by Senator Sargood's firm, and by other firms, and come out here from the London purchaser there is no comparison between the value submitted . to the Customs for duty here, and the ordinary value in the country in which the goods have been

manufactured. I want honorable senators to pay attention to that, because it is really the position. If we simply take the value that is set down by the seller in London and the importer here, and if our Custom-house officers pay no attention to the value of the goods in the country in which they are manufactured, the Customs will be swindled and our manufacturers will be swindled. Clause 149 distinctly states that the true value on which we want to levy Customs is the market value in the country from which the goods have been exported, with the usual expenses added. Every honorable senator knows what they are, and we are going to get that value. Our Custom-house officers have to ascertain that value, and they are not going to be hoodwinked by any invoice which may pass between sellers in London and importers here or anywhere else. If the invoice does not represent the true value of the goods, then there will be some little bother about it. If that position is taken up. I think we shall be on the safe side. The Government have provided in this new clause that, if it is impossible to produce the original invoice, the importer may furnish to the Customs the invoice provided by the last seller, and if, in the opinion of the Customs authorities, that invoice shows something really relative to the actual value of the goods in the country in which they are produced there will be no trouble. If not, then the importer gets into trouble, and next time he does business with the Custom-house he will be a little more careful. I hope the clause as it stands will be passed. I am still thankful to Senator Sargood for the way in which he has been able to deal with this matter. I believe, however, from the little knowledge I have of manufacturers in other countries and of importers in this country, that we have to depend in a very great measure upon the intelligence and knowledge of our Custom-house officers.

Senator Sir FREDERICKSARGOOD (Victoria). - There is an old saying that "a little learning is a dangerous thing," and I think that my honorable friend, who has just referred to these so-called sales at a discount, is speaking of that of which he has practically little knowledge. I admit that such transactions do occur occasionally. Towards the end of the year in all branches of trade goods are sold at a discount, and the price' at which they are sold represents their value in that market, and we cannot get any more.

Senator O'Connor

- In what market ?

Senator Sir FREDERICK SARGOOD

- In the market where they are sold.

Senator O'Connor

- But not in the market of the country in which they are manufactured.

Senator Sir FREDERICK SARGOOD

- The bulk of the goods are not sold in the way in which Senator McGregor has described.

Senator McGregor

- I can produce papers to show that they are.

Senator Sir FREDERICK SARGOOD

- Occasionally they are, but the goods so sold do not represent 5 per cent of the goods imported into this country. Even assuming that these goods are sold in such a way, it must be admitted that they are sold at the then market price in the place from which they are exported. At the end of the season in London prices are reduced, and the reduced price becomes the price at which they can be purchased on the Continent. There is nothing in. the point.

Senator O'CONNOR

- Of course we are all thankful to have the knowledge and experience of Senator Sargood, which will, as it very often is, be of advantage to the committee, but the honorable senator should not assume to have a monopoly of commercial knowledge. I say, with all respect to the honorable senator, that any person who has been in the habit, as he has been, of working under a particular customs law for a great many years, is very apt to get views about the matter, always looking at it from the point of view of the importer, which may make it impossible for him to come to a consideration of this question - no matter how unconscious he may be of any bias - with a perfectly unbiased mind.

Senator Sir Frederick Sargood

- That is hardly fair.

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Senator O'CONNOR

- The honorable senator was not listening to what I said. I would be the last person to impute any feeling

of bias personally to him. I think it is quite impossible for any one who" has listened to the honorable senator on this Bill, night after night, to say that he has not in every instance been actuated in the best interests of the Commonwealth. Still, I say that his experience in dealing with the Customs as an importer would be very apt to bias any man's mind. Senator

Sargood must allow that there are other honorable senators here who, although they have not had his experience, have the knowledge which all of us must bring to the consideration of these questions. I should like to take the committee back to the real question before us, namely, whether or not this amendment should be carried. The new clause I am proposing provides in effect that, if the very case which Senator Sargood has referred to arises, it shall be within the power of the collector to take the invoice which the importer produces, if he is satisfied that the value shown on it represents the market value of the goods in the country from which the goods are exported, It gives a loop-hole, so that no injustice shall be done. But Senator Sargood .wants to go beyond that, and desires us to omit what has been considered, ever since we have had Customs Acts, to be an essential verification of the real value of goods for ad valorem duty. I quite understand those who disagree, with clause 149 as the basis of value, supporting the honorable senator's contention, but I cannot understand any one who approves of that clause, who agrees with the proposition that the value must be the value of the goods in the country from which they are exported, asking if it is necessary or essential that we should have the invoice showing not the value of the goods in that country, but some other invoice. I would like the committee to follow me while I point out the real meaning of clause 149. I agree with a great deal of what Senator Symon has said about it. First of all the basis of value is to be

The fair market value of the goods in the principal markets of the country whence the same were exported.

Senator Sir JOHN DOWNER

- -That is the principle.

Senator O'CONNOR

- Yes, we begin with that, and when once we get away from that basis we get into questions of value in which discounts, rebates, and other matters must be taken into consideration. Our only safety, therefore, is to go back to the man who actually manufactures the goods and get his invoice. Paragraph (6) of clause 149 provides that -

The value shall be verified at the time of entry by the production of the genuine invoice and by a declaration signed by the owner.....

The owner signs a declaration as to the value of the goods. He must also produce what is called a genuine invoice ; not the invoice upon which he buys, but the "genuine invoice" which it is provided shall be -

The original invoice prepared and issued by the seller in the country whence the goods were exported. What does that mean ? It means the invoice that accompanies the goods. In the great majority of cases, when goods are exported, an invoice goes with them. That is what the Customs want. We have heard a great deal about the Customs.

Senator Dobson

- The honorable and learned senator has not read all the clause. It provides that the invoice shall show the true description of the goods, and the actual money price paid.

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Senator O'CONNOR

- I am coming to that in a moment. As to value the Customs officials are not at the mercy of any invoice or other document. It is a mistake to suppose that the value is determined solely by the invoice. They have, in the first place, an experience and a knowledge, which it is part of their business to acquire, of the market value, in the country of production, of every kind of article which is introduced through the Customs. They have a price list ; they have different ways of informing themselves, and so they become experts in values. They have their general knowledge of the value of articles at the port of export, and they can require under paragraph (d) a declaration of the value. But in addition to all that they want an invoice which will show the basis of valuation; and that is the invoice made in the country from which the goods were exported. There may be a hundred other invoices, but they do not want them. It is quite true that a man sells in London. They do not want his invoice, because it represents the value of the goods at

the place where he sold them. They want to ascertain the value of the goods at the place of export, and in order to verify it they must see the original invoice. The Postmaster-General pointed out in an unanswerable way that the seller, mentioned in paragraph (a) of clause 150, was not necessarily the person with whom the Custom-house has to deal. It may be that the owner of the goods - the importer - may be removed by two or three transactions from the original seller in the place of manufacture. Even if you have to trace the goods back through four or five different transactions, you want the original invoice. It is all very well to say that the invoice of the seller will be higher. We do not care whether it is higher. It is not what we want. In the great bulk of cases, what difficulty can there be in getting original invoices? If a person in London buys from a person in Germany, by the very same communication by which he sends the order for the goods, he can ask that with the goods an invoice shall be sent. As a general rule, I take it, the invoice would be sent, and there is no more trouble in complying with that provision than there is in complying with any other. In all cases where there are ad valorem duties, there are certain requirements, which the trade very soon get to know. These requirements have to be fulfilled, and persons who export to the Commonwealth, whether directly or indirectly, will get to know the requirements of its Customs, precisely in the same way as they get to know the requirements of other countries. It is part of their business to acquire that knowledge, otherwise they know that their goods will not be admitted. In the great bulk of cases I see no hardship in requiring the document which goes with the first sale of the goods in the place of manufacture. If the first seller happens to be the person who is dealing with the Customs, there is no difficulty. But if the person dealing with the Customs is not the seller in the producing country, he will have to take care that he gets the original invoice with the goods, and in the great bulk of cases I take it as a verification of value the Customs authorities would require that invoice to be produced. Supposing that that invoice was not required, and that Senator Sargood's suggestion was carried out, no doubt there would have to be a declaration as to what the value of the goods was in the markets of the country whence they were exported. The owner would have to make that declaration. How would his own invoice substantiate that? He would produce his own invoice, which shows not the value in the country whence the export takes place, but the value in London, where the sale takes place. For the reasons stated by Senator McGregor and by Senator Pearce, it may be altogether different from the selling value in the place where the sale took place. A great deal of this discussion has really been wide of the clause before the committee. That clause will meet Senator Sargood's position in certain cases at the option of the collector. Surely he cannot object to that. He says it does, not go far enough. When we come to deal with the other clause, if he moves for a recommittal, the question can be considered.

