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1901-07-17

House of Representatives.

Mr. Speaker

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

PETITIONS

Sir Langdon

Bonython presented a petition from the ship-owners of South Australia, praying for the omission from the InterState Commission Bill of the provisions affecting carriers by sea.

Petition received.

Mr. Knox

presented a petition from the ship-owners and shipping agents of the port of Melbourne engaged in the Inter-State and oversea carrying trade, in favour of so amending the Inter-State Commission Bill, as to exclude from its scope all provisions relating to carriers by sea.

Petition received and read.

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Mr KNOX

- I desire to move that the petition be remitted to the committee of the House, who will have the consideration of this Bill.

Mr SPEAKER

- There is no committee yet on the Bill in question. Perhaps the honorable member will propose his motion when the measure has passed its second -reading and is in committee.

Mr Knox

- I will do as you desire, sir.

SirLANGDON BONYTHON. - I would like to ask that the petition which I have just presented be also read in the House.

Mr Watson

- Is it necessary to read two petitions to the same effect and relating to the same Bill ?

The SPEAKER

- Perhaps the honorable member for South Australia will say whether the petition he presented is similar to that which has been read to the House.

Sir LANGDON BONYTHON

- I am not quite sure. I should like the petition as presented read in order to make the discovery. The petition has just reached my hands. I move -

That the petition be read.

Minister for External Affairs

Mr BARTON

- There may be 50 petitions on the same subject, and I would suggest to the honorable member that he make himself acquainted with the terms of the petition before he asks that it be read.

Mr SPEAKER

- I am informed by the Clerk that the petition presented by the honorable member for South Australia differs from that which has been read to the House.

Question - That the petition be read - put.

The House divided -

44

AYES

4

NOES

Majority 40

Question so resolved in the affirmative.

Petition read.

Mr. Piesse

presented a petition from citizens of Tasmania praying that clause 54 of the Post and Telegraph Bill may

not be passed into law.

Petition received.

QUESTIONS

EXECUTION OF REBELS IN SOUTH AFRICA

Mr WATSON

- I desire to ask whether the attention of the Minister for External Affairs has been called to some cablegrams which have been published with reference to the alleged public execution of rebels in South Africa ; and, if so, whether he will take steps to inquire into the truthfulness, or otherwise, of the reports with a view to protesting against such a barbarous proceeding, if the reports be true ?

Mr BARTON

- I will ask the honorable member to give notice of that question, because it is a matter which demands consideration.'

OCCUPANCY OF PARLIAMENT BUILDINGS

Mr WILKS

- I wish to ask the Prime Minister whether the Federal Government have completed negotiations with the State Government of Victoria with reference to the occupancy by the Commonwealth Parliament of the State Parliamentary buildings ; if so, what arrangements have been made, and if not, what is the cause of the delay ?

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Mr BARTON

- At the time when it was believed that the matters requiring adjustment would resolve themselves into a speedy agreement, further suggestions were made as to the terms in which the agreement should be couched . by the Government of Victoria, and also by this Government. I had a conference with the Premier of Victoria, the result of which will, I think, be considered satisfactory to the House when I inform honorable members that it was agreed between us that if they would consent the Speakers and Presidents of the two Parliaments should confer on the matters of the agreement, which relate almost exclusively to the occupancy of this building, and should present a joint report, of which both the Premier of Victoria and myself should obtain a copy. I have every reason to believe that a conference of that kind will result in a decision satisfactory to both Parliaments.

INTER-STATE COMMISSION BILL

Mr BRUCE SMITH

- I wish to ask the Minister for Home Affairs whether he has any objection to having the whole of the clauses which are inserted in the margin of the Inter-State Commission Bill printed for the information of honorable members? The honorable gentleman knows that there will be a great difference of opinion over the alleged parallel which exists between the United States law and that which is now proposed, and it would save honorable members an immense amount of trouble if those clauses were printed in one paper, so that they could see for themselves whether there is the exact parallel which is said to exist.

Minister for Home Affairs

Sir WILLIAM LYNE

- After I move the second reading of the Bill, and before the debate is continued, I will do as the honorable and learned member desires, and have the clauses circulated.

Sir malcolm Mceacharn

- will the Minister, in giving honorable members an opportunity to consider the Bill, make an interval before the discussion is resumed of not less than one week ?'

Sir WILLIAM LYNE

- Certainly it will be one week ; and, perhaps, a fortnight.

Sir MALCOLM MCEACHARN

-It ought not to be less than one week.

Sir william LYNE

- One honorable member last night asked that it should be a fortnight, or a month, It will certainly be not less than one week.

COLOURED LABOUR ON SUBSIDIZED MAIL STEAMERS

Mr WATSON

- Has the attention of the Prime Minister been drawn to the new movement on the part of the Orient Company with respect to the employment of lascars in lieu of the white crews hitherto engaged t I should like to know whether, in view of that fact, the Government will reconsider their decision with reference to the employment of coloured labour on subsidized mail steamers 1

Mr BARTON

- I shall be most happy to give attention to the point to which the honorable member alludes. My attention had not been drawn to the matter previously. In considering the course we shall adopt in regard to the Postal Bill, we shall take into consideration the matter to which the honorable member refers.

ORDER OF BUSINESS

Mr HUGHES

- Is the Prime Minister in a position to tell the House whether he proposes to proceed with the Immigration Restriction Bill and the Pacific Island Labourers Bill before the Tariff question is introduced 1

Mr BARTON

- The second readings of both those Bills will be moved before the Tariff resolutions are laid on the table. The question of the sugar industry is so closely related to the question of the South Sea Island labourers that I cannot promise at this moment to take that BDI to its positive conclusion before the Tariff is laid on the table, because it may be of the utmost interest to honorable members to consider what provision is likely to be made in the Tariff before they finally decide what course should be adopted by way of the restriction of these importations.

Mr HUGHES

- Is the Prime Minister alluding to the resolutions 'or the Bill ?

Mr BARTON

- The second reading of the Bills mentioned will be moved before the Tariff resolutions are laid on the table ; but I cannot promise to conclude them before the Tariff resolutions are laid on the table, because I think it may be of great interest to honorable members to know what provision is likely to be made in the Tariff with respect to the industry concerned.

Mr REID

- Upon the statement which has just been made I desire to ask whether the views of the Ministry with reference to the introduction of black labour are looked upon by them as in any way dependent upon the settlement of the Tariff?

Mr BARTON

- I do not think that I ought to be asked that question. The views of the Ministry have been absolutely laid down on this question of black labour, and it was with the view that honorable members themselves might consider the two matters together that I gave the information which I gave just now.

Mr REID

- I asked the honorable gentleman as to what the Government might consider - not as to what honorable members might consider.

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Mr BARTON

- The views of Ministers have not changed on the subject.

PROPORTIONAL VOTING IN TASMANIA

Sir EDWARD BRADDON

asked the Minister for Home Affairs, upon notice -

Whether, before dealing with the Federal Electoral Bill, he will obtain from the returning officer of Tasmania for the recent federal elections a full report upon the working of the Hare Clark system of proportional voting in force in that State, and have that report printed and circulated for the information of honorable members.

Sir WILLIAM LYNE

- I will ask for a report from the officer mentioned. The Hare-Spence system of voting and modifications thereof were specially considered by the recent conference of electoral experts, the operation of the Tasmanian system being fully explained by the gentleman deputed to represent that- State - Mr. W. O. Wise.

BILL FILES OF HONORABLE MEMBERS

Mr SPEAKER

- Before the orders of the day are called upon, I wish to inform honorable members that I notice that in some cases honorable members appear to take away from the Chamber the files of Bills provided for them. As it is customary to add to the files each day copies of new Bills or proposed amendments, if they are removed from the Chamber it is impossible to keep the files complete. Honorable members, therefore, who desire their files complete will please leave them in the Chamber, so that the attendants may attach the additional copies clay by day.

AUDIT BILL

In Committee

(recommittal) :

Clause 1 (Short title and commencement).

Treasurer

Sir GEORGE TURNER

- This Bill was drafted by myself, and the Parliamentary draftsman considers that, in order to make it uniform with other Bills which he has prepared, a number of merely verbal alterations are necessary. Take one case, for example. I had the words " context or subject-matter otherwise required," . and it is now proposed to insert instead the words "contrary intention appears." In another case, the words as they appear in the original draft are - "No Auditor-General shall," and it is now proposed to substitute "the Auditor-General shall not." Nearly the whole of these alterations are to make the draft uniform with the style adopted by our Parliamentary draftsman. One alteration proposed is in the date upon which it is proposed to bring the Bill into operation, it being proposed to insert the 1st January instead of the 1st October. That I find to be necessary, because it will be impossible to get all the forms and necessary regulations prepared in time to bring the Bill into operation on the 1st October. One honorable member drew attention to the fact that the word " inability " appeared in this Bill, whereas it had been omitted in the Public Service Bill, and I am making the omission in this Bill also. The right honor-able the leader of the Opposition drew attention to the act that the Auditor-General's report might be presented at a time when Parliament was not in session, and he suggested the insertion of certain words which would enable the Treasurer to receive the report, and make it public. I have adopted his suggestion, and propose to incorporate it in the Bill. These are the only alterations other than merely verbal ones, and I would suggest that the whole of them might be accepted without each clause being put separately.

Mr McCay

- What about clause 65?

Sir GEORGE TURNER

- The honorable member for Corinella suggested the omission of certain words, and we have adopted his suggestion.

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Mr CONROY

- About three weeks or a month ago I drew attention to the fact that I thought we were really sitting too often, and that the members of the Ministry had not time to give that consideration to their Bills which they really deserve. I said, further, that they were bringing forward measures that were earning for the Ministry the title of a slipshod Ministry, and in two of the Bills -we have had before us we have had proof of what I stated, because those measures have had to be recommitted. Now we have a Bill of 71 clauses, and in no less than 35 of these clauses alterations have had to be made. In addition to this, we have something like a dozen new clauses and sub-clauses to be inserted. We have, in fact, nearly five pages of amendments in connexion with this one measure alone, and I think the matter is one that deserves the most serious consideration. If it really is found that Ministers are unable to devote that attention to their Bills which is absolutely necessary on the vacant days - Saturday and Monday, because I do not suppose any one intends that they shall work on the Sunday - I think it is clear that the House should take into consideration whether they should not yield up to the Ministry one other day. I do not think this state of things should be allowed ; and I feel that I cannot blame the Ministry, as I otherwise would blame them, when I recognise that we have four sitting days, and that there is so little time left for them to do their work outside the House. I therefore ask the Ministry if they intend to reserve for themselves the Friday in each week, or to continue sitting as we now do. No self-respecting House

would allow the present state of things to continue. The Acts Interpretation Bill was recommitted twice, and the Public Service Bill contains more amendments than original clauses, and one Bill after another is brought down in such an imperfect condition that it becomes wearisome to discuss them. I consider that the Ministry is disgraced when a junior of this House, and an inexperienced member, should be able no less than a month ago to point out the defects in the measures which they have brought forward. I think under all these circumstances we should go through these amendments clause by clause.