Senator GLASSEY

- We have had an intensely interesting discussion on this very important provision. On a previous occasion I supported very strongly the case put forward by Senator Sargood. I still think that the balance of argument unquestionably rests with him. He has had a large experience. I had about nine years' experience. I certainly have sold goods again and again that went directly from the manufacturer to the purchaser, but the invoice always came to me. The Customs, of necessity, must lose from not charging duty on the higher value. That is one point to which I attach some importance. I have gone very carefully into this question, and made minute inquiries as to the views of the Customs officials generally. I am informed on the best authority that the Customs officials throughout the Commonwealth feel very strongly on this question, and that their view has been expressed by the Minister. Although I lean the other way still to some extent, yet we must pay attention to their arguments. It would be a serious reflection on them if we did not. They are charged with the collection of the revenue to maintain the Commonwealth and the States, and I can hardly believe that they would place themselves in a position in which they would get less revenue, and have less security or worse evidence. I can scarcely think that they would make so strong a stand unless they were thoroughly convinced that they are in a position to protect the revenue, to get the best evidence, and to act in the best possible way for the Commonwealth and the States. It would be unwise for Senator Sargood to push this matter too far. If we come to an opposite decision it will be a serious reflection on the Customs authorities, who can have no possible desire except to do the best they can as the servants of the Commonwealth and the servants of the States. Under these circumstances, I am bound to support the Government.

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Senator Major GOULD

- If we were to follow out the argument of Senator Glassey, we would find ourselves debarred from making any amendments in the Bill. The Customhouse, officers have followed a course of action for a great many years. It is one they are thoroughly acquainted with, and what more natural than that they should recommend . that it should be continued. If Parliament considers it necessary to alter the basis on which these values are to be calculated, it cannot be said that it is throwing a reflection on the ability or the intelligence or the integrity of the Customs officers. It is simply saying that the circumstances are such as justify a departure from that principle.

Senator Keating

- The honorable and learned senator is assuming that our Customs officers are hide-bound, and cannot see any virtue in a change at all.

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Senator Major GOULD

- I assume that they naturally recommend the course of action which has been pursued. So far from my thinking that they are hidebound in any way, I believe they would readily adapt themselves to any principle laid down by Parliament. They .would say - " It is for us to carry out the decision of Parliament in an intelligent way. We will give Parliament the benefit of our experience, but if it thinks that another basis should be adopted it 'is right that that should be done." They will adapt themselves to the circumstances. Naturally I would like to give those who import goods as much freedom and liberty as possible. I would not like to make them pay more on their goods than can justly be demanded. I recognise that the smaller the amount of money they have to pay, .the smaller the amount the consumer will have to pay. If, as has been pointed out by Senator Sargood, it is utterly impossible to carry out the principle of clause 150, it is our duty to see if a course can be adopted, so that duties which Parliament has decided should be imposed may not be taken away from the Government wrongfully, but so that < at the same time we may meet every set of circumstances that is likely to arise. If we can get invoices from the country whence the goods are exported let us do so ; but, if there are reasons why we cannot we must adopt some such course as that suggested by Senator Sargood. Whether it is wise for us to say that we will always depend upon the price paid as against the value of the goods is another question, but that can be met under Senator Sargood's proposal ; for, while it is provided that the invoice shall show the price paid for the goods, it is also provided that that price shall not be taken to be the value unless it truly represents the value of the goods in the country from which they are exported. I strongly incline to the suggestion of Senator Sargood. Coming from a man who has had 50 years' practical experience, his suggestion demands consideration before the committee decides to place itself in opposition to it. Perhaps it would be necessary to go back to clause 150, but in that case the clause could be recommitted.

Senator GLASSEY(Queensland). - I entirely agree that if Parliament desires to adopt a new policy in regard to the valuation of goods, it has a perfect right to do so. But in the framing of this Bill, the Minister for Trade and Customs has consulted experts from every part of the Commonwealth, and I think I am correct in supposing that he. would not confine his investigations to the testimony of Customs, officers, but would also take evidence from merchants, and persons engaged in trade in the different States. That being so, we' may reasonably conclude that- when the Minister recommends the continuation of the present practice, he does so upon information supplied to him by these experts. It can be no gain to the Customs officers to adhere to the line of policy laid down in this Bill. If they believed it to be necessary to adopt a new policy with a view to obtaining more revenue and greater security for collecting it, they would have made a recommendation to that effect. As this measure is largely the outcome of expert knowledge, gained from every part of the Commonwealth, it would be a serious reflection upon the experts if we departed from the principle laid down in it.

Senator Sir FREDERICKSARGOOD (Victoria). - The discussion has occupied more time than I anticipated, but the importance of the subject warranted my bringing the whole of the facts before the committee. I have pointed out that it is utterly impossible for the honest trader to carry out clause 150. That criticism has been met to some extent by the amendment, and I frankly acknowledge that as far as the honest trader is concerned, the difficulty is to a large extent met. But it does not go far enough. I accept the amendment, but later on I shall endeavour to get clause 150 recommitted with the view of making amendments which will protect the honest trader against the dishonest trader. At present the dishonest trader has an immense advantage.

New clause agreed to.

Senator Sir FREDERICKSARGOOD (Victoria). - I move - .

That the following new clause be inserted to follow clause 154 : - "The collector may always when he deems, it expedient for the protection of the revenue, and subject to any of the regulations to be made by the Governor-General in that behalf, detain and cause to be properly secured) and may take for the Crown any whole packages or packages or separate or distinct parcel or parcels or the whole of the goods mentioned in any bill of entry, and may when so requested, subject to such regulations, pay to the importer or person entering the same the sum at which such goods packages or parcels are respectively valued for duty in the bill of entry together with 10 per centum thereon, taking a receipt for such sum and addition when so paid. And the goods so taken shall (whether such payment be requested or not) belong to the Crown from the time they are taken as aforesaid, and shall be sold or otherwise dealt with in such manner as may be provided by such regulations in that behalf ; and if the net proceeds of any such sale exceed the amount paid as aforesaid for the goods then the surplus may be applied to the like purposes and in such proportions as penalties and forfeitures are hereinafter directed to be applied. The comptroller may, if he thinks fit, order that any duty paid upon any goods packages or parcels taken for the Crown under the provisions of this section may be returned to the importer or owner thereof.

In clauses 149 and 150 we have dealt with ad valorem duties, and the mode of imposing them. In clause 151 the Bill deals with foreign invoices ; clause 152 deals with the assessment of value; clause 153 deals with punishments for having blank invoices; and clause 154 enables the Minister to determine value in some cases. Now I want to deal with a matter which I believe is the law in more than one of the States. Certainly it is the law in Victoria. That is, that if a merchant declares goods at a certain value the department may, if it thinks fit - it is not compulsory - add 10 per cent to the value and take them over. This will be a most useful check against fraud. I can easily understand that in a comparatively small State where there is a comparatively small market it might be a very dangerous thing for the department to take over goods. On the other hand, so far as Victoria and the larger States are concerned, with such a power in the hands of the department, fraud could to a very large extent be checked. In Victoria it has been used with very great advantage to the department itself, and has frequently nipped in the bud the making of false declarations. I recognise frankly - and I have had a great deal to do with Customs officers for a great many years - the intelligence, honesty, and industry with which they carry out their, at times, by no means pleasant duties, and their anxiety to do the best they can for the Customs, and also not to be too rigid in carrying out the law; and if this power of taking over goods with 10 . per cent. on the declared value added is given to the department, I feel sure that we shall place in their hands a very valuable power for stopping fraud. In New Zealand, a similar power has been used in connexion with the land tax. Land can be taken over at the declared value with 10 per cent, added in case of undervaluation. That . power has been advantageously enforced there on several occasions.

Senator Major Gould

- Advantageously to the man or to the State?

Senator Sir FREDERICK SARGOOD

- To the advantage of the State, and also to the advantage of honest declarators of value.

Senator O'CONNOR

- The principle of the proposed new clause is one which commends itself to my judgment, but I am inclined to think that its provisions are a little too stringent. I think that 10 per cent., as here proposed, is rather too high. In anticipation of this proposal, I have framed a new clause, which, I think, will carry out the honorable senator's view, while, at the same time, it is in accordance with the general scheme of the Bill.

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Senator Sir Frederick Sargood

- I am quite content to adopt another form of clause for carrying out the same object.

Proposed new clause, by leave, withdrawn.

New clause to follow clause 154 proposed by Senator O'Connor -

For the protection of the revenue against the under valuation of goods subject to ad valorem duties, and against the entry of goods at lower rates of duty than are properly applicable, any goods entered as of a specified value, or at a certain rate of duty, may at any time before sale to a person, having no knowledge

of the entry and subject as may be prescribed, be purchased, by the Customs at their declared value, with an addition of £10 per centum on the amount of such value.

The purchase shall be effected by the seizure of the goods by an officer, and written notice of the seizure given to the owner.

The officer shall remove the goods to a warehouse or some place of security, and the owner shall thereupon be entitled to the purchase money.

The goods shall become the property of the King immediately on seizure, and shall afterwards be disposed of as may be prescribed, or as the collector may direct.

A refund in whole or in part of any duty paid on the goods may be made by the collector.

This section shall not limit or restrict any other power possessed by the Customs relating to the goods.

Senator Sir FREDERICKSARGOOD. (Victoria). - I do not quite understand the words in sub-clause (1) - "Any goods entered as of a specified value, or at a certain rate of duty." Does that mean that if an importer places certain goods within one category, and, the Customs department places them in another, the goods may be seized 1 If the importer places goods in a class to which they would be liable to 10 per cent, duty, and the department places them in a class to which they would be liable to 15 per cent, duty, would they be seized 1 The Government do not mean that, surely.

Senator O'Connor

- It means in case of undervaluation.

Senator Sir FREDERICK SARGOOD

- As far as it concerns goods that are undervalued, let them be seized by all means. But sometimes the department itself does not know whether goods should be in one class or another.