Clause 1 amended to read as follows, and agreed to : -

This Act may be cited as the Audit Act 1901, and shall come into operation on the first day of January One thousand nine hundred and two.

Clause 2 amended to read as follows, and agreed to : -

In this Act unless the contrary intention appears -

"Commonwealth Public Account" shall include the Consolidated Revenue Fund and all public moneys whatever;

"Deputy" when used in connexion with the word Treasurer shall mean some person appointed in writing by the Treasurer ;

"Prescribed" shall mean prescribed by this Act or the regulations ;

"Public accountant" shall include every person who by any law, regulation, or appointment is charged with the duty of collecting or receiving, or who does actually collect or receive any public moneys, or who is charged with the duty of disbursing, or who does actually disburse, any public moneys ;

"

Public moneys " shall include all revenue, loan, trust, and other moneys whatsoever received for or on account of the Commonwealth or referred to in this Act ;

"Regulations" shall mean regulations made under this Act.

Clause 3 -

The Governor-General may appoint some person to be Auditor-General for the purposes of this Act, and in case of the death, resignation, vacation of office, or removal of any Auditor-General may appoint some other person in his stead.

Amendment (by Sir George Turner) proposed -

That all the words after "Auditor-General for the," be omitted, with a view to insert in lieu thereof the word "Commonwealth."

Mr PIESSE

- Do I understand that it is the intention of the Minister to strike out the provision for power to appoint a deputy auditor-general ?

Sir GEORGE TURNER

- Yes; there is no need for it.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 4 (His salary).

Mr CONROY

- I see that the salary of the Auditor-General is to be a fixed one, and that it cannot be increased without a fresh Act of Parliament.

Sir GEORGE TURNER

- Yes ; that is intentional ; the provision makes a special appropriation. It is intended that the salary shall not be increased or reduced except by Act of Parliament.

Clause agreed to.

Clause 5 amended to read as follows, and agreed to - 5. (1) The Auditor-General shall not during his continuance in such office be capable of being a member of the Executive Council of the Commonwealth or of any State thereof or of either House of the Parliament of the Commonwealth or of any State thereof.

Clause 6 (Rights of officers preserved).

Mr CONROY

- Under this clause, supposing the Auditor-General should be chosen from the New South Wales service, he will have to pay 4 per cent, of his salary to a pension fund, whereas, if the Auditor-General is selected from Victoria, where officers do not contribute to such a fund he would be placed to that extent in a

position of advantage.

Sir George Turner

- The New South Wales officer would not be placed in any worse position than he occupied in the State.

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Mr CONROY

- Does the Minister propose to allow this point to be considered in the Public Service Bill? No one has had time to consider this matter, and Ministers have not had much time to go into it, and therefore I do not feel inclined to blame Ministers, as I otherwise would do. It seems to me that a New South Wales officer would be placed at a disadvantage.

Sir George Turner

- An officer coming from New South Wales would bring over with him his rights, whatever they are.

Mr CONROY

- I think that when we come to the Public Service Bill some alteration might be made in this regard ; or, at any rate, the matter ought to be considered, because it cannot very well be considered in connexion with this Bill.

Clause agreed to.

Clauses 7 to 11 and clause 14 verbally amended and agreed to.

Clause 15 amended to read as follows, and agreed to : -

The Auditor-General shall be entitled to lay before the Attorney-General a case in writing as to. any question concerning the powers of the Auditor-General or the discharge of his duties, and the Attorney-General shall give him a written opinion on such case.

Clause 19 (Transfer of balances on decease or removal of public accountants).

Clause verbally amended.

Amendment (by Sir George Turner) agreed to -

That sub-clause (2) be omitted.

Clause 21 (Commonwealth Public Account).

Amendment (by Sir George Turner) proposed -

That the following new sub-clause be added to the clause : - "(2) All moneys paid into any bank to the Commonwealth Public Account shall be deemed to be public moneys and the property of His Majesty and to be money lent by His Majesty to the bank."

Mr BRUCE SMITH

- Has the Treasurer considered the effect which the insertion of the proposed new sub-clause would have upon moneys paid into a bank to the credit of the Government by contractors and others- by way of deposit only. The amendment provides for the appropriation of such moneys, making them the property of the Commonwealth.

Sir George Turner

- The amendment will make such moneys public money. The provision only takes effect as between the Commonwealth and the bank.

Amendment agreed to.

Clause, as amended, agreed to.

Clauses 25, 26, 27, 30, 32, 32a, 38, 42, 43, 46, 52, and 53 verbally amended and agreed to.

Clause 54 (Report to be laid before both Houses of Parliament).

Clause verbally amended.

Amendment (by Sir George Turner) agreed to.

That the following new sub-clause be added to the clause : - "(2) The Auditor-General shall within fourteen days after making and signing the said report, if the Parliament be not then in session, transmit a copy of the statement and of such report and copies to the Treasurer, and the Treasurer shall within fourteen days thereafter publish them as a public document."

Clause, as amended, agreed to.

Clauses 58, 60, 62, and 63 verbally amended and agreed to.

Clause 65 negatived.

Sir GEORGE TURNER

- I move-

That the following new clause be inserted in lieu of clause 65 :-

Any public accountant or person subject to the provisions of this Act, who - misapplies, or improperly disposes of, or makes use of, otherwise than is provided by this Act or the regulations, any public moneys or stores which come into his possession or control ; or, pays any such moneys into his own private account at any bank shall be deemed to have fraudulently converted such moneys or stores to his own private use, and shall be guilty of an indictable offence, and shall be liable to imprisonment with or without hard labour for any period not exceeding five years. Any such public accountant or . person who wilfully damages or destroys any public stores shall be guilty of an indictable offence, and shall be liable to imprisonment with or without hard labour for any period not exceeding two years."

The proposed new clause has been drafted to meet an objection raised by the honorable and learned member for Corinella in regard to the use of the words " by reason or virtue of his office, service, or employment "; but otherwise it is virtually the same as the clause which has just been negated, except that it has been divided into paragraphs and the offence of fraudulently converting moneys or ' stores is made an indictable offence instead of a felony.

Mr Conroy

- Is the clause necessary at all ? Is not the offence provided for in the Crimes Act?

Sir GEORGE TURNER

- No. A similar provision is contained in all Audit Acts.

Mr Conroy

- I do not think it is in the New South Wales Act.

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Sir GEORGE TURNER

- There is no Commonwealth Crimes Act.

Amendment agreed to.

Clause 66 negated.

Amendment (by Sir George Turner) agreed to -

That the following new clause be inserted in lieu of clause 60 :- " If any person - forges or counterfeits, or causes or procures to be forged or counterfeited, or knowingly or wilfully acts or assists in forging or counterfeiting - the name, initials, mark, or signature of any other person to any writing whatsoever for or in order to receiving or obtaining any public money or any money out of the Commonwealth Public Account, or any stores belonging to His Majesty ; or any writing made by any such person ; or utters or publishes any such writing, knowing it to be forged or counterfeited, with an intention to defraud His Majesty or any person whomsoever ; he shall be guilty of an indictable offence, and shall be liable to imprisonment for any period not exceeding fifteen years."

Clause 67 -

When the Treasurer shall have given a certificate in writing that for any reason therein mentioned any document subscribed by any person in any specified part of the Commonwealth should be accepted in lieu of any statutory de- . declaration required by this Act or. the regulations the Governor-General may order that any document so subscribed shall be so accepted without being declared.

Any person who shall subscribe any such document knowing the same to be false shall be guilty of wilful and corrupt perjury as if such document were a statutory declaration made and subscribed by such person.

Amendments by(Sir George Turner) agreed to -

That the word "should," in line 5, be omitted with a view to the insertion of the word " may."

That all the words after the words "guilty of," line 12, be omitted with a view to' the insertion of the following words: - "an indictable offence, and shall be liable to imprisonment with or without hard labour for any period not exceeding four years."

Clause 69, amended to read as follows, and agreed to: - " (1) If any person - makes or subscribes any statutory declaration or affirmation mentioned in this Act, knowing it to be false ; or

wilfully and corruptly gives false evidence in the course of his examination before the Auditor-General, he shall be guilty of an indictable offence, and shall be liable to imprisonment with or without hard labour for any period not exceeding four years."

Any person who is guilty of any wilful act of commission or omission contrary to any of the provisions of this Act for which no penalty is expressly provided shall be guilty of an offence, and on conviction shall be liable to a penalty not exceeding Fifty pounds.

Clause 70 (Recovery of penalties) verbally amended, and agreed to.

Clause 71, amended to read as follows, and agreed to : -

) The Governor General may make regulations (not inconsistent with the provisions of this Act) for carrying out the provisions of this Act, and in particular for -
the collection receipt custody issue expenditure due accounting for care and management of all public moneys, and the guidance of all persons concerned therein,
' the more effectual record examination inspection and audit of all receipts and expenditure, and the keeping of all necessary books and accounts,
prescribing the necessary -forms for all books and documents whatever required under the provisions of this Act, or the regulations.

All such regulations shall be notified in the Gazette, and shall thereupon have the force of law.

All such regulations shall be laid before both Houses of the Parliament within 30 days after the making thereof if the Parliament be then sitting, and if not, then within 30 days from the next meeting of the Parliament.

Any such regulation may impose upon any public accountant or person subject to the provisions of this Act a penalty not exceeding Five pounds for any offence for the breach of any regulation, and such penalty may be recovered either in the same manner as a penalty incurred under this Act, or by deducting the same from any money due or thereafter becoming due to such public accountant or person.

Bill reported with further amendments.

Sir GEORGE TURNER

- I am anxious to get this Bill to the Senate, so that honorable members there may have work to go on with. If the House will allow me I will move the suspension of the standing orders.

Mr SPEAKER

- There must be a statutory majority of honorable members present before the standing orders can be suspended.

Sir GEORGE TURNER

- Then I will allow the Bill to stand over until to-morrow.

PUBLIC SERVICE BILL

Report adopted.

Motion (by Sir William Lyne) proposed -

That the Bill be now read a third time.

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Mr CONROY

- Has the Minister really considered the effect as regards their pension rights of taking over, for instance, officers from the New South Wales service into the Commonwealth service? Transferred officers from New South Wales have already to pay 4 per cent, 'of their salaries towards an insurance fund, whereas officers 'drawn from other States are not called upon to pay such an amount. Is it still intended to continue drawing this percentage from New South Wales transferred officers ? Two large departments have already been transferred, and to compel the New South Wales officers to continue to pay this percentage when officers from other States are not so called upon seems to impose a disability on a large class of officers. I see no provision made in the Bill to meet the cases to which I have referred, and I cannot let the Bill pass without seeing as far as I can, that the matter has been taken into consideration.

Mr REID

- I mentioned this matter during the progress of the Bill in committee. There is only one question that needs some consideration before we can entirely agree with the Minister. If the New South Wales system gives to officers a larger benefit than the Victorian system gives to Victorian officers, it may be an equitable question, whether in view of the larger benefits, the New South Wales officers should not

continue to pay something. But if the Minister, on looking into the matter, finds that the Victorian system is as liberal as is the New South Wales system, I think he will probably consider, since the Commonwealth will have to pay as much to the Victorian officers as to the New South Wales officers, whether there is not an anomaly which ought to be removed. If, on the other hand, the New South Wales officers get a larger degree of benefit than do the other officers, the matter may not be quite so clear, but in any case I hope the Minister will take the question into consideration.

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Mr SPENCE

- Has the Minister given consideration to a large section of the public service in the Telegraph Construction branch in New South Wales who rank as temporary hands ? Under this Bill I cannot find that these hands will have any chance of being put in the position they ought to- occupy. They have been employed for a year up to twenty years, and are competent workmen, doing a particular and skilled class of work in connexion with telephones and telegraphs, and I would like to know what their position is to be. This matter has, I think, been previously brought under the notice of the Minister, and before the Bill, passes I should like to have the matter made clear. These men ought to rank as permanent officers, and to come under the Bill in that grade, but there is no provision for it, unless the Minister makes provision by an Executive act before the matter becomes law.

Mr. G.

B. EDWARDS (South Sydney). I think the Minister might well be asked to reconsider the position in reference to the life assurance clauses. From what I can make out, there is in the Bill a distinct breach of section 84 of the Constitution Act, under which the rights of officers transferred are protected. There is another breach of the Constitution, by reason of the fact that two different principles are applied to two States of the union. In one case the principle is applied of continuing a deduction of 4 per cent, from salaries for pensions, but that principle is not applied in the case of Victorian officers. The former class, when they tendered their services, or were requested to enter the employment of the Commonwealth, naturally took it for granted that the arrangement under the Constitution would be carried out, and that they would secure federal pensions on the same terms as those officers who came over from the other States. I am alluding now more particularly to officers taken over who are not in transferred departments. If it were a right and legal thing that these gentlemen should be mulcted in 4 per cent, for the support of their assurance, I cannot understand why the Government cannot undertake to deduct it from the salaries payable to those officers. Instead of that, the Government, seemingly admitting that they cannot do so directly, have done it in a round-about-way by calling on those officers to pay the 4 per cent, into the Treasury of the Commonwealth. . On the whole, it seems to me that not only has there been a breach of faith with these officers who came over on the strict understanding that federal pensions would be secured to them, but that there is also a breach of section 84 of the Constitution Act, and that what is proposed cannot be done without an amendment of the Constitution under section 128. I hope the Minister will have the matter looked into, and see whether it is not desirable in the interests of justice, and for the preservation of the Constitution enactment, that we should alter the assurance clauses before the Bill leaves this Chamber.

Mr MAUGER

- I would like to ask the Minister whether there is any connexion between the alteration in the schedule in regard to payments to women and the fact that a number of probationary operators have been told their services will not be further required in the Postal department, which proposes not to employ any more female operators. When the matter was before the House previously the honorable member for South Australia, Mr. Batchelor, urged that something should be done in the interests of women employed in the public service, and pointed out that if we took any steps that would give female employes the right to the same payment as male employes we might, in trying to benefit the women, do them serious injury. At that time the honorable and learned member for Indi proposed an amendment or made a suggestion which was adopted by the Government, it being felt that we ought to protect female employes from any undue loss. It is a remarkable incident that nine of the young women who have given their time, without payment to the postal department in Victoria, have suddenly received notice that they will receive 10s, a week for the time they have been working, and that their services will not be further required, as the department does not intend to use females for this work in the future.

Mr Ewing

- Is that an absolutely correct statement 1

Mr MAUGER

- Yes.

Mr Ewing

- The honorable member is sure of that 1

Mr MAUGER

- Quite sure ; because I read the notice from the head of the department. I will not impute motives to the head of the department, but it looks to me very much like a determination on his part to do exactly as he likes and thwart the desire of honorable members -to see justice done to the female operators. I hope the Government will make inquiry and see that these young women are not made victims to any resolution of the House, and further, will see that if the policy of the department is to be changed it shall not be changed until those who have been probationary workers have had an opportunity of working in the department. To my knowledge, a number of these young women gave up their situations, and devoted their time to the Government without any payment. They passed the necessary examination, and should certainly not be treated harshly.

An Honorable Member, - And they paid for doctors' certificates.

Mr MAUGER

- Yes, and I hope the Government will see that, whatever may be their future policy, these young women are not be punished in consequence of any resolution of this House.

Mr BRUCE SMITH

- There is another question I would like to bring under the notice of the Minister, and though it may seem a small matter, it is one of great importance to one class of public servants. Under the Constitution it is provided that when a public servant is taken over by the Commonwealth he shall enjoy all the privileges he enjoyed in his particular State. The letter sorters in some of the States are included in the clerical staff, and in one or two of the States - New South Wales and Victoria, I think, if not more - they are treated as a separate class and excluded from the clerical class. I have been waited on by the same class in both New South Wales and Victoria, and it appears that whilst the letter sorters of Queensland will be considered part of the clerical staff by right under the Constitution, the letter sorters of the two former States will be excluded. The letter sorters of the Commonwealth, if they happen to be taken over from Queensland, will be treated as belonging to the clerical staff, but if they come from New South Wales or Victoria they will be excluded and paid accordingly. It may be that this matter would more properly come under the Postal Bill, but I should like the honorable gentleman to consider, as I have not seen that Bill yet, whether it should be dealt with in the Postal Bill Or in this Bill.

Sir William Lyne

- Under the Public Service Bill.

Mr BRUCE SMITH

- Perhaps the Minister can give us some information as to whether it intended by the Government to place all the letter carriers in the different States under the clerical division.

Mr HUME COOK

- Would not that be part of the duty of the Public Service Commissioner ?

Mr BRUCE SMITH

- I understood that it had been considered by the Postmaster-General.

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Sir William Lyne

- Not that I am aware of. I made a representation to him, but I have not had any reply yet.

Mr ISAACS

- I think it is highly necessary that we should have a clear understanding with regard to the question of the employment of women in the public service. I was not present yesterday, but I understand that the Government then gave the House an assurance that no change in policy would be adopted with regard to the employment of women. In view of the remarks of the honorable member for Melbourne Ports, I should like to say that when the Public Service Bill was brought down to the House, the Government had in contemplation, according to clause 71, the facilitating of the employment of women, rather, it seemed to

me, giving the preference to women where they could possibly give them the preference. That was coupled with a schedule in the Bill, from which it appeared that women would be paid at a less rate" than men in all cases, and that whatever the excellence or capabilities of a woman might be, she would receive less money. That seemed to me unfair on both sides, unfair to men that the employment of women should be facilitated, and unfair to women, wherever they could do the work properly that they should get a less wage than men. The clause eventually adopted by the House seemed to me to be a very fair course to adopt. But it carries with it as a necessary corollary that we are not to turn our backs upon the employment of women. We are not necessarily to give them the same salaries as men receive, but we are to give them equal salaries up to the top of the 5th class where it is certified by the commissioner that they can do the work as well as men. If that is a clear understanding, whatever difficulties may arise in connexion with individual cases can be cured by individual attention. But we want to be assured that there will be no general policy adopted of shunting women from the public service merely because they are women, and of employing men merely because they are men.

Mr. RONALD (Southern Melbourne). I am glad this matter has been brought up, because it is quite possible that the eight or nine ladies whose services have been 'dispensed with in connexion with the telephone department may have been dismissed, not because of the increased salary which would have to be paid them under this Bill, but from another cause. It will be remembered that some time ago there was a protest against Sunday labour on the part of the telephone exchange operators, and it is quite likely that that may have been the cause of the dismissal of these ladies, and that it is not the act of the Executive in consequence of the opinion of Parliament that women should be paid a salary equivalent for work done. We have recognised the principle that the wages should be equivalent to the work done, and that the Government should not take advantage of the accident of sex to give women less remuneration for the same amount of work as is performed by men. That is at once a direct violation of the principle which we laid down in committee when that clause was passed. I hope that the Minister will inquire into this matter. If the telephone operators in question have been dismissed because of the protest which was entered against Sunday labour, the answer is that that protest was not made by the probationers, but by the staff, and therefore the blow has fallen on the wrong shoulders altogether. It is therefore a breach of faith with these young ladies, many of whom have given up good positions and incurred the expense of getting medical certificates, as to their fitness for their offices, when they are summarily told now that their services are no longer required. It is a breach of faith, and a piece of maladministration, and is opposed to the principle "recognised by the House that the salary should be equivalent to the labour performed, whether that labour be performed by men or women.

Mr. THOMSON

(North Sydney). Whilst I quite agree with some of those gentlemen who have raised this question of the employment and the payment of women, that it is desirable that there should be an opening for the employment of women in the public service, especially in the post-office, I cannot altogether agree with the argument that if women are less capable of performing the work, they should receive a salary similar to that paid to men.

Mr Poynton

- I think the honorable member misunderstood the argument.

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Mr THOMSON

- I did not misunderstand it, and I will give the reason why. This House has determined that there shall be equal payment for men and women in certain grades of the public service. If it turns out that men can perform that work better than women - and in most instances that is admitted to be the case-

Mr Mauger

- Oh, no.

Mr THOMSON

- I want to point out that from some knowledge of the employment of women, I can say that in most occupations - certainly in occupations such as those followed in the post-office - the work can be performed better by male employees than female, or if not performed better, more reliable and continuous service can be got from male employees.

Mr Poynton

- That is not so in many cases.

Mr THOMSON

- I speak from experience in one of the States, and I say that that is so. By fixing the same rate of pay to each, I am afraid that there is a great danger that injustice may be done to the female employees. I quite admit that if they give similar service they should get similar pay, but what I wish to point out is that if in some cases they do not give similar service, but still can be usefully employed at a lower rate of pay, by restricting the right of the departments to give that lower pay, we are restricting the opportunity for female service in such an institution as the Post office. At any rate, most of the heads of the departments, who have had women under them in my experience, have said that there are cases in which women can give an equivalent service, but that in the great majority of cases they can not.

Mr Ronald

- Not the great majority.

Mr THOMSON

- In the majority of cases they can not, and if they are to be employed, there must be some lesser rate of pay given than is provided for men.

Mr Mauger

- I can assure the honorable member that women were put on to Sunday work because they could be relied on more, and did it better than men.