Senator O'CONNOR

- The object of the proposed new clause is to carry out the well-known principle that where a person has placed a certain value on his property for certain purposes of State and he makes an under valuation, he may be taken at his word, and the Government may acquire the property at that valuation. That is the principle followed in some taxation laws, and it is a fair one. I quite agree with the honorable senator that that ought to be confined to cases where there has been an undervaluation, and I am quite willing to strike out the words "or at a certain rate of duty" so that the clause shall read -

For the protection of the revenue against the undervaluation of goods subject to ad valorem duties any goods entered as of a specified value may at any time before sale, and then the other words will follow on.

New clause amended accordingly.

Senator McGREGOR(South Australia). - I think the Government have been very fair in drafting amendments to meet, the wishes of all the honest traders. I only wish there was a dishonest trader or two here to say what their opinions are. Although I admit that, under many taxation laws in different parts of the world) provisions are made under which the Government may take possession of property on behalf of the Crown, 10 per cent. is generally added; this is an instance which think differs altogether from other taxation laws. The taxation laws that have been referred to are land taxation laws, but when goods are introduced by the importer, whether he be an honest or a dishonest trader, and undervaluation has been stated, if the honest trader escapes the forfeiture of his goods he is very lucky, and if the Government are generous enough through the Customs department to take goods at the valuation of the owner himself, I think 5 per cent. would be quite sufficient to add to that valuation.

Senator Sir Josiah Symon

- Why should we give him any percentage at all ?

Senator McGREGOR

- I would not. If I thought there was a number of honorable senators here so much in favour of the honest trader that they would be prepared to forfeit the goods, I would be prepared to agree with them. I am prepared to move the omission of the words under which the 10 per cent, is proposed to be added so that the goods may be taken at the value stated by the owner, in instances where the Customs department consider that forfeiture is not advisable.

Senator O'Connor

- I have no objection to that.

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Senator Sir Frederick Sargood

- Neither have I.

Senator Major GOULD(New South Wales). - Very few honorable senators have got a copy of the printed clause at all, and I understand that since Senator Sargood rose to propose it the Vice-President of the Executive Council has submitted an alternative clause which has not been circulated and which appears to have come to light only within the last ten or fifteen minutes. While it seems that the honorable and learned senator's proposal will deal with the matter in the way desired by Senator Sargood, it is undesirable that a long clause should be sprung upon the committee without our having the opportunity of seeing the text of it. Senator McGregor has suggested that the addition of the 10 per cent. added value shall be struck out altogether. While there is no question that if a man has carefully undervalued his goods he does not deserve much consideration, I suggest to the committee that there may be cases of honest difference of opinion between the importer and the Customs officer as to the value of the goods. This new clause will allow the Government to take possession of these goods whether the Customs officer may consider that they may have been undervalued or not.

Senator McGregor

- At the valuation of the importer.

Senator Major GOULD

- The importer may have valued them perfectly fairly.

Senator McGregor

- Then what has he to complain about?

Senator Major GOULD

- The importer may value the goods perfectly fairly. He imports them for the purpose of making a profit upon them, and we are now putting an arbitrary power in the hands of the Customs authorities to take any goods that may be imported without question as to whether they have been undervalued or not. The provision deals with any goods "entered as of a specified value," and says "they may at any time before sale to a person having no knowledge of the entry be purchased by the Customs at their declared value." Where there is an honest difference of opinion, and the importer has fairly valued the goods, it is reasonable that this power should be left to the Government to make the addition of 10 per cent, or 15 per cent, to the value, so that the importer may not be deprived of the benefits he expects to obtain from the sale of the goods which he has imported, honestly believing that he has valued them at a proper price.

Senator EWING

- There is yet, I think, another aspect of this question, and 'so far as I am able to see at present the leader of the Government and Senator Sargood have been rather hasty in accepting this amendment. This clause says that the Government may purchase at the value at which the goods were declared. I know that it is provided that the value of the goods for the purposes of duty shall be deemed to be the value at which they were purchased with 10 per cent, added. This clause, in providing that the goods may be purchased by the Customs at their declared value, does not include the 10 per cent. If the declared value included the 10 per cent, added to make up the difference between the price in the home market and the price in the Australian market, to cover freight, insurance, &c, I would be in accord with Senator McGregor, but I do not think it does.

Senator Sir William Zeal

- Look at clause 149.

Senator EWING

- I am fully aware that the value of the goods for the purpose of taxation in Australia shall be deemed to be the value at which the goods were purchased in the market from which they came, with 10 per cent, added, but the declared value is not that ; it is the price at which the goods were purchased.

Senator Drake

- No, I think not.

Senator EWING

- The declared value means the value which the person importing the goods swears to have paid for them. Supposing I am importing £1,000 worth of goods, under the clause we are just considering ; I have to declare those goods at the value I paid for them in the market from which they come, but I pay duty on them on the amount of the declared value with 10 per cent, added.

Senator Drake

- But the clause says "the value shall be taken to be the fair market value."

Senator EWING

- With great deference to the honorable and learned senator, I would submit that there is a difference between "value" and the "declared value." The value for the purpose of imposing taxation is the declared value, with 10 per cent, added. I think Ministers will see that that is so. We have just been passing clauses providing that a man must declare the value of his goods, and the value he is to declare is the price at which he purchased. If we are going to pass this clause as it is we shall give the Government power to take these goods at the price which the person pays for them in the home market.

Senator Drake

- No.

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Senator EWING

- Senator Drake says "No," but I submit that under the clause in the Bill to which we have been referred it is clear that there is a difference between the value of the goods for the purpose of taxation and their declared value. If I import goods valued at £1,000, their value for the purpose of imposing duty is £1,100, but their declared value is £1,000. I declare them at the price at which I buy them, and the Government, before they impose taxation, add 10 per cent. Therefore this clause, when it provides that the Government shall have power to take the goods at the declared value means that they can take them upon the value at which the person declares them when he passes his entry.

Senator Lt Col NEILD

- I think that there is a very great risk of Senator Ewing's view of the case being accurate, and, if it is accurate, a great wrong may be done if the amendment before the committee is carried. But- even if it is not so, the point apparently has been overlooked, so far, that the 10 per cent, which is referred to in clause 149 is not put on for the purpose of profit in any shape or form but to cover freight, insurance, interest on purchase money whilst the goods are 'at sea, exchange, stamps, and in some cases very likely expensive telegrams. All these items go to make up the expenses in respect of which the 10 per cent, is added. There is another element, which may do a very great injustice and at the same time be of great advantage to the Crown, arising in the amendment. We know perfectly well that the larger profits made in business to-day are due to public misfortunes.

Senator McGregor

- To fire and water.

Senator Lt Col NEILD

.- And principally wars. A merchant or importer orders £1,000 worth of goods in some outside market, and he is entitled to pass those goods through the Customs here at the value which he paid for them with 10 per cent, added. Owing to some international complication or breaking out of hostilities, or flood, famine, or other contingency, however, those goods may, at the time the entry is passed, be worth 50 per cent, more than when he purchased them, but he is not required to pay duty on that 50 per cent. He is only to pay on the price he gave for the goods, plus 10 per cent. Yet under this clause the Government can seize the goods and obtain the profit due to the increase in value that has accrued. The amendment provides for something more than an undervaluation, because if there is a mistake or misapprehension as to which division of the Tariff certain goods come under, they may be seized, inasmuch as the Customs department can say they should have been entered under such and such a heading.

Senator O'Connor

- That is altered now.

Senator Lt Col NEILD

- In the name of common sense, when are we to get an amendment in a form in which we can understand it? This amendment was only circulated three minutes ago, and yet I am told that it has been altered. I must protest against this way of doing business. The fact that that alteration has been made does not, however, in the slightest degree affect the position that I have taken up that there may be very great hardship wrought on a perfectly honest man who makes an honest entry. I cannot conceive that this is a fair proposal. I believe that in one of the great States of the Commonwealth there has been a law of this kind in force. Some strange things have happened under this particular law. It has come to my

knowledge that in one particular case a zealous head of the Customs thought he could make an admirable profit by seizing a large consignment of tombstones. It was only the occurrence of a general election, and the loss of a large number of seats by promising politicians, that saved the Government from heavy loss, as the tombstones came in handy for the erection of memorials in honour of the departed. But for that there would not only have been a risk of loss, but of Government complications. We do not want to see Senator O'Connor in such a position as that, and I trust that he will not press this amendment in its present form.

Senator O'CONNOR

- I rise now for the purpose of making an explanation in this matter. I take it that none of us wish to do anything more than punish 'the person who has made an undervaluation in his declaration.

Senator Major Gould

- Wilfully undervalued his goods.

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Senator O'CONNOR

- Yes, wilfully. That declaration will be made under paragraph (o), which provides that -

The value shall be verified at the time of entry by the production of the genuine invoice, and by a declaration signed by the owner in the presence of the collector.

I understand that the usage under a law of that kind is that the declaration is a declaration of the true market value of the 1 goods in the country, from which they are exported, and that the Customs officials add 10 per cent, when the entry is made. I do not think that any of us wish to put a person in a different position than he would be under that declaration. Therefore, by adding 10 per cent, we will simply put the goods to the value that they possess for the purposes of duty. I am certain Senator McGregor does not wish to a0 any more than that in his amendment. The whole question is whether this 10 per cent, is already included in the value or is not. I am satisfied with Senator Ewing that the value declared is the market value of the goods at the place of export, and that the addition of 10 per cent, merely brings up the value of the goods to what they would be for dutiable purposes at the time of the making of the declaration. Therefore, I would suggest to Senator McGregor that ' the object which we all have in view will be carried out if he withdraws his amendment.