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Mr THOMSON

- In the case to which the honorable member alludes, there may be a very good reason for his statement and representation to the House. But I am not taking into consideration any particular instance. I am only saying that, taking all things into consideration, such as capacity for long continuance of work, and also for continued employment over a number of years, the male employé is more reliable than is the female. There are many things that take women away from their employment, which do not operate in the case of men, and which thus make women not so suitable in the majority of cases, as employees of our public departments, as are men. There may be isolated cases in which women can perform services equally with men, and in those cases they ought to get an equal rate of pay with men. But, if such is not the case in other branches of work, and if we do not desire to restrict the employment of women, there has to be some difference in the wages paid, or the active head of the department will say, "I am going to conduct my department on the best principles, and therefore I must employ the labour most suitable for producing the best results." I am very much afraid that in making a hard-and-fast rule that each shall be paid alike, the House is unintentionally injuring the prospects of the employment of women. It has been said that in New South Wales and Victoria there are certain employees who are classed with the clerical division, while similar employees in other States are classed in the general division. If that is so, there is some just cause for complaint, because, as a matter of fact, they are very often employed at clerical work. In any case, the knowledge they require as letter-sorters is more of a clerical description than are the mere qualifications for waiting, such as are possessed by attendants in offices, who are classed with the general division. I think there is some good reason why they should be considered. Probably it will, have to be considered by the commissioner under the Public Service Bill. I think there is some just ground for complaint, as regards the fact that some of the transferred officers have to pay 4 per cent, of their salaries into the superannuation fund, and others only 3 per cent. I say that if there is an inequality of payment and an equality of benefit, then the regulation is decidedly wrong, and ought to be altered. If the benefit is the same in each case, and the payment is unequal, there ought to be some alteration made. But if, on the other hand, there is some superior benefit secured by the higher payment, then, of course, those officers who are called upon to make it are not being unjustly treated. It has been said that there is not that difference in the benefit which would account for the difference in the payment. If that is so, I have no doubt the matter will receive the attention of the Minister, and that he will submit some proper proposal for an alteration. If the payment is equal, the benefit should be equal. If there is an inequality of payment, there should be some superior benefit for the higher payment.

Mr HUME COOK

- Since this Bill was last before the House two or three matters have cropped up, some of more or less importance. The first of these - and I desire to secure the Minister's particular attention to it, because it

affects his own State - is the definition given in the Bill of "temporary employees." The New South Wales men, or a large number of them, are employed under a definition of "temporary" service in that State, which does not harmonize in any sense with the definition in this Bill. I am informed that men have been kept on there for years, and called temporary hands, whereas this Bill provides that a temporary hand cannot be employed for more than nine months in the Commonwealth service.

Sir William Lyne

- That is in future.

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Mr HUME COOK

- What I want to find out is whether these men who have been acting as temporary hands are to get any rights at all, or whether they are to be retained for another nine months and then be dismissed. It would be obviously unfair to permit that. It is quite clear that within the natural meaning of the words, they are permanent employees. If they are permanent employees, it will be necessary to insert some clause which will conserve the rights of those particular individuals. As to the question of letter sorters, I am inclined to say that that is a matter for the Public Service Commissioner to determine. He will have to set anomalies right, and to see that men performing similar work receive similar rates of pay. But my principal object in rising was to emphasize the position which appears to have been taken by the heads of departments in respect to the employment of female labour. I do not know whether the statements appearing in the press are to be considered official or unofficial, but it seems to me that the permanent heads of the departments have made up their minds that they will not pay the minimum salary which the House has decided shall be paid to female employees. In a conversation I had with one permanent head only recently, he was quite frank and open in dealing with the matter, and said that he would not recommend the payment of salary at the rate of £110 per annum to the females in his department. If he were to be expected to run his department as a commercial concern, he told me that he would avail himself of the provisions of the clause and would withhold his recommendation. Now, if that course is pursued, the intention of the House will be entirely disregarded, and women will not be recommended for the salary which the House has fixed, or if the department is to have its way, the women will be dismissed. I do not think that is fair at all. I can conceive very well of a number of circumstances in which women can give adequate service for the minimum salary which the House has fixed and where they would be well worth the money, and the officers to whom I have referred have no right whatever to set aside the will of Parliament. I desire to obtain from the Minister some kind of assurance, before he replies to all the matters that have been referred to, as to whether these statements that are appearing in the press are in any way recognised or supported by the Ministry, or whether the plain intention of Parliament is to be carried out, so that persons in the State employment, irrespective of sex, may receive the salary that Parliament has fixed as a fair minimum rate of wage. This £110 a year is not to be regarded in any other light than as a minimum rate for any male or female in the service of the Commonwealth who may have reached the age of 21 years. I heartily support the contention of other honorable members in connexion with this matter, and I hope the departmental heads will be told that they must carry out the intention of Parliament and that it is not their business to say what salary should be paid.

Mr. JOSEPH

COOK (Parramatta). I desire to specially emphasize the remarks that have been made with reference to the positions of letter sorters, railway line repairers, and others following similar kinds of employment in the service of the Commonwealth. It does seem to me that these two classes of servants of the State are not placed by any means in a satisfactory position, and that this is an opportune time to level them all up, and to take care that they shall lose none of the privileges they have now, and that they shall all be placed on the same footing as those following these classes of employment and who are most privileged in the other States. So far as the position of the letter sorters is concerned, I beg leave to doubt whether the commissioner will be able to take the necessary action to place them in a satisfactory position. He may appoint these men as clerical hands, and in that way remove the disability attached to their nominal position, but he cannot give them all the rights that would accrue to other servants coming over at the same time.

Sir WILLIAM LYNE

- What rights have they got?

Mr JOSEPH COOK

- I refer particularly to the retiring allowances. I take it that the members of the clerical staff will be entitled to certain superannuation rights ; but letter sorters have not the same rights or privileges as have members of the clerical staff.

Sir William Lyne

- They have every right conserved.

Mr JOSEPH COOK

- Yes ; that applies to every right they have now, but letter sorters in some of the States have not got the same rights as in others. They are classified in some States as clerical employes, and there are distinctions in the matter of retiring allowances and holidays and that kind of thing, but I am referring more particularly to their, pension rights. I think we should make it clear in this Bill that we are going to place them all on the same footing with regard to these retiring allowances. It is a matter that requires to be gone into very carefully, and it is necessary that some provision should be made on an actuarial basis, either by Act of Parliament or by regulation, so that these servants can be placed on the same footing as regards retiring and other allowances when they are brought over from the States. I -hope the Minister will look into this matter, so that all these servants may start fair under the new conditions, and so that no matter in what 'State they may have been they may be on an equal footing. As to the line repairers, they are just as useful a class of servants to the Commonwealth as a whole as are those servants who are employed in the clerical division ; and, as their work is, in the very essence of it of a permanent character, they should be put on the same footing as are other permanent employes. Now, these line repairers are, in some of the States, employed for six or nine months, and at the expiration of that term of permanent employment they are re-appointed, so as to make them what I may call " permanent temporary hands."

Sir William Lyne

- That was so in the past, but it is not to be so in the future.

Mr JOSEPH COOK

- It will be so in the future, unless it is specially provided for.

Sir William Lyne

- It is specially provided for.

Mr JOSEPH COOK

- At any rate, I do not think that it is a matter that ought to be left to the commissioner to tackle when he comes into office, but it seems to me that it is one that should be dealt with by the Government before they hand over the service to the commissioner.

Sir William Lyne

- It is very likely that that will be done.

Mr JOSEPH COOK

-If the Minister will assure me that that will be done, or that the matter will be represented to the Postmaster-General so that he may take it in hand, I shall have nothing more to say.

Sir William Lyne

- I intend to look into the matter.

Mr JOSEPH COOK

- It seems a matter of elementary justice that the question should be dealt with by the Ministry, and I hope that it will not be left to the commissioner to adjust.

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Mr KNOX

- I hope that the close criticism this Bill will receive in another place will enable us to reconsider some of the various matters dealt with. So many amendments were made when the Bill was in committee that I think honorable members will consider that many of the provisions, however much they may have been modified, have not yet been made perfect. The House, however, will not probably desire that there should be a long discussion on the motion for the third reading of the Bill, and I am therefore hoping that when the measure comes back from another place, we shall have an opportunity of reconsidering two or three matters which I trust will attract the attention of the other House. There is one matter to which I should like distinctly to refer. As one who has consistently regretted that it is necessary to have females in any of our departments occupying positions which men ought to fill, I would, at the same time, be the last to wish to

see any in justice done to our female employees, and I am rather disposed to believe that the view which has been expressed here is likely to operate disadvantageously to these female employees under the conditions which have been conceded by the Minister in charge of the Bill. I think it would be a good thing if the Minister would give the House an assurance that the spirit of the amendment which was agreed to by the House is being carried out and that injustice has not been done to any of the female employees of the Commonwealth. I have consistently held - and I said so during the debate upon the second reading of the Bill - that any female who is employed in the Government service, who can give us service equal to that which could be rendered by a male employee in the same division is entitled to receive equal remuneration. That cannot be gainsaid. But, at the same time, I hold that it is altogether unreasonable to suppose that females will be physically capable of giving service equal to that of men in all departments of the State. I recognise that there are very many classes of work in the federal service which females can do equally well with men, and in such cases the females ought to be equally well paid. I have only risen for the one purpose of urging upon the Minister that if he possibly can he will give an assurance to the House that female employees will not be placed in a disadvantageous position in any of the departments of the Commonwealth in consequence of the resolutions passed by this House. I also wish to express the hope that we shall have an opportunity of reconsidering certain portions of the Bill that seem to me at the present stage to be incomplete. I therefore reiterate strongly what has been said so well by some honorable members who preceded me, and particularly by the honorable and learned member for Indi, that some declaration by the Minister is necessary in the interests of the female servants of the Commonwealth. Mr POYNTON (South Australia). - I desire to impress upon the Minister the necessity of seeing that the temporary hands in the Commonwealth service are not overlooked in this measure. We had a considerable discussion on this point, and we were assured by the Minister that the matter would be looked into, and that if the provisions of the Bill did not cover such cases as have been referred to by the honorable member for Darling, and on previous occasions by the honorable members for South Australia, Mr. Batchelor and Mr. Solomon, in connexion with temporary employment in that State, the matter would be rectified. We know there are some officers in South Australia who have been on what is called the temporary staff for fifteen or twenty years, and it will be a calamity if, when this Bill is put into operation, it is found that it does not cover such cases as these. We were told some time ago that where it might be necessary to make reductions in the service the temporary hands would be the first to go, and the tendency will be to fall upon the people I have referred to when retrenchment takes place. We were told yesterday that the policy of the Government, in regard to dismissals of female employees, had not been indicated to the officers of the Commonwealth, and yet we have it to-day on the authority of the honorable member for Melbourne Ports that certain young ladies in the Victorian department of the federal service have already received notice. I think it is time that we laid it down that whatever the policy of the Commonwealth is, it must be carried out by the officers of the various departments. I assume that the honorable member who has brought this matter under the notice of the House is quite sure of his facts.

Mr Mauger

- Yes. We have the written notices here.

Mr POYNTON

- If that is so, it is as clear as possible that the department is acting contrary to the instructions of Parliament, and that should not be allowed.

Mr Conroy

- But possibly in accordance with secret instructions.

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Mr POYNTON

- Preparations for this change seem to have been going on for a considerable time. Paragraphs about what was going to be done have appeared in the press, and it has been practically intimated that the heads of the department have agreed upon a certain line of policy. Yesterday, however, we had an assurance from the Government that no such policy had been agreed upon, and until it has been agreed upon by the Government the heads of the department should not be allowed to flaunt this House by putting a penalty on some of the weaker members of the service. Where women are doing the same work as men they should receive the same pay; there cannot be two arguments about that. I do not contend

that there are not some things which women are physically incapable of doing as well as men, but in a great many branches of our public service women are quite as competent and as reliable workers as men. I believe that on the whole the Public Service Bill is a good measure, and it would be a pity if what may almost be termed a model Bill should be stultified by the actions of those who are called upon to administer it. I again impress upon the Minister the necessity of providing, before the Bill leaves the Senate, that persons who have been temporarily employed for long periods, such as ten or twenty years in a State service, shall be taken into the Commonwealth service on the footing of permanent employees.

Mr PIESSE

- I should be very sorry to think that honorable members generally agree with the remarks of the honorable member for Kooyong, that the Senate should be invited to deal with our work as though it were not as well done as we can do it. I hope we shall always consider that however imperfect a measure may ultimately prove to be, we should not allow it to leave this House knowing it to be imperfect.

Mr Conroy

- But in this case we are doing so.

Mr PIESSE

- If an alteration is required, we should be willing to give the time necessary to make it here, instead of sending the measure to the other branch of the legislature to be perfected. I wish to allude to a matter upon which we had an assurance yesterday from the Minister who represents the Postmaster-General in this House. He declared that no alteration of policy in the administration of the Postal department was intended by the Postmaster-General. I am sure that we were all glad to have that assurance, and I, in common with other honorable members, am sorry to hear that something has taken place which may be considered as a departure from the policy which we were assured would continue. I hope, however, that there has been some misunderstanding, and that the Minister will see that the department is carried out in accordance with the promise which has been given to this House. We must bear in mind that we have not laid down any hard and fast rule as to the salaries which women in the public service are to receive. After they have reached the salary of £110 per annum their increases will depend, as increases to the salaries of male officials will depend, upon the recommendation of the commissioner, who in the case of females must certify that they are equally capable as men of performing the work required of their offices. I think that we have not gone beyond what is just to those who have to pay the public servants and to those who are employed in the public service. An honorable member has referred to the term "federal pension," but I do not know that there is such a thing as a federal pension. Public servants who have been transferred from the service of a State where pensions are provided will not lose any of their rights or privileges by reason of their transfer. Their pension rights are to be continued to them, but the pensions that are paid to them will be federal pensions only in the sense that the Federal Government will contribute its share in proportion to the length of time they remain in the federal service. But any public servant of a State who is entitled to a pension will bring over with him into the service of the Commonwealth, not only his rights to a pension, but also the liabilities, if any, attached to those rights. If in the service of the State he was compelled to contribute to a fund out of which his pension was payable, he must continue that contribution or percentage deduction. I do not see that the officers who have been transferred under these conditions have any reason for complaint.

Mr JOSEPH COOK

- The trouble is that the rights- are now unequal. The officials would like to have them equalized.

Mr PIESSE

- The rights enjoyed by the officials in the Commonwealth service depend upon the rights which they enjoyed while members of a State service. I think that we cannot give officers of the Commonwealth service higher privileges than those to which they were entitled when in a State service. If in New South Wales an officer was entitled to a pension of £300 a year, while in Queensland an officer in the same grade was entitled to a pension of only £250 a year, we cannot equalize their positions when they are both transferred to the Commonwealth service, but we preserve to them the rights which they enjoyed in their respective States.

Mr JOSEPH COOK

- But why cannot we alter those rights?

Mr PIESSE

- Why should we alter them?

Mr JOSEPH COOK

- Why should we not alter them, if they wish us to do so, and are prepared to bear the brunt of the alteration 1

Mr V L SOLOMON

- Does not the honorable member think that there should be a fair levelling up of all officers who are doing similar work 1

Mr PIESSÉ

- Why should officers be better off in the Commonwealth service than they were in the State service 1

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Mr JOSEPH COOK

- We simply want to wipe out inequalities.

Mr PIESSÉ

- All officers who have come into the Commonwealth service with pension rights are better off than those who have come into it without pension rights. If there is to be a levelling up in this respect, we must place all officers who have been transferred upon the same basis with regard to pensions, which would be impossible unless we adopted a federal pension system. The policy which the House has adopted is not a pension system, but a policy of life insurance. I have had placed in my hands a copy of the notice which has been sent to some of the girls employed in the General Post office in Melbourne. It is in these terms - As there is no immediate prospect of the staff of female telephone switch operators being increased, the necessity for your attending at the Central Telephone Exchange to learn the duties no longer exists ; and it is requested that you will be good enough to at once cease attending. It has been decided to pay you at the rate of 10s. per week for the time during which you were engaged at the exchange.

The notice is signed by the Deputy Postmaster-General. These young ladies have certainly acquired rights which should be respected, and, as we have been given to understand that the policy of the department is not to be altered, there should not be an alteration in regard to them.

Mr. BATCHELOR

(South Australia). I should like the Minister, when speaking in reply, to satisfy the fears of honorable members in regard to the position of temporary, or provisionally temporary, employees transferred from State services. I ask him to be very explicit in stating that officers whose employment in a State service, though technically called temporary has been virtually permanent, shall be taken into the Commonwealth service as permanent employees. I know that it is difficult to frame a clause which will cover all the cases with which it is necessary to deal in the protection of the interests of the employees; but if the Minister will say straight out that all these officials will be taken over as permanent employees, and that the wording of the clause will not be a barrier to that being done, he will satisfy honorable members' fears.

Mr V L SOLOMON

- How many of the employees in the Postal department of South Australia were on the pro. and tem. list when the honorable member was ' recently administering it? A very large number.

Mr BATCHELOR

- I think quite 75 per cent.

Mr V L SOLOMON

- And many of them had been years in the service?

Mr BATCHELOR

- I know some who have been 26 years in the service, and who are still on the pro. and tem. list. It seems to me that under the clause as it stands they might be held to be temporary employees- of the Commonwealth service, and might be liable to dismissal at any time. That is why I ask the Minister to make an explicit declaration of the policy of the Government on the subject. With regard to the employment of women in the service, I cannot conceive that the circular which has been referred to this afternoon has been issued as the result of a decision come to by a committee of this House upon one of the clauses of the Bill, because it would be a preposterous and outrageous proceeding for any official to mete out reprisals to employees under his control because of something which had been done by the Legislature. This measure has not yet become law, and the right to decide whether women employees shall in all cases receive equal payment with men is left, not to the Deputy Postmaster-General, or to any

official in his department, but to the commissioner who is yet to be appointed. To anticipate the decision of Parliament, and therefore to do an injustice to certain employes, is an act of which I do not think the Deputy Postmaster-General of Victoria capable. If that is why he issued the circular, the sooner he is removed from his position the better, because it is of no use for us to pass laws regulating the conduct of the public service if the officials who have to administer the service refuse to carry them out in the spirit as well as in the letter. I would give my assistance to any extent that might be necessary to bring about the proper observance of any Act we might pass.

Mr JOSEPH COOK

- But, the honorable member does not suppose that the Deputy Postmaster-General issued the circular without consulting the Postmaster-General.

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Mr BATCHELOR

- I do not know whether he did so or not, but I cannot conceive that the circular was issued because of a vote which was come to in this Chamber. I should not support a Ministry which I believed capable of advising one of its servants to act in such a manner as to bring about the reconsideration of a vote of the Legislature - and that is the object of the issue of the circular which is conveyed in the honorable member's suggestion. I have already given my opinion upon the subject of the employment of women, and I came in for a good deal of adverse criticism for suggesting that what has occurred might be the result of what we were proposing to do. I may say that what I dreaded was not that any attempt would be made to dismiss any of the present staff, but that in the future when new employes were to be put on, there would be very few women employed if we enforced the original proposal, and I urged that in all cases the same amount should be paid to women as to men. What was done, namely, to leave the matter in the hands of the commissioner, seemed to me and the committee the only safe way. I do not see who else could decide as to the amount of work, the kind of work, and the ability with which the work was being done. The commissioner is responsible, and it is with the commissioner we have to leave the matter. I hope the Minister will make inquiries, and see that the public have not the slightest ground for the suspicion which has been entertained that the action of the Postal department is the result of the decision of the committee of this House.

Mr SALMON

- There is a matter I desire to bring under the notice of the Minister for Home Affairs. While the Bill was under discussion an effort was made to introduce a provision which would allow of the transfer of public servants from the service of the Commonwealth to that of the States. There has been, in my opinion, an interference with the spirit of the Constitution in the Postal department; or, rather, the interference has occurred in a State department. It has been the rule in Victoria for many years to allow officers who have specially qualified themselves to be transferred from department to department, where their services can be better availed of. The Agricultural department in Victoria has found it necessary to appoint a number of inspectors, whose business it is to traverse the country with the view of putting down what are known as insect pests in the orchards and in the vine-growing districts of the State. In the Postal department, an officer devoted some four or five years to the careful study of entomology and micrology, in order to fit himself for one of these positions. It was found necessary by the Victorian Government recently to appoint a new inspector, and a competitive examination was held. The officer to whom I have referred applied for permission to present himself for examination, but the permission was refused, on the ground that he had passed over to the Commonwealth. After consultation with the Attorney-General of the Commonwealth, a note was sent to the State department, and the officer was allowed to compete. He came out at the top of the list, but while it was called a competitive examination, and while the fact that he was allowed to compete might be considered an acceptance by the State of his right to the position, should he prove himself qualified, this officer has been passed over in favour of the one next to him on the list. '

Sir William Lyne

- That was done by the State.

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Mr SALMON

- That was done by the State. Surely there is going to be some reciprocity in these matters, and if the

Commonwealth is going to take over a number of officers from the States, the least the States can do is to act fairly and honestly by the Commonwealth. Those officers who came over to the Commonwealth feeling satisfied that under the provisions of the Constitution Act every right which they enjoyed would be secured to them, must feel that they are not being fairly treated. I would ask the Minister, therefore, if he will make some inquiry into this matter, and whether these facts cannot be brought prominently under the notice of the Government of Victoria with a view to having what I believe to be a wrong righted. If what I ask is done we shall at the very beginning assert the principle that faith should be kept with these men, and a great deal of unrest which exists at the present time will be removed and probably similar dissatisfaction avoided in the future.