Senator MCGREGOR(South Australia). - If the "Vice-President of the Executive Council is satisfied, I have no reason to be dissatisfied, because I am neither advocating the claims of the honest or dishonest trader ; I am only endeavouring to stand up for the public of Australia. I should like to point out to Senator O'Connor that although he may have received advices from the Customs department with respect to this question of 10 per cent., not a word has been said with regard to the "free on board at port." The declaration according to clause 1d:9 only applies to the price that is put down by the manufacturer. I am afraid, therefore, that there are some complications which we do not thoroughly" understand yet. If we take into consideration the gravity of the arguments that have been used by our honorable tombstone friend, Senator Neild, of course it might be so because there are many other things besides tomb stones that might be imported. "When the Customs Regulation Bill is passed the officers in the Customs department are to be guided by that measure and not by contingencies that may arise by reason of wars, famines and pestilences. They have to be guided by the price in the country from which the goods come, plus the reasonable charges that are paid on goods free on board with this 10 per cent, added, so that there is no danger in the direction that Senator Neild seems to fear. This clause is only for the -purpose of protecting the people of Australia against fraud. . If the Government are satisfied, I agree to withdraw the amendment with respect to the 10 per cent., but I do not want the 10 per cent. to be added first of all to bring up the declared value in connexion with the Customs, and 10 per cent, to be added for compulsory purchase by the Government. So long as I have the assurance that that will not take place, I am quite willing to withdraw the amendment.

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Senator PULSFORD

- I think there will be no difficulty in indicating to the committee that we have to be very careful in this matter lest we draw a clause which .may inflict very greivous injustice in certain cases. It is desirable that we should remember what is meant by this addition of 10 per cent. The addition of 10 per cent, to the shipping value is taken all the world over as a fair average of the added cost of the goods, represented by

freight and insurance ; but the 10 per cent, is very often immensely exceeded. In common with other honorable senators no doubt, I have received a statement from an Australian firm showing the enormous addition to the shipping value of empty bottles by reason of freight and other charges. Empty bottles are largely imported to - Australia, and goods such as Japanese blinds and other articles are subject to ad valorem duties in Victoria and some of the other States at the present time. Ten per cent., however, will not anything like cover the expenses of bringing these goods over. There are many articles on which the expenses of importation range from 50 to 100 per cent. Under this clause, if an importer obtains £1,000 worth of goods in a manufacturing centre, he will have to pay duty on £1,000, plus £100 ; and if he makes an undervaluation he will be liable to have the goods seized. The goods with freight may have cost £1,500, so that if the Government seize the parcel because of a small undervaluation in the shipping price the importer might lose several hundred pounds. I " am quite with the Government and Senator Sir Frederick Sargood in desiring that the Customs should have power of seizure in a case of wilful undervaluation ; but we must be sure that the clause is so worded that the seizure can only be put in force when the undervaluation has been wilful, and must not run the risk of bringing about such a possibility as I have indicated.

Senator Sir JOSIAHSYMON (South Australia). - We are in very great danger of overloading the Bill. This clause is altogether unnecessary. At first it was a little bewildering whether it was intended to protect the Customs against the honest or the dishonest trader ; but now I understand it is only applicable to a case of perfect honesty in making an undervaluation. It is not intended to allow a rogue to escape.

Senator Sir Frederick Sargood

- It is intended for just the opposite - to catch the rogue.

Senator Sir JOSIAH SYMON

- Does my honorable friend propose to allow the rogue to escape simply by the Government purchasing his goods at 10 per cent, on? That would offer a premium to dishonesty.

Senator O'Connor

-. - No. The last subclause provides that it shall not limit or restrict any other power possessed by the Customs relating to the goods.

Senator Sir JOSIAH SYMON

- I am much obliged to my honorable friend for putting that in ; it takes the sting out of the clause, because if an undervaluation is honest, if it is a mere inaccuracy, all the provisions which are requisite are given in clause 152. We have there a provision that if the collector has a doubt as to the accuracy of the declared value of dutiable goods, he may detain the goods. If the owner objects to the value which the collector assesses, he can have that value checked and ascertained by experts, in manner prescribed, - Should the honest owner of the goods still persist that his valuation is correct, and refuse to accept the value so ascertained and pay the duty, the collector may sell the goods. What does the Government want to take up shop, keeping for 1 There is no necessity for it. If the goods are undervalued honestly, there is an opportunity given to have justice done between the merchant and the Crown. If there is a dishonest and wilfully made false declaration of value, all the provisions of the Act come into operation, and his goods are forfeited without a penny to him, and he is liable to penalties as well. Surely that is everything. What do we want to overload the Bill for, by making the department the purchaser of goods at 10 per cent, on - giving the importer a profit on the actual cost of the goods to him 1 This provision, if it is left in, will be a dead letter. I hope that it will not be introduced. The condition on which these goods may be taken over by the Government in the form of a sale is -

If the goods are entered as of a specified value. It does not say that it is an undervaluation ; that would be an offence. There is a preamble to the clause, which says that all this is for the protection of the revenue against the undervaluation of goods subject to ad valorem duties; but what is the power? Any goods entered at "a specified value," not at an under-value. Here we are introducing a lot of complications at once. Goods may be in the hands of a person who claims to be a bond fide purchaser, and we may have all sorts of difficulties raised there ; and then you introduce regulations, because the goods have to be " subject as may be prescribed," purchased by the Customs at their declared value. You will have the Bill blotted with a clause which will either be a dead letter, or which will be absolutely misleading, or which may work injustice. Senator O'Connor has been good enough to point out that it does not restrict any other powers. What are the other powers ? The power of dealing with the honest trader on the one hand,

and the power- of dealing with the dishonest importer on the other. The Bill is entirely complete, and I think Senator Sargood has been led away. He says it is the dishonest trader he wants to get at. If this is how the dishonest trader is to be got at, I prefer the more stringent and drastic provisions which in sub-clause (6) are left untouched by the proposed new clause.

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Senator WALKER

- I hope that Senator O'Connor will see his way to accept the suggestion of Senator Sir Josiah Symon. The specified value is not quite evident. It does not necessarily mean an undervaluation. As an old banker, I have known persons to pay 8 per cent, exchange for getting money in London. I have seen drafts on Australia negotiated in London at 8 per cent, for three months. The rates of exchange depend on the money market and on various other circumstances. We want fair play between man and man. I think that hardship will be caused if the clause is passed as it stands.

Senator MCGREGOR(South Australia). - I would point out, in connexion with the honest or the dishonest trader, that the Government might be compelled to sell at a very inopportune time, and that if they did it might be disastrous to both. But if the Government have power ' to seize and hold they might be able to pay a fair value to the unfortunate trader, who through either honest or dishonest motives had been induced to understate the value of his goods. After the declaration of a gentleman with such large experience as Senator Walker, that traders are put to such straits, that they are charged such usury as has been indicated, I think that some consideration should be given, and a clause of this kind -would probably be very beneficial to both the Government and the trader. It could do no possible harm to put it in the Bill.

Senator Major GOULD(New South Wales).- To the minds of some honorable senators, a person who is not determined to go in for all sorts of restrictions and harassing provisions is looked upon as a man who is inclined to favour the dishonest trader. Certain honorable senators seem to think it to be their duty to regard everybody who will have to do with the Bill as dishonest. This provision commends itself to Senator McGregor's mind, because it is aimed at those who attempt to defraud the revenue. When I spoke at an earlier hour, I had not noticed clause 152, which deals with the case of an under-valuation ; but in the face of that provision can honorable senators say that there, is any necessity to insert a new clause of this character ?

Senator Sir William Zeal

- Ask Senator Sargood.

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Senator Major GOULD

- I do not believe -that Senator Sargood regards it now as being necessary as he thought in the first instance. In clause 152 there is power, where the collector is in doubt as to the accuracy of the valuation, to do certain things ; and there is the further provision that the clause shall not apply where the Minister is of opinion that any evasion has been attempted. A question arises as to what is to happen when there is a bona fide contention as to the value of certain goods, or, in other words, where the honest trader is involved in a difference of opinion with the collector. If the Minister is of opinion that an evasion has been attempted the goods are forfeited, and the man who has committed the fraud punished, as he should be. So that there is in the Bill already absolute power to protect the revenue. There is, therefore, no need for this provision which gives the Government power to take possession of the goods at the values specified in the declaration of the importer. If a man is perfectly honest, and the necessity arises for a revaluation the Minister has clause 152 to act under, but if the man be dishonest, why give him this benefit when his goods can be forfeited, and he can thus be punished? The danger comes that the Government may take the goods as of specified value. For what purpose 1 Are they going to make a profit out of the stile of the goods, or suffer a loss upon them ? If there is to be a loss, the dishonest trader will not suffer that loss ; if there is to be a gain the honest trader ought to obtain that gain. The only object of a customs law is to protect the revenue, and to insure the payment of duty by the importer. The Government do not want to take possession of goods and make a profit out of them, nor do they want to take them and involve themselves in a serious loss. For, mark you, where there has been an attempt to evade the law the goods can be sold, and the Government will lose nothing at all. Even in the case of the honest trader, if he will not pay duty as assessed, the goods can be sold in order to pay the Government the duty, and the value

of the goods can be refunded to the owner after the duty has been deducted. Consequently, the clause appears to be absolutely unnecessary. If it is used at all, it can only work mischief instead of good. If the trader has put a high value upon the goods, and the Government do not realize that sum they are at a loss ; if they realize more they are taking advantage of the honest trader. If he is a dishonest trader, they are not punishing him. We are told that there is a similar provision in the Victorian law, but I do not think there is in the Victorian Act a section similar to clause 152. If that be so, we can readily understand why there should be some provision of this character, but clause 152 amply protects the revenue in a far better way than it can be protected under such a clause as this. I hope honorable senators will look at the matter from all points of view, and will realize the mischief likely to follow from the adoption of the proposed new clause.

Senator EWING(Western Australia). - I would suggest to Senator O'Connor that if his object is only to acquire goods in the event of an undervaluation it would be well for an amendment to be made inserting the following words at the beginning of the clause : -

In the event of a dispute as to the value of the goods, and for the protection of the revenue.

My object in suggesting that alteration is that the Government ought not to have the power of buying goods unless there is some trouble with regard to the duty. For instance, a man might be introducing a large consignment of goods and the Government for the time being might desire those goods. They could step in under this clause, dispute or no dispute, and seize them. That is not the intention.

Senator Playford

- Does the honorable and learned senator think the Government would be guilty of a trick of that sort 1

Senator EWING

- I do not know that the Government would do a thing of that sort, but in future days a Government might say - "There is the section - what is the meaning of it? What is it put in for except to enable us to do this thing ? " If we intend that the Government shall only be able to step in where some irregularity has occurred we should make it clear in the clause. I quite agree with Senator Symon as to the proposed new clause being unnecessary : but if we are to have it let it be made clear what are the circumstances in which it is to be applied. As far as we can we should pass legislation which exactly expresses the intention of the Legislature. I cannot see why Senator Sargood has moved the amendment at all. It does not commend itself to me in any form.

Senator WALKER(New South Wales). - Since I last spoke I have found amongst my papers an invoice showing the total cost of importing certain goods from Hamburg. The first cost of the goods in Hamburg was £96 8s. To that sum £92 5s. was added for port charges and other expenses. Therefore the total cost free on board was 70 per cent, over and above the original price of the goods. Ten per cent, only on that would be altogether insufficient. Who would believe that on goods, originally costing £96 8s. in Hamburg the cost, when landed in Australia, would be, as in this case, £318, or say 70 per cent, over the cost free on board.

Senator CHARLESTON

- The more I consider this proposal the more I dislike it. We have already made provision for what is desired, and I can see no reason for the proposed new clause, which only helps the dishonest man. It is said that if there' should be any undervaluation in the opinion of the Customs officers, the Government should have power to seize. The moment the goods are seized and placed in the King's warehouse the Government will be entering into speculation. The goods may rise or fall in value. The provision is altogether unnecessary and unwise. All we have to do if a man has made an unfair declaration is to seize the goods and sell them, and let the man receive the price minus the duty. Probably, when Senator O'Connor first read the clause proposed by Senator Sargood, he saw that it did not meet what was required, and set out to prepare an amendment, overlooking the fact that the object is already met by other provisions of the Bill. I earnestly hope that the proposal will be withdrawn.

Senator PLAYFORD

- There is an old saying to the effect that you cannot have too' many strings to your bow; and, as one who has had a good deal to do with the administration of the Customs, I think it is wise to have as many checks against defrauding the revenue as possible. There may be instances of where the Minister cannot say that an importer is honest, while he cannot say that he is dishonest; but he may believe that the importer is getting his goods in at lower than a fair rate. The importer cannot be proceeded against under

the criminal provisions of the measure, .but it can be proved to a certain extent that he is introducing goods into the Commonwealth below their value. With this power in his hands the Minister can try a few cases occasionally, taking the goods at their declared value, selling them, and seeing what the result is.

Senator Sir Josiah Symon

- He can do that under clause 152.

Senator PLAYFORD

- It is not quite sure that it would be worth the while of the Minister to do it under clause 152. The advantage of this clause is that the department will be able to hold over the heads of importers something which will induce them to declare their goods at a fair rate.

Senator Dobson

- Under clause 152 the Government can sell, but under this clause they have to buy.

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Senator PLAYFORD

- We have to buy with the intention of selling. We take the goods under this clause at a certain valuation which we believe to be a low one. We may have some suspicion that certain firms are in the habit of undervaluing, and we test it by taking possession of the goods and selling them in the market.

Senator Sir JOSIAHSYMON (South Australia). - I should like to say that Senator Playford will never find himself in the exceedingly difficult position which he suggests that Senator Sir Frederick Sargood sometimes occupies, because Senator Playford will always be found supporting the Government. Seeing that the honorable senator has been not only Treasurer and head of the Customs department in the model State of the group, but also Agent-General for that State, he has surprised us by failing to appreciate what this new clause really is. We have in the Bill provisions of the most drastic character. We put it in the power of the collector to assess the values of goods, and if the importer disagrees with that assessment we have the value ascertained by experts, and if he disagrees with the valuation fixed by the experts, the Customs authorities may sell the goods. Where there is proof of the operations of the dishonest trader we have the provisions which enable the goods to be forfeited, and the dishonest trader punished as he ought to be. But what is this proposed clause for ? It is, if honorable senators please, to give power to the Customs authorities to buy the goods of this gentleman, who has put an undervaluation upon them, at his declared value plus ten per cent. I object, in the interests of the revenue and in the interests of all kinds of traders, .to its being put in the power of the collector to buy goods from a man who has brought them in at a declared undervaluation, and whose sole obligation is to pay duty. What do the Customs authorities want with these goods? All the provisions of the Customs Bill are to enable us to get the true duty. Clause 152 enables us to do that. If the collector thinks the goods have been undervalued he will say to the importer - "I want my duty on the genuine value of the goods." The importer may say, " I disagree with your valuation," and the collector then says, " I will sell the goods and get my duty out of them." He does so, and hands over the balance to the importer. I say that is quite enough for him. The importer - it may be more or less innocently - imports goods at an undervaluation, but we never can tell that there is not an attempt to evade the Customs by getting goods in at an "undervaluation, and look how this provision may be abused. I do not desire to impute anything to the Customs officials, but it is possible that fish may be made of some and flesh of another, and Customs officials may look with a lenient eye upon one importer who has undervalued his goods and say to him, " These goods are undervalued, but here is your valuation for them plus 10 per cent." ; while they may look with another eye upon another importer and say, " Your goods will be sold, the duty taken out of the proceeds, and you will get the balance." That kind of thing ought not to be possible. I am sure Senator Sargood suggested this clause from the best possible motives, but I notice that the Vice-President of the Executive Council does not take any responsibility for the amendment, and it is simply putting temptation in front of the officers of the Customs to deal differentially with different importers.

Senator MCGREGOR(South Australia). - I am still going to support Senator Sargood, notwithstanding the logical way in which Senator Symon has put his case to ' the committee. We must look at the matter in another light. If goods have been seized and sold, and they do not realize the value a trader has placed on them, and the Customs department deduct the duty, I think Senator Symon will himself agree that the importer -would have a very good case against the Customs department, and it is quite probable that -it would cost the Government a good deal more in the future than a seizure of the goods under the

amendment proposed by Senator Sargood. Under this amendment the owner of the goods gets the legal amount he is entitled to, and the Government get value in hand, and no case can be raised afterwards. But under clause 152, so ably advocated by Senator Symon, a mistake may occur in which the Government may be involved. I think with Senator Playford that it is a very good thing that the Customs department should have more than one string to its bow..

Senator Sir FREDERICKSARGOOD (Victoria). - It has been suggested to me that it would be as well to introduce the words, " And if there be a dispute as to value" after the word " duty," so- that the clause would read -

For the protection of the revenue against undervaluation of goods subject to ad valorem duties, and if there be a dispute as to value in any case - and so on. Personally I prefer the clause as it stands, and will not move the suggested amendment. This clause is strongly recommended by the large deputation that waited on the Minister for Trade and Customs, and surely those persons know something about the importation of goods.

Senator Lt.-Col.NEILD (New South Wales). - -There have been only two speeches in favour of the amendment, and both have been made by representatives of the Utopian province. Both have insisted that this clause is designed to get at people who undervalue goods. But Senator Symon has pointed out in the clearest manner that it can have no possible value except to enable the Government of the day to seize goods and make a profit out of them. I suppose we shall have some future Cabinet going round the Commonwealth peddling these goods in the various States. I am going to move the insertion of the words which have already been indicated by Senator Sargood. I move -

That after the word " duties," line 2, the words and if there be a dispute as to value" be inserted.

Amendment negatived.

Question - That the new clause proposed to be inserted, be so inserted - put. The committee divided -

Ayes ... 17

Noes..... 10

Majority 7

Question so resolved in the affirmative.

New clause agreed to.

Senator Sir FREDERICK SARGOOD

- I have a new clause which I wish to insert in the Bill. There is provision made in clause 160, under which in the event of a dispute as to duty, the owner of the goods will be compelled to go to the Supreme Court, or instead of that, under clause 256 he may submit the matter in dispute to the sole and final decision of the Minister. Honorable senators will see that there are thus only two alternatives. In the one instance a man must absolutely submit the matter to the Minister for his sole decision, and in the other he must go to the Supreme Court. There are a large number of cases of honest dispute between the Customs and importers which do not justify the excessive expenses of a lawsuit, nor would it be wise that they should be left to the Minister. I therefore propose that there shall be a medium course, and I have circulated an amendment which is a copy, boiled down, of sections 38 to 46 of the Victorian Act, No. 1081. I move -

That the following new clause be. inserted to follow clause 160 : -

If any dispute shall arise as to whether the provisions of this Act have been complied with, the person aggrieved may apply in writing to the Minister stating the grounds of complaint, and thereupon the Governor-General shall depute two or more persons to inquire into and report upon such dispute in the prescribed manner to the Governor-General. Upon such inquiry witnesses may be summoned and examined upon oath.