Mr. WILKS (Dalley).- It is evidently the desire of the Minister to turn out legislation as nearly perfect as possible, and with his experience of the public service as Minister of an adjoining State, he no doubt will escape many dangers and difficulties. But I notice a very serious omission from the Bill, namely, the omission of any provision for the establishment of an Appeal Court. An Appeal Court is so important to the service itself, tending as it does to the better feeling of the officers, and also to greater security for the public, that provision should be made in this direction. And in order to fulfil his desire for a good measure the Minister would do well to recommit the Bill with a view to considering the suggestion I now make. The Bill supposes promotion by merit. Officers, whether in the general division, the clerical division, or the professional division, will in the main receive under this Bill promotion by merit. If that be supposed, it is necessary, in order to prevent discontent, that an Appeal Court should be supplied for any officers who may consider themselves injured or improperly treated. Further, the mere fact that there was an Appeal Court would tend to more careful recommendations and administration on the part of heads of the departments ; and, indeed, I think that in order to carry out the principle of promotion by merit, there must be a tribunal of the kind established. The Bill provides very strong punishment for officers if they do not carry out their work properly. While we put the power of punishment into the hands of the commissioner, no power is given to injured officers to make any appeal against recommendations by which they may feel they are injured. The heads of departments have considerable power in recommending to the commissioner and the inspectors certain officers for advance in the service. We know that heads of departments may recommend men, not purely on merit, but for some reason of friendship, or some social reason, when really the officers recommended do not deserve promotion. An Appeal Court would be a safeguard against social influence, or that sycophantic following which some heads of departments may have. This is a serious matter, and it would be a blemish on the Bill if it left this Chamber without providing for a Court of Appeal. It would be easy to have a board in each State, and to allow each class of the public service to have a representative on the board, as occasion required. By this means the State would be more safely guarded, and the officials would be better protected. These matters are worth the attention of the Minister. In New South Wales, the Public Service Act did not at first provide an Appeal Court, but, after a little experience, the commissioners by regulation provided such a tribunal, and no one knows better than the Minister for Home Affairs the great usefulness of that court. I ask that members of the public service generally should have the power of electing one representative of their class on a board of the kind, in order to safeguard themselves against influence of a social character. The measure, without provision for an Appeal

Court, is imperfect, and, for the protection of the public and of the public servants, I ask the Minister to consider the propriety of recommitting the Bill, for the purpose of inserting a provision of the kind I have indicated. I should like the opinion of the Minister before I sit down. I do not wish to move the recommitment of the measure, because I know the difficulties that may then arise. The Minister has had experience of public service affairs as a former Premier of a State, and I would ask him whether he is prepared to recommit the Bill in order to introduce into the measure a provision for the establishment of an Appeal Court somewhat similar to that established in New South Wales.

Mr SPEAKER

- That cannot be done now.

Sir WILLIAM LYNE

-

Mr Cruickshank

- Is this in reply ?

Mr SPEAKER

- There is no right of reply. This being an order of the day, the Minister has no reply. But the Minister not having spoken, but having moved the third reading formally, he is entitled to speak. His speech, however, will not close the debate.

Mr CRUICKSHANK

- Before the Bill is passed, I would like to say that the measure has undergone very considerable alteration during its passage through committee.

Mr Conroy

- The Minister himself would not know it again.

Mr CRUICKSHANK

- I admit the Bill has gone through very extraordinary changes. All I now ask the Minister to do is to see that after the work we have done in committee on this Bill, the rights we have introduced into the measure are adhered to in another place. I would like further to add, not as an advocate of women's suffrage-

Sir William Lyne

- Is the honorable member not?

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Mr CRUICKSHANK

- Decidedly not. I am not like others who opposed women's suffrage at one time, but who came round when they saw the advocates of that principle were in the majority. At the same time, I am an advocate of women's rights. I take every opportunity of recording a vote in favour of the principle that where women are called on to do duties in connexion with the State, they shall be amply rewarded for their services. In the Bill, we have provided for a commissioner to adjust salaries to the duties performed in the public service, and I should be one of the first to criticise any commissioner who wished to employ females and pay them reduced salaries. I hope that if we are to have females employed in the public service of the country, their services will be properly considered and properly remunerated. There is another provision we have introduced in this Bill, and which I hope will be conserved in another place - the provision for a minimum wage for those who enter the public service. I hope that all men who enter Government service will at the earliest opportunity be put on such a footing that they will be able to receive remuneration sufficient to enable them to keep their families in fit and proper circumstances. I do not wish to delay the measure, but feeling that we have done a great deal in committee, I should like to see nil the rights we have introduced into the Bill conserved in another place. This debate on the third reading will tend to impress on the Government that we wish enforced the standard set up by this Chamber.

Mr Conroy

- I understood, Mr. Speaker, that you said the Bill could not be recommitted.

Mr SPEAKER

- Certainly. The honorable and learned member will see, if he looks at Standing Order 185, that on the Clerk reading the order of the day it is competent for any member to move the recommittal of the Bill, but as soon as the question is put, " That this Bill be now read a third time," it is not then possible for its recommittal to be moved. That question having been .put from the Chair, the recommittal of the Bill cannot now be moved.

Mr H WILLIS

- I was certainly under the impression that it was the intention of the Minister to move the recommittal of the Bill. This is a measure which I consider is a great improvement upon any similar Act in operation in the States, and I think it reflects very much credit upon the Minister. But I regret to find that he has not adhered to a promise - I think he must have given a promise to some one, because it appears to be the general impression that the Bill, would be recommitted - and it was my intention to bring under notice several amendments that I think would really improve the measure. I merely rise to make myself understood by those who have communicated with me on the subject, and who have brought under my notice material amendments which might be made.. I regret very much that the Minister has not moved the recommittal of the Bill.

Sir William Lyne

- How could I move the recommittal unless the honorable member told me for what purpose he wanted it recommitted 1

Mr H WILLIS

- I think that during this afternoon there was a Bill recommitted as a whole, and we commenced its discussion from the first clause. If the Minister has already given a promise to an honorable member that he would recommit the Bill, there was no necessity for me to mention to him any particular clause. I regret very much that he has not recommitted the Bill as he promised to do.

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Mr WATKINS

- I have listened with some attention to the debate which has taken place upon this Bill, and I find now that two or three honorable members seem to be afraid of the work of this Chamber, and of their own work in conjunction therewith. They are now hoping that another House will rectify something which they have overlooked here. All I have to say is that it will be far wiser for honorable members of this House to thoroughly finish their work before allowing it to go up to the Senate. It is preferable to fully consider any measure which is submitted for our consideration before transmitting it to another branch of the Legislature, than to stand up apologetically on its behalf and trust to another place to remedy its defects. I trust that our future deliberations will be conducted with that end in view. Owing to ill-health I have not had the pleasure of being present during the passing of this Bill through committee, but in regard to the point which has been raised as to the employment of female labour, I unhesitatingly assert that the minimum wage must apply alike to both male and female. I see no reason for a distinction being made, and I hope that the Minister will see that the case brought under his notice is thoroughly ventilated. If it is found that in the administration of a prospective law, the Postmaster-General or any of his officials has attempted to discharge any officer, I trust that those responsible will be dealt with in the proper way. It will be a bad state of affairs if we discuss legislation here, and find our proposals anticipated by departmental officials before they become the law of the country. If that has occurred in connexion with the Postal department, there has been gross maladministration, hope that the Minister will make a thorough inquiry as to whether it is true that girls in the telephone department have been discharged in anticipation of certain proposals becoming law.

Mr. SYDNEY

SMITH (Macquarie). I have listened to the various suggestions made by honorable members, and it seems to me that very important amendments have been proposed which some honorable members think should be considered in the other Chamber. I quite agree with the honorable member who has just spoken, that if we are properly to carry out legislation we should do our work thoroughly, and not be dependent upon the other Chamber at all. Let us finish our work here definitely, and then the other Chamber can make such amendments as it thinks are desirable. Possibly it is not competent for an honorable member now to propose the recommitment of the Bill, but that course can easily be arranged with the concurrence of the Minister. All that the Minister has to do in order to enable an honorable member to move in that direction, is to withdraw his motion for the third reading of the Bill.

Sir William Lyne

- And have this debate all over again.

Mr SYDNEY SMITH

- No one is desirous of having the debate all over again, but three or four very important suggestions have been made affecting a large number of our public servants. Even if the discussion on those proposals does occupy two or three hours, it is only fair to give honorable members the opportunity of making desirable amendments for the protection of our public servants.

Sir William Lyne

- Be serious.

Mr SYDNEY SMITH

- All that the Minister is serious about is in trying to get the Bill through in an imperfect way. When the measure was first submitted to the notice of the House it was in a most imperfect state. The Opposition, recognising that it was not a party question, assisted to amend the Bill, so as to improve it as much as possible. All sections of the House endeavoured to perfect the Bill. We made many important amendments, and I think have improved the Bill to a very large extent. I believe that it is capable of still further improvement in the direction indicated by honorable members. If that is so, even if the matter occupied more than a very few minutes, is it not better to make the amendments before sending the Bill

to the other Chamber 1 Do not let us start the practice, which is too frequent in some of the State Parliaments, of sending away imperfect measures, and saying - " Oh, the other House will do the rest." In view of the suggestions which have been made, I ask the Minister to reconsider the whole question, and to see whether it would not be better for him to withdraw his motion for the third reading, and thus allow honorable members an opportunity of recommitting any clauses in which they think an alteration should be made to make the Bill more perfect than it is at the present time.

Mr MAHON

- I think that possibly the Minister may be induced to agree to the suggestion which has just been made when I direct attention to a clause which slipped through a few nights ago in committee. I do not know the reason which led to its insertion in the Bill. It was certainly not inserted after any argument, or after any explanation by the Minister. The clause I refer to is clause 58, which provides -

All officers of a department transferred to the Commonwealth and all officers in the public, railway, or other service of a State so transferred, who by any law of a State had to contribute to a superannuation fund or to insure their lives, shall continue to be liable to pay the sum imposed by such law into the Treasury, and continue to keep up such insurance according to the provisions of such law.

I would like the Minister to explain how he came to put a provision of that sort in the Bill, because if he is quite certain that section 84 of the Constitution Act - which is the provision relating to transferred officers preserving their existing and accruing rights - implies that the public servants have also the liability cast upon them of paying a portion of their salaries into a superannuation fund, then this clause is absolutely unnecessary. If the Constitution imposes upon the public servants the obligation of keeping up their payments to a superannuation fund, then this clause is unnecessary. Under section 84 of the Constitution, a transferred officer is entitled to receive from the Commonwealth on his retirement the payment of a pension which he would have received had he remained in the State service.