No person summoned as a witness shall without reasonable cause, or excuse, neglect or refuse to attend upon being tendered reasonable expenses. Penalty : £20.

The Governor-General shall either prosecute the offender or determine such dispute and make an order accordingly, notice whereof shall be given to the parties to such dispute forthwith. Such order shall be of equal force and effect as if the same had been made by any justice or justices having jurisdiction in the matter, and may be enforced accordingly, unless the party against whom such order is made, shall within one week after the receipt of notice thereof give notice in writing to the Minister that he refuses to abide by such order.

This has been found a very valuable provision in the Victorian Act, and I have known many cases,

although not of recent years, in which advantage has been taken of it. It has greatly facilitated both the Customs department and importers in settling disputes in a satisfactory manner, without the expense on the one hand of a Supreme Court action, or of the necessity on the other of leaving the matter to the discretion of the Minister. It has been suggested to me that sub-clause (3) should be made final. I think that would be an improvement. Once the importer has elected to take this course, he should not be allowed to go beyond it. My amendment leaves three courses open. Either the matter may be remitted to the Minister for his final decision, or the importer may take the course I propose, which in the large number of cases will be taken, and which will be anal, or if he prefers he may go to the Supreme Court and fight the matter out.

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Senator Dobson

- What is the meaning of the "person aggrieved," in the third line of sub-clause (1)? Does it refer to the person aggrieved in the dispute with the collector ?

Senator Sir FREDERICK SARGOOD

- I do not hold myself responsible for the drafting of this amendment. I handed in verbatim copies of the clauses in the Victorian Act, and the draftsman has boiled them down in this way. I think it will be necessary to put in some other words.

Senator Lt Col NEILD

- On the 28th of last month, I gave notice of certain amendments dealing with this very question of appeals, and indicated the clause which I desired my new clause should follow. On the next day Senator Sargood gave notice of the amendment he has just moved, without stating where he desired to insert it, and because of that omission he is now practically interfering with my prior right of amendment.

Senator Sir Frederick Sargood

- I will willingly withdraw. I knew nothing of the honorable senator's amendment.

Senator Lt Col NEILD

- I do not mean to suggest that the honorable senator wishes to take any advantages ; but it so happens that if this amendment is passed, it will prevent me from having my new clause considered.

Senator Sir FREDERICKSARGOOD (Victoria). - Senator Neild's new clause would entail a very considerable expense for paid boards. Under the Victorian Act the boards are all honorary boards, and have answered their purpose very well. But if the honorable senator particularly wishes it I have no objection to withdraw my amendment, which I may say has been submitted to the members of the Ministry.

Senator O'CONNOR

- No doubt the principle of both amendments is the same, but inasmuch as the amendment of Senator Neild goes more into detail, perhaps it will be better if Senator Sargood will withdraw his for the present, and allow the other to be moved later on.

New clause, by leave, withdrawn.

Senator O'CONNOR

- I move-

That the following new clause be inserted to follow clause 184 : - " No fastening, lock, mark, or seal placed by an officer upon any goods or upon any door, hatchway, opening, or place for the purpose of securing any stores upon any ship which has arrived any port from, parts beyond the seas, and which is bound to any other port within the Commonwealth shall be opened, altered, broken, or erased except by authority ; and if any ship enters any port with any such fastening, lock, or mark, or seal opened, altered, broken, or erased contrary to this section, the master shall be guilty of an offence against this Act.

Penalty: £100."

I do not think there is any necessity to recapitulate the reasons for this provision. By a large majority the committee has decided to give the power to deal with these ships' stores. Clause 184 was intended to carry out that object, but by reason of the way in which it was worded it could not be applied to the case of a ship, winch, having gone beyond the limits of the Commonwealth, came back with the seals broken. It became necessary to draw a new clause to deal expressly with the matter. It has. been decided by a large majority that the Government shall have the power to deal with ships' stores on both British ships and foreign going ships while within the limits of the Commonwealth. That being so, are we to safeguard

the. exercise of that power in the only way in which it can be done? It can only be done by providing that if a ship comes within the limits of our jurisdiction with the seals broken she commits an offence against the laws of the Commonwealth. There is no doubt that there is a power to create that an offence and to impose a penalty for any infringement of the Act in that respect. It is a power in regard to customs laws which has been exercised for a very long time in England and other places, particularly in England. There are cases in which infringements of the law, committed outside the limit, are punishable if the ship afterwards comes within the limit. There is no new principle here. It is precisely the same principle as has been followed in England in many cases. It is precisely the same principle as is embodied in our Chinese Restriction Act, where it is made an offence for any ship to enter a port having on board Chinese in excess of a specified number to the tonnage. In various ways the same principle has been applied, and to give effect to what I am sure is the desire of the committee I had this new clause prepared.

Senator Lt Col Neild

- It is practically the same as clause 184.

Senator O'CONNOR

- It is not the same.

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Senator Sir JOSIAH SYMON

- I do not understand that the committee by a majority have decided to penalize these ships in respect of what a good many of us deem to be a perfectly legal act. What I do understand is that all of us are desirous, if it can be done, that we should levy duties of customs upon stores consumed on these oversea ships if we can possibly get at them. With that I am entirely in agreement. In fact there are two or three things with which we may all be in agreement, although we may disagree and dissent from this particular method of enforcement. This, it seems to me, is a very convenient way of raising the question. Senator Neild said that the original words of clause 184 effect the same purpose. Of course they do not effect the purpose, because clause 184 included words referring to goods subject to the control of the Customs.

Senator Lt Col Neild

- I did not say that it effected the same purpose. I referred to the similarity of the two clauses.

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Senator Sir JOSIAH SYMON

- The wording is substantially the same, the only difference being that the earlier part of clause 184 included the words "goods subject to the control of the Customs"; the later words would probably import the expression. And it is not denied - in fact, it is admitted that ships' stores on oversea vessels, whether British or foreign, on the high seas are not subject to the control of the Customs. That being so, it would be impossible under the original clause to attempt to enforce what is desired. Therefore clause 184a undoubtedly raises the question in a very clear and precise form, because it is unqualified. It can only have effect upon the ships' stores of foreign-going vessels, and it makes an act which must necessarily be done on the high seas, outside the jurisdiction of the Commonwealth, an offence, because the evidence of it is visible when she arrives in port. That is the situation so far as the intended effect of the proposed new clause is concerned. Undoubtedly we are in a different situation from that in which we were as separate colonies. A vessel going from a port of one colony to a port of another was difficult to be reached in regard to customs duties, because it would be impossible to say which colony should receive the duties. Very much the same difficulty will exist still if we come to consider the practicability of carrying out this intention, because during the five year period of bookkeeping, at any rate, it will be impossible to say to which State the duties upon the stores consumed between ports should be credited. But this is by the way. Other, and perhaps equally if not more serious practical difficulties may arise in connexion with these stores. And, so far as I can ascertain, it will be very doubtful indeed whether the gain to the revenue will be at all commensurate with the inconvenience, the trouble, and the expense which will be involved in attempting to so collect the duties. Then again, I think we shall all be agreed that it is desirable to collect duties of customs upon all goods we legitimately can reach. Whichever side of the House we belong to, or whatever views we may hold in that respect, so long as there are customs duties imposed, we desire to increase the receipts from every possible legitimate channel. There is another thing upon which we agree, and that is that we should, as far as possible, see that no injustice is done to Inter-State coasting

steamers. That is, that there should be no greater facilities for competition permitted to oversea ships in regard to the coasting trade than are given to Commonwealth vessels engaged in the same trade. If I felt that the omission of such a clause as this would do an injustice to the coasting steamers, I certainly should not be found entering a protest against it. What we ought to ask ourselves is, can we levy duties of customs on the ships' stores of an outward bound British or foreign vessel taken on board in her home port of departure, and consumed on the high seas, simply because in the course of her voyage to her port of destination she calls at intermediate Australian ports. If we can levy these duties, if the customs laws of the Commonwealth can reach the stores of these vessels, let us directly enact what we mean in terse terms, such as -

That all stores consumed on an outward bound ship whether on the high seas or in Australian waters between her first port of call and her final port of destination in the Commonwealth shall be subject to duties of customs as though the goods were imported.