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Sir William Lyne

- Supposing that he remained for ten years longer and did not pay--

Mr JOSEPH COOK

- I rise to a point of order. I submit that this discussion is altogether out of order. Standing Order 184 provides that when a report is finally adopted a future day shall be fixed on motion for the third reading. My point is that the third reading of this Bill had no right to be debated at all to-day. It should have been fixed for another day, and therefore I ask you, sir, to rule that this discussion is entirely out of order.

Mr SPEAKER

- From what standing order did the honorable member quote ?

Mr JOSEPH COOK

- Standing Order 184.

Mr SPEAKER

- If the honorable member will look, at Standing Order 183 he will see that there is a further provision that if no amendments have been made the report may be at once adopted. This Bill, I would remind the honorable member, has been recommitted.

Mr JOSEPH COOK

- But very considerable amendments have been made which have entirely altered the Bill.

Sir William Lyne

- Not since its recommitment.

Mr JOSEPH COOK

Mr SPEAKER

- Does the honorable member raise a further point ?

Mr JOSEPH COOK

- No ; the same point, Mr. Speaker.

Mr SPEAKER

- I have no information, whatever, as to what has taken place in committee. I am not aware of what has been done. The standing order provides that in the case of a Bill which has been recommitted the report may, under certain circumstances, be at once adopted, and the Bill read a" third time. The report has been adopted, and, immediately following that, the question for the third reading was put from the Chair.

Mr JOSEPH COOK

- Surely when the report is made from committee-

Mr SPEAKER

- If the honorable member chooses to dispute the ruling of the Chairman, it is quite possible for him to do so, but he must do so in writing.

Mr JOSEPH COOK

- I have no wish to do that.

HONORABLE Members. - Chair, chair.

Mr JOSEPH COOK

- Surely we can have a clearing up of this matter. Surely the House does not object to having its rules made clear.

Mr SPEAKER

- It is very pleasant to have matters cleared up, but they cannot be cleared up at the expense of the standing orders, and as I allowed a moment or two to elapse after the honorable member for Parramatta had spoken, in order to see whether any honorable member supported his contention, and as no honorable member rose I gave my ruling, and I cannot allow that to be discussed further unless an honorable member disputes it.

Mr CONROY

- I should like your ruling, sir, upon this point. How are we to bring alterations made in committee before the notice of Mr. Speaker, seeing that the standing orders make no provision for that 1

Mr SPEAKER

- The honorable member will always . have an opportunity - as will every honorable member - to secure the recommittal of a Bill by proposing the recommittal of the whole Bill, or of a clause or clauses, before the question is put from the Chair - " That the Bill be now read a third time." When once that question has been put under the standing orders under which we are now working, any motion for a recommittal becomes impossible unless the motion for the third reading of the Bill is withdrawn by leave of the House.

Mr Watson

- Are we to understand that there is no possibility of discussing an amendment to provide for a recommittal before the motion is put ?

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Mr SPEAKER

- The method which the standing orders require to be followed is this : That when the time for a third reading approaches, and before the question is put from the Chair, any honorable member may move the recommittal, of the Bill. But when once the motion for the third reading has been put from the Chair, no honorable member can move the recommittal of the Bill. Of course, when the motion is moved, there is opportunity for discussion. The honorable member who moves the motion can debate it, other honorable members can debate it, either for or against it, and it is then determined whether the Bill, in whole or in part, shall be recommitted.

Mr. MAHON

(Coolgardie). - When I was interrupted, I was asking the Minister if he could give us an explanation why clause 58 was inserted in the Bill, if he were sure that under the Constitution he could compel officers who under the State services were -contributing to a superannuation fund to continue such contributions.

Sir William Lyne

- I was not quite sure that I could compel them- to continue the payments j that was the trouble.

Mr MAHON

- The Minister says he was not quite sure whether under the Constitution Act he had power to compel these officers to contribute their quota to the superannuation fund. If that is so, is not the Minister now practically proposing to amend the Constitution in a manner not provided by the Constitution ?

Sir William Lyne

- Would the honorable member suggest that the officers should continue to have all their rights without continuing to pay on the basis on which they started ?

Mr MAHON

- -Well, it is . better that these officers should get some little advantage than that the Minister should

violate or attempt to violate the Constitution -in this way. If the Minister has power under the Constitution to deduct these contributions from the officers, then there is no necessity for putting the clause into the Bill, and it seems to me from my reading of the debates before the Federal Constitution was adopted that the founders of the Constitution did not intend that these deductions should be made from the salaries of officers.

Sir William Lyne

- Am I to understand that the honorable member considers that it was intended that officers who remained for 10, 15, or 20 years longer in the service should get all their accruing rights without paying anything towards them ?

Mr MAHON

- I would hardly contend that, but I do say that the founders of the Constitution evidently intended that there should be a uniform law and uniform treatment of the various officers, and I should like to know how the Minister can reconcile this fact with what he is now proposing to do. The position is that, under the Public Service Act, certain Victorian officials will enter the service of the Commonwealth with rights to a pension to which they contribute nothing whatever, while men who are doing precisely the same work, but who are being taken from the service of other States, are compelled to pay a certain sum per annum as a contribution to a superannuation fund. That is what I should like the Minister to explain. I do not want to go into the matter very fully, but if the Minister will look up the debates, he will see that at Adelaide it was distinctly understood that, in order to get the best men as officers of the Commonwealth, it was desirable that inducements should be held out to certain " officers to come over from the States,, and I understand that certain officers have come over to the Commonwealth service on the distinct understanding that they would be placed in the same position as the Victorian officers who entered the Victorian service before 1850.

Sir William Lyne

- I do not think there was any understanding of that sort.

Mr MAHON

- There may not have been, but at any rate one thing is quite certain - that is, that officers have been obtained by the Government who would not have come over to the Commonwealth service if they had not distinctly understood that no deductions from their salaries would be made in the way that the Minister now proposes. I would like the Minister to explain to the House why, if under section 84 of the Constitution Act he is entitled to deduct from the salaries of these officers their contributions towards superannuation funds, he is not content with that, instead' of introducing this clause into the Public Service Bill ? If the Minister is not quite sure that the Constitution gives him power, this clause is an amendment of the Constitution, and he must know that he has no right whatever to amend the Constitution in that way.

Mr SYDNEY SMITH

- In connexion with the point of order which was raised by the honorable member for Parramatta, I desire to- direct your attention, ' Mr. Speaker, to Standing' Order 185, which reads-
On the Order of the Da3' for the third reading being read by the Clerk, and before Motion made "That this Bill be now read a third time," the Bill ma3r, on Motion, be recommitted, either in whole or in part.
Now, I have looked through the orders of the day, and I find that the order of the day is for the adoption of the report, and not for the third reading.

Sir William Lyne

- But the report was adopted.

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Mr SYDNEY SMITH

- Yes, no doubt ; but there is no order of the day for the third reading of the Bill, and I take it that honorable members were quite unaware that, under that order of the day, the third reading would take place. The order of the day being the adoption of the report, they could not know that the third reading would be moved, and, therefore, could not take the steps necessary for the recommitment of the Bill. The honorable member for Parramatta did not wish to have the Bill recommitted, so far as he was concerned ; but having heard that some honorable members did wish the Bill recommitted, in order that further amendments might be made, he naturally took the point of order. Whether the point of order is

sustained or not, I think that, in view of the fact that honorable members are anxious to move very important amendments, the Minister should, in justice to those honorable members, do as other Ministers have done in the State Parliaments in similar circumstances.

Mr Mccay

- On a point of order, I would ask whether it is quite in order for honorable members who addressed themselves to the third reading of the Bill, after so addressing themselves, either to debar other honorable members from speaking or to give themselves an opportunity of making a second speech on the third reading.

Mr SPEAKER

- On the point of order, I must confess that the proceeding in this particular case has not been strictly in accordance with the standing orders, and that the third reading of the Bill should not be taken immediately after the adoption of the report, unless standing orders were suspended to permit of that course. Still, I think it does not lie in the mouths of those honorable members who have taken advantage of the opening of the third reading debate to now object to its proceeding, and therefore, unless the House desires otherwise, I propose to permit the course that has been commenced to be carried out to its completion. In future, however, the provision requiring the setting down of the third reading on a future day after the adoption of the report will have to be strictly complied with, unless the standing orders are suspended to permit of a different course being adopted.

Mr V L SOLOMON

- I have not spoken on this Bill to-day, and I do not desire to take any unfair advantage, but, with a view to our being able to do what we require, I would ask the Minister, whether under the circumstances he will not consent to the withdrawal of the motion for the third reading of the Bill.

Sir William Lyne

- No.

Mr V L SOLOMON

- Then, Mr. Speaker, I must ask you to rule that this debate is out of order, and that the third reading must take place on some future day.

Sir William Lyne

- It is too late to do that now.

Mr.V. L. Solomon. - It is not too late when the Minister refuses to extend ordinary courtesy to honorable members.

Sir William Lyne

- Not after the motion has been debated in the way it has been?

Mr V L SOLOMON

- I contend that as a mistake has been made, it should be rectified, as it is distinctly detrimental to the best interests of this House, that the Bill should go forward in an admittedly imperfect state to the other branch of the legislature.

Sir William Lyne

- It is not admittedly imperfect.

Mr V L SOLOMON

-It is admitted to be imperfect by a great number of members ; I would, therefore, ask the Speaker to rule this debate out of order, because an omission has been made.

Mr SPEAKER

-I do not think I shall be justified in doing that, seeing that we have spent some two hours or more in debating the motion for the third reading of the Bill, on the assumption by honorable members generally that the right course had been followed. It is quite open to the honorable member, if he desires, to take another course - that is, to move the suspension of the standing orders - and then it may be open to him to move the recommittal of the Bill.

Mr.REID (East Sydney).-- It struck me as an extraordinary course to adopt when the motion for the third reading on the Bill was allowed to follow on the adoption of the report without any suspension of the standing orders. I asked a question as to whether such a thing could be done, and I got an answer from the Clerk that seemed to show that it could be done, and I supposed that it was under some new standing order. As the matter has now gone so far I suppose we must be taken to have agreed to the breach of

rule that has occurred.

Mr V L SOLOMON

-Without desiring to act in antagonism to the Government or to the Minister in charge of the Bill, I see no other course open to me than to take steps to have the Bill recommitted. It is admitted that a mistake has been made - a mistake which I regret, Mr. Speaker, you cannot see your way to rectify - and I also regret that the Minister cannot meet our desires in the way I have suggested.

Sir William Lyne

- I think it is a very unreasonable thing to ask.

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Mr V L SOLOMON

- I am sure there will be no attempt on the part of honorable members to harass the Minister, or to do anything else but assist him in perfecting the measure.

Sir William Lyne

- The honorable member helped me a lot.

Mr V L SOLOMON

- I am sure the Minister cannot complain of the assistance he has received from the members on both sides of the House. This is a non contentious Bill. It is not a party Bill in any sense, and has not been treated as such, and the Minister has had the cordial assistance of members in all parts of the House. Considering that many members of this House were not aware of the particular standing order under which the third reading of the Bill was allowed to be moved, and having in view also the fact that the standing order itself, which provides when the recommitment may be moved, has been ignored, and it being admitted that a grave mistake has been made - a mistake which materially reduces the privileges of members of this House - I think that the Minister might concede the point that I have put before him.

Sir William Lyne

- If you recommit many clauses, you will not have any more of the Bill so far as I am concerned.

Mr V L SOLOMON

- I am sure the Minister does not mean anything of that sort.

Sir William Lyne

- Considering that I have been occupied three or four weeks over this Bill already, I do mean it.

Mr V L SOLOMON

- This is a Bill which will have far-reaching consequences, because it will affect thousands of our civil servants, and if we spent another week or two over the Bill it would not matter. It would be very much better that we should do that than adopt the suggestion of some honorable members, who appear rather tired of the Bill, and anxious to get rid of it by sending it up to the Senate, leaving the members of that House to gather from our debates an idea as to the defects of the measure. I see no other course open to me than to move -

That the standing orders be suspended in order to enable a motion for the recommitment of the Bill to be moved.

Mr CONROY

- I second the motion.

Mr Watson

- I am sorry that a mistake has been made. The ordinary understanding as to the application of - a standing order of this description is, that where no amendments have been made in committee, a third reading may be taken at once, because there is no likelihood of objection being raised to that course, owing to the fact that no amendments have been made ; but that where amendments have been made, time shall be allowed for the reconsideration of the measure before the third reading is taken. The construction which has been put upon the standing order by you, sir, is opposed to the practice of some of the State Legislatures at least. There the motion that a Bill be read a third time is just as susceptible of amendment as any other motion. I have no doubt that your interpretation of the standing order, Mr. Speaker, is the correct one ; but if the standing order is adopted permanently, honorable members will be in this difficulty, that they will not know when the proper time has arrived for moving an amendment, inasmuch as no motion will have been stated from the Chair. It is not in order for an honorable member to move an amendment, unless the motion which he proposes to amend has been stated from the Chair.

But from the construction you put upon the standing order, it would appear that a member should move an amendment upon a motion which has not been stated from the Chair. I understand you to rule that the words " before motion made " mean before the order of the day has been stated from the Chair. If that is so, a member must get up and move an amendment upon a motion which is not before the House. If, on the other hand, the words mean before the motion is finally put to the House, and after it has been stated from the Chair, the motion is susceptible of amendment - and that would appear a sensible view to take - and honorable members have a perfect right to move now the omission of all the words after the word " be," with a view to providing for a recommittal. If the words " before motion made " are to be construed to mean before a motion is stated to the House, it seems to me that it will be necessary to alter the standing order so as to give honorable members a better opportunity for moving an amendment.

Mr SPEAKER

- Does the honorable member submit those remarks as a point of order ?

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Mr Watson

- I should like your opinion, Mr. Speaker, upon the point I have submitted.

Mr REID

- I understand that the motion now before the House is -

That this Bill be now read a third time.

While deferring with the utmost respect to your decision, Mr. Speaker, I would suggest, entirely for your consideration, and not with any desire to dissent from your ruling, that since we have fallen into a practice which is not the practice provided for by the standing order, honorable members should be allowed the rights which may seem to accrue from the position. The standing order not having, been acted upon in reference to the motion now before the House, I think it is only equitable that this state of things should be allowed a further operation. If you gave effect to the standing order, you would not allow the motion to be put ; but, having regard to the convenience of the Government, and the fact that there has been a long discussion, you are not giving effect to it. Consistently with that decision, I want you to follow the position to its equitable conclusion, and to allow honorable members to move for the recommittal of the Bill. It seems to me that as the standing orders have been set aside, it would be equitable to give an opportunity to honorable members to move the recommittal of the Bill. We should have had the opportunity if the standing orders had not been set aside. For reasons of convenience you have not enforced the standing orders, and I bow to your decision in that respect; but I suggest that, having set them aside, you should give effect so far as you can to the Parliamentary right of honorable members to move the recommittal of the Bill. We must be either under the standing orders or not under them. I do not see that we can be under the standing orders in one respect, and not under them in another : nor do I think that we can put the standing orders aside to save the time of the Government and not put them aside to save the rights of the House. If we did so, your decision will have this unhappy effect, that the standing orders will have been set aside in the interests of the Government to the injury of the rights of the House. Having set aside the standing orders in the interests of the Government, I think you should go a step farther in the interests of the House, and allow honorable members to exercise their ordinary rights. The logic of the position seems to be that it would not be right to put the standing orders aside in favour of the Government, and not put them aside in favour of honorable members.

Mr E SOLOMON

- I understood the Minister for Home Affairs to say that he has had the Bill under consideration for something like three weeks. Notwithstanding that, I think it is best to turn it out in proper form.

Mr SPEAKER

- The honorable member can only speak to the point of order.

Mr E SOLOMON

- I shall support the motion for the suspension of the standing orders.

Mr JOSEPH COOK

- I should like to emphasize what has been said by the leader of the Opposition. With regard to the statement about the speeches which have been made this afternoon; I should like to say that those speeches were made under the belief that honorable members had no other course open to them..

Mr SPEAKER

- Is the honorable member discussing the point of order?

Mr JOSEPH COOK

- Yes. I wish to urge you to allow us to do what we desire to do. In reply to the objection that there has been a long discussion this afternoon, and that therefore it would not be right to open up the subject de novo, I wish to say that I took the point of order the moment I discovered it. If I had desired to prolong the debate I might have allowed a number of other speeches to be made before taking the point of order. It seemed to me that our rights should be restored to us and that we should be placed in the position in which we should be if no discussion had taken place at all.

Sir William Lyne

- Certain statements have been made by one or two honorable members which are really inaccurate. They have said that they have not had an opportunity to move the recommittal of the Bill ; but they had that opportunity on the motion for the adoption of the report, and it was then that I anticipated that the motion for the recommittal of the Bill would be made. I did not hurry the adoption of the report, and I endeavoured to find out if honorable members who I knew had amendments to move wanted to move the recommittal of the Bill ; but no one gave me the slightest hint that the recommittal was wanted, and I took it for granted that no motion for the recommittal would be made.

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Mr JOSEPH COOK

- The honorable members to whom the Minister refers are not here to-day, under the belief that there would be no motion for the third reading.

Sir William Lyne

- The honorable member cannot make me believe that. I heard Mr. Speaker put the motion for the third reading, and I concluded that when the debate finished that motion would be agreed to. Nearly two-thirds of the members of the House have spoken to-night on this motion, and to allow another discussion and a repetition of everything that has been said would be very unfair. Had the recommittal of 'the Bill been moved, I should have opposed it, but I did everything I could to provide an opportunity for the moving of it.

Mr SPEAKER

- The honorable member is not discussing the point of order.

Sir William Lyne

- I understood that everything was in order. If you, sir, desire that an opportunity should be given for the recommittal, I shall not object to take any course which you may suggest.

Mr SPEAKER

- Practically three points of order have been raised by the honorable member for Bland. In reply to his remarks I wish to say in the first place that we are working under standing orders which are equally new to us all, because they are not the standing orders of any one of the State Legislatures. The more one looks at Standing Order 183, the more remarkable it appears. Under that standing order, after the course which has been taken this afternoon, a further day would be required for the third reading; but if the Minister had chosen to consent to a recommittal, and no amendment had been made, then on the motion for the adoption of the report from the committee, the motion for the third reading could have been put. The third point I wish to mention is that no substantial injustice has been done to the House, because the opportunity for recommittal was given this afternoon, and was not availed of by any honorable member, though there were practically as many honorable members present then as there are now. No substantial injustice having been done to any one, there is no course open to me but to allow the debate to proceed. In the future, however, the strictest reading of the standing orders will be insisted upon.

Mr Watson

- Do I understand the Minister for Home Affairs to agree to allow an opportunity for recommittal ?

Minister for External Affairs

Mr BARTON

. - I think a course may be taken which will result in substantial justice - not that I admit that anything but a nominal injustice has been done. In order that there may be no cause for complaint, I think that we may agree to the motion for the suspension of the standing order, and then the Minister in charge of the Bill may use his own discretion as to whether he will consent to a recommittal.

Mr Conroy

- He has already said that he will not.

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Mr BARTON

- I think that the Government had better offer no objection to the motion for the suspension of the standing orders, especially as I feel clear that such a course will be acceptable to you, Mr. Speaker.

Mr. REID

(East Sydney).- I think the course which the Prime Minister has suggested will be satisfactory to every one. The Ministry will then have definite proposals before them, and can decide on the merits of the proposals made.

Question resolved in the affirmative.

Mr. V.

L. SOLOMON (South Australia). - I beg to move -

That this Bill be now recommitted to a committee of the whole House.

According to several honorable members there are many matters which are not clearly expressed in the Bill, and which have not been dealt with as suggested by honorable members during the debate on the second reading, and as promised by the Minister. For myself, I will deal with only one particular point to which the attention of the Minister was called while the Bill was in committee by the honorable members for South Australia, Mr. Batchelor and Mr. Poynton. While in the Bill there are clauses which conserve the whole of the rights which transferred officers have under the laws of the States they formerly served, there are no clauses making provision for officers transferred from some States - I speak especially of South Australia - who have been virtually and actually permanent officers, with services extending over a long period of years, but who, owing to want of thought or neglect on the part of their several Governments, have not been placed in the position of permanent officers. While the honorable member for South Australia was speaking, I, knowing he had been in charge of the Post and Telegraph department of South Australia, asked him whether it was not true that a large proportion of the officers in that department, who had served for long periods, were still provisional and temporary officers. In reply, the honorable member said, I think that 70 per cent, of the officers in the Postal and Telegraph department in South Australia are in the position of provisional and temporary officers, although many of them have served from eight to twenty years.

Sir William Lyne

- That question was debated, and honorable members were informed that these men would have their rights, and that they would not be taken over as temporary officers.

Mr V L SOLOMON

- That is exactly the position I want to point out to the Minister. I admit the question was debated and that we were informed something would be done to conserve the rights of these men ; but I have searched through the Bill and I cannot find any provision in that direction. On this point I appeal to honorable members not to send this measure, which affects the best interests of civil servants who have been many years in the service of a State, to the Senate in an incomplete condition, without any provision whatever--

Sir William Lyne

- That is not correct.

Mr V L SOLOMON

- I cannot see any provision in the Bill conserving the rights of men who are provisional and temporary officers. I will stand corrected if the Minister can show me such a clause. So far as I can see, these men who have served fifteen or twenty years, and are virtually permanent officers, come over to the Commonwealth as provisional and temporary officers, liable to be dismissed at a week's or a month's notice. That is not fair to a large body of men, numbering several hundreds in the State of South Australia, whose position should be just as much recognised as that of the young ladies employed in the Telephone department, and as that of a great many other civil servants