If we enact a provision of that kind and then endeavour by proper machinery to carry it into effect, we shall place on 'the face of the Bill directly what we mean. What I do object to is that we cannot, and I believe that it is not denied that we cannot charge duties of customs upon the stores on oversea vessels which are consumed on the high seas. I believe it is not denied that it is perfectly lawful for them to consume these stores, and that we cannot attach our duties to them directly. Very well, we ought not to seek to harass them or to accomplish that purpose in some indirect manner. We ought not by what would be an illegal and unjust penalty seek to maintain that unlawful which we know to be perfectly lawful. An indirect way of doing it is a subterfuge. If we admit that we cannot collect duties on such stores we have no right to say " we shall put a seal on the stores within our territorial waters, and if, in the lawful consumption of the stores on the high seas, you break that seal, we cannot touch you for doing that, but, when you arrive in your port of destination with the seal broken, we shall make that an offence which is not an offence." If the breaking of the seal was lawful, the arriving in port with the seal broken is lawful too, and we should be stultifying ourselves to put a provision of this kind in the Bill. It may create international complications, and it is making an offence when no offence exists. I do not want to enter into a lengthy debate on the subject, but I feel that it is impossible to sit in the Chamber without uttering an emphatic protest against the enactment of such legislation, and the creation of a penalty of that kind. An appeal may be made to our feelings, and, if one may say so, to our patriotism, in regard to the greater advantage which may be said to be possessed by oversea ships in taking passenger traffic along our coast. I am told that they do not enter into competition as regards cargo.

Senator O'Connor

- Some of the ships do, and some do not.

Senator Sir JOSIAH SYMON

- It is quite enough for the purpose of the discussion that they do in regard to passengers.

Senator Charleston

- They charge a higher rate too.

Senator Glassey

- They do in regard to everything. They are not confined to passengers ; they take freight, too.

Senator O'Connor

- Some of them - the Germans do.

Senator Sir JOSIAH SYMON

- I believe that substantially they do not.

Senator Playford

- - They take cargo from Perth to Adelaide. They take fruit, vegetables, and other things.

Senator Sir JOSIAH SYMON

- Surely my honorable friend would not object to them carrying perishable articles. If you object to their carrying passengers or goods in competition with your coasting steamers, then put a stop to it ; but do not use that as an indirect reason for imposing a penalty in respect to what is a perfectly lawful act on their part. As regards the intercolonial steamers, it is a singular and significant circumstance that they have never petitioned this House or the other branch of the Commonwealth Parliament in favour of imposing duties upon the stores of oversea ships.

Senator Playford

- Because this clause was in the original Bill.

Senator Sir JOSIAH SYMON

- But they know it has been discussed, and in this very Bill we discriminate against the coastal steamers. We provide in clause 1 23 that the only ships' stores which are permitted to be placed on board any vessel in an Australian port free of duty are those placed on board oversea-going ships, and consumed outside the limits of the Commonwealth.

Senator Playford

- The ships that trade from the Commonwealth to London or Amsterdam or Antwerp would surely be allowed to take on stores free of duty.

Senator Sir JOSIAH SYMON

- Then, there is an end of the whole discussion. But I say - " Nothing of the kind." When we are discriminating between two classes of ships, we say to the coastal steamer - " We will not allow you to take goods on board duty free, but we treat those goods as though they were consumed on land within the borders of the Commonwealth." I quite agree with that. But we say to the foreign-going ship-" The merchants of Australia can sell you all the stores you require in bond- "

Senator Sir Frederick Sargood

- Upon conditions.

Senator Sir JOSIAH SYMON

- Oh, yes, conditionally on their being consumed after the vessel departs from the Commonwealth ; whereas we can make them pay duty on every article they buy at every port in the Commonwealth, because we recognise that by the usage of maritime nations ships should be allowed to take on goods for their own consumption free of duty.

Senator Pearce

- We do it to encourage trade.

Senator Sir JOSIAH SYMON

- Then we are going to discourage trade by forbidding the ships to call at any intermediate ports without paying duty on all stores consumed on board between one port and another and the final port of destination.

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Senator Playford

- Because they come into direct competition with our own boats.

Senator Sir JOSIAH SYMON

- Then, stop competition - stop them engaging in the coastal trade:

Senator Pearce

- We want to make the competition; equal.

Senator Sir JOSIAH, SYMON

- How do we make it equal) by a difference of a penny a pint on beer'? It makes a difference on the bulk of consumption but it makes little or no difference on the cost of the liquor. Do honorable senators think that it would stop a passenger from travelling by a P. and O. steamer from Fremantle to Melbourne if he had to pay a little' more for his grog on board by reason of the Commonwealth charging the duty ? If we want to stop competition, let it be done directly. What we are dealing with now is the restriction of trade. Are we encouraging trade by telling steamers either that they must not call at Fremantle, or that if they call they will be immediately harassed by having to make inventories of their stores, and by having to get these signed and delivered ; that they must again make inventories in Adelaide and in Melbourne, and then pay the duty upon the stores consumed within our waters ? This will be an inconvenience, an expense, and an interference with trade which we all wish to encourage, and we should pause before introducing it. Then, too, let us remember that in the case of the P. and O. and Orient steamers we compel them to call at Fremantle under their mail contracts.

Senator Playford

- They get a subsidy for that.

Senator Sir JOSIAH SYMON

- It is because they call that; we make them pay the duty. Suppose they say - "Rather than be bothered with its troublesome inventory business, we do not desire to call at Fremantle." They are, however, faced

with that condition in their mail contracts. It seems to me that we are offering them an encouragement not to call at intermediate ports. This is looked upon as a possibility in Adelaide. It is considered possible that the mail steamers will pass by that port altogether. I can tell my honorable friends that there is a good deal of feeling on that subject, arising from this and other causes. It is felt that this provision will be an inducement to the big mail steamers to go direct from Fremantle to Melbourne or to Sydney, without touching at Adelaide at all; and everything we do in this direction is an additional deterrent.

The imposing of these penalties will have exactly the same effect.

Senator Glassey

- Is that not an imaginary fear?

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Senator Sir JOSIAH SYMON

- I do not know whether it is an imaginary fear but often fears that look so imaginary turn out to be fears in reality. Even if they do not, it is these fears acting on the minds of the people that make them discontented with changes in public affairs. I hope we shall abstain from doing what we admit we cannot do honestly; if I may use that expression. We cannot compel these ships to pay duty on the stores consumed on the high seas. We dare not put such a provision in the Bill, because in all probability, if we did, the Royal assent to it would be postponed, if not withheld. But we do it by saying that upon the arrival of a vessel at her port of destination with the Customs seals broken - lawfully broken on the high seas - she is to be deemed to have committed an offence. It is only in that way that we can compel these vessels to pay duties which otherwise we should not be able to charge. If we take the words of this clause - a vessel which is bound to "any other port within the Commonwealth" - what do they mean? I do not wish to go into details, but does it mean direct to any other port, or does it mean vessels calling at another port of the Commonwealth after having called somewhere else? Take the case of vessels going from Fremantle to Port Darwin, and calling at Singapore on the way. Suppose a vessel has her stores sealed in Fremantle; and that she arrives at Port Darwin, after having called at Singapore, with her seals broken. Are we to penalize that vessel? How are we to deal with vessels that come from New Zealand and touch at other ports? We cannot deal with them at all. The whole thing will be a fiasco, and it seems to me will cover us with the odium of an admitted injustice, because we shall be carrying out a provision with a view of getting duties which otherwise the goods would not be liable to. If I can be shown that these duties are payable in respect of the stores consumed on the high seas on board these vessels - over which we have no jurisdiction - then I say "put on any penalty you like." But it is now admitted that the goods are not liable to duties when they are consumed on the high seas; and if they are not liable to duties they should not be sealed up, and it should not be made the subject of a penalty for a vessel to arrive with her seals broken in consequence of the consumption of goods on the high seas, where they may be lawfully consumed. To put a provision of this sort in the Bill is a great mistake! It is an interference with trade and an interference with international obligations, which we should always respect. The provision will, in my view, be a dead letter if it is inserted. The total amount of duties in respect of goods consumed on vessels is estimated to be something like £50,000 or £60,000, and the estimate of the amount which we are likely to derive from the goods consumed on sea-going vessels is £10,000 or £15,000. The inconvenience, trouble, and expense involved in getting at these duties will be enormous, interference with trade will be great, and the inconvenience and expense to ship-owners will be very considerable indeed. I hope, therefore, that proposals which will have the effects I have indicated will not be persevered in. I enter my emphatic protest against the proposal as a blot on the Customs Bill, as creating a serious possibility - or probability I will say - of very grave inconvenience in connexion with the external relations of this Commonwealth.

Senator DOBSON

- I think my honorable and learned friend has put his side of the case with considerable clearness, though some of his arguments have been slightly over-strained. In the first place I think he is wrong in refusing to admit what the committee did the other night, by a considerable majority, when they decided in favour of the principle of taxing these ships' stores if it can be done.

Senator Sir Josiah Symon

- I thought the committee only defeated Senator Gould's amendment.

Senator DOBSON

- There is a clause in the Bill which enables us to put a seal on stores.

Senator Major Gould

- Not on over-sea ships. This clause is in substitution of the latter part of the provision which was eliminated at the suggestion of the Vice-President of the Executive Council.

Senator DOBSON

- The clause is in a different form but in the debate; and on the divisions; I think I am right in saying that the committee by their votes and arguments decided by a considerable majority in favour of taxing the stores of these ships, in the same way as the stores consumed within the precincts of the Commonwealth are taxed.

Senator O'Connor

- We decided that in cases -where a foreign or British ship was clearing for ports beyond the Commonwealth, they should have their stores free.

Senator DOBSON

- Senator- Sir Josiah Symon assumes in his argument that we cannot tax these goods honestly, and that if we do it at all we shall be doing it by a subterfuge. Now, what we desire to do is to put foreign-going ships on exactly the same level as our own coasters. We say to a foreign ship trading from one port of the Commonwealth to another, and taking on- board passengers and goods - " We are going to tax you for the goods consumed within our waters if the law allows it." There is nothing dishonorable or unjust in that. Senator Sir Josiah Symon. - I did not say that it" was dishonorable-.

Senator DOBSON

- The honorable and learned senator pushed his argument too far altogether: We have the right to say to these ships - " You need not come here unless you like,, but if you come all we desire to do is to put you on even terms with our own ships, and if we can do it we will do it." The honorable and learned senator says we are doing it by a subterfuge: That is not a fair word to use. We are not going to do it by a subterfuge. Every one knows what the intention is. The shipowners know it in- London at- this moment, and are protesting against it. If we can so skilfully and cunningly - if honorable senators opposite like to use that word - frame a clause which will give us freedom of intercourse whilst placing foreign ships on an equality with our own, there is no subterfuge about it:

Senator Sir JOSIAH SYMON

- Josiah Symon. - If- it is " cunning," would not the honorable and learned senator call it a subterfuge 1
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Senator DOBSON

- I prefer the word " skilful." My honorable and learned friend says that the traders of Adelaide are anxious- about- this proposal. He says that they are afraid that foreign-going vessels will not call at Adelaide. Let me put this point to my honorable and learned friend. One section of the- Constitution- says that after the imposition of 'uniform duties, intercourse between the States shall be absolutely free. Our shipping friends in Adelaide may say to my honorable and learned friend - " Why did you not vote for a clause which, would bring about freedom of intercourse by putting foreign-going vessels on the same terms as those upon which we have to trade ? Why should you handicap us and deprive us of that very freedom of intercourse which the Constitution gives to us " ? The Inter-State vessels and the foreign vessels will all be coasting vessels so far as this measure is concerned, just like the vessels coasting between Melbourne and Warrnambool, or Sydney and Newcastle, and will all get their stores on the same terms so far as the payment of duty, is concerned. My honorable and learned friend has said that the breaking of the seals on the high seas will be a matter outside the jurisdiction of the Commonwealth, and that the imposition of a penalty for so doing will be illegal. But we do not impose a penalty for breaking the seals outside the limits of the Commonwealth. We seal the goods when a vessel comes into one of our ports, and we say that if that vessel enters another port with her seals open, it is an offence. The vessel need not come to the other port, but if she does so for the purpose of carrying passengers, getting freight, and competing with Australian ships, and arrives with her seals broken, she commits an offence. Is there any probability that vessels will cease to trade with our ports if this provision is in force ? Certainly not. We want to encourage these traders coming here. Let us look at what the practical outcome will be if this clause is carried. As soon as this measure receives the Royal assent I take it that the Minister for Trade and Customs will within a very short time come to an arrangement with the shipowners. He will settle with

them fair and reasonable terms, and they will recognise that there is no intent or desire on the part of the Commonwealth to handicap them, but simply to put them on the same terms as our own vessels.

Suppose that it is questionable whether we can charge on any goods consumed between one port and another when a vessel is outside the limits of the Commonwealth, there can be no doubt with regard to goods consumed when the vessel is in Sydney or in Hobart, or in any other port. It is quite likely that the Minister for Trade and Customs will arrange with them that no charge shall be made for any goods consumed outside the 3-mile limit. But some of the vessels stay for a night in Sydney, 48 hours in Hobart, perhaps a week in Melbourne and so on. Altogether they consume a considerable quantity of goods within the 3-mile limit and should pay upon those goods.

Senator Sir Josiah Symon

- The honorable and learned senator admits, then, that we cannot charge for goods consumed outside the 3-mile limit 1

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Senator DOBSON

- I must acknowledge that I have a doubt about that. I do not know how we can get over it. But, at any rate, I think that we have a right by means of a skilful amendment of our law to prevent these ships getting an advantage over our own vessels, by compelling them to pay duty upon stores consumed while they are within the waters of the Commonwealth. I read in the Times the other night some interesting evidence taken by a committee appointed by the Board of Trade, I think, in order to advise the Government or the Board of Trade as to the effect of the large bounties which other nations are giving to their ships to enable them to wrest trade from British ships. One very large ship-owner said that great harm was being done by the bounties being given by France, the United States, Italy, and other countries ; but when pressed to name a remedy he hesitated for a long time and said it was not his business. However, he at last came out with a very drastic one, which was that the whole British Empire should be treated as one entity and that the whole of the Empire's trade should be made practically what we call a coasting trade, so as to give British ships advantages over the ships of other nations, similar to those which are now being given by the system of bounties to American, French, and Austrian, and other foreign ships over British ships. It has been pointed out that America has done that with respect to Honolulu. For this purpose she treats Honolulu as a part of the United States, and she will not allow any British vessel to take a single package of goods from Honolulu to the States. The French are doing the same thing with respect to Algeria, and the Austrians are doing the same thing at Trieste. They are taking an enormous amount of trade in cotton, which comes from the United States, to the port of Trieste, and the Austrians will not allow any ships to come into Trieste bringing goods for certain places. When we see what other nations are doing in various parts of the world against old England in trying to wrest trade away from her ships, we must recognise what a strong argument that may" be in the hands of the Collector of Customs when he comes to carry out this clause, and says to the foreign ships' and the ships of the P. and O. and Orient companies that he demands, the duties which we are entitled to on all stores used in our waters, that we may not be handicapping our own coasters.

Senator Lt.-Col.NEILD (New South Wales). - In the very eloquent address which we have just heard, Senator Dobson has pointed out how different nations of the world are trying to take advantage of old England, and on that account the honorable and learned ' senator argues that we, as a new Commonwealth, should try to take advantage of old England too.

Senator Dobson

- That is hardly a fair way to put it.

Senator Lt Col NEILD

.- I am really surprised that Senator Dobson should have said that; but though I do not think the honorable and learned senator meant it, that is the statement he made. The honorable and learned senator told us that he feared the passing of this clause will delay the Royal assent to the measure. What does that mean ? It certainly means that if there is delay in obtaining assent to this Bill,, there will be delay in the introduction of the Tariff.

Senator Dobson

- Oh, no.

Senator Lt Col NEILD

- Certainly ; because we have been told that the Tariff cannot be introduced until this Bill is out of the way. If it is not out of the way by reason of the Vice-Regal or Royal assent not being given to it, that will be a splendid opportunity for delaying the introduction of the Tariff. The Vice-President of the Executive Council, in his opening remarks, made a statement which excited my curiosity, but the honorable and learned senator did not allay that curiosity in the least. He stated that there were numerous Acts of similar legislation to that, proposed, and the only one he cited - and I venture to think it is not a parallel case at all - was in connexion with our local laws against the introduction of aliens. Surely the honorable and learned senator must see that that is not a case in point. We pass a law stating that only a certain number of coloured persons are to be brought in a certain sized ship. If people deliberately break the law of the port to which they are coming they must expect to pay the penalty provided for the offence. The difference is that there is a penalty in this proposal, but there is no offence. To put it more correctly, there is a penalty provided for that which is not an offence. Senator O'Connor will not pretend to say that there is an offence in the breaking of a seal on the high seas beyond the jurisdiction of the Commonwealth, but there is a penalty for it. There is a penalty not for an offence, but for the evidence that something has been done which is perfectly legal. There is a very extraordinary phrase in the clause which, I think, will have to undergo some little verbal amendment. It reads - " And if any ship enters any port." I suppose that means any port in the Commonwealth.; but it is not so specified, and a verbal amendment will be required there. Senator O'Connor

- No; the interpretation clause covers that.

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Senator Lt Col NEILD

- As the interpretation clause says that the "collector " means the errand boy, the boatman, and almost every one else in the service, I dare say the interpretation clause does cover that. I hope there will be no attempt made to press this matter in the form in which it is now submitted. One point that has not been mentioned is that if these large ocean-going boats that carry our mails have to pay a larger sum in respect to their ships' stores consumed, say, between the first port of call, Fremantle, and Sydney, their last port, I suppose the Commonwealth will have to pay a larger mail subsidy. I take it for granted that the cost of the services will be reckoned in connexion with any contract that is tendered for, and when offering to carry our mails at so' much per annum the extra charge that will be placed upon the vessels in respect to their stores will have to be considered. We know that these companies do not pay stupendous dividends - 5 per cent, per annum is the most that any of them pay, and they do not as a rule pay more than -3 per cent. I do not suppose that the P. and O. and Orient companies pay more than 2 1/2 per cent, per annum. We know that year after year the Orient Company never paid a "bean" to their shareholders, and I do not think I am very far out if I put down the earnings in each case at something like 3 per cent. If we are going to penalize them with £100 for each port - for that is what it comes to, and the question of duties need not be considered - if we are going to impose a penalty of £100 on their coming into each; port- -

Senator Charleston

- That ' would be considered working expenditure.

Senator Lt Col NEILD

-Gol. NEILD - That will be working expenses to be considered. .There will be, we will say, three-ports of call which will mean a penalty of £300 in and £300 out for each ship, and we can see' what- that will come to in the course of a year. - I do not see how it is possible that these seals can always be maintained as they will have to break seals, whether or no, at times. The whole proposition is an unwise one, and the Vice-President- of the -Executive Council does not pretend to tell -us that the duties can be enforced. He only, tells us that' the penalties can be enforced. Is it a straightforward thing to attempt to impose, penalties where there is absolutely no offence, and in respect of duties which we know we cannot collect

Progress reported.

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22:23:00

Senate adjourned at 10.23 p.m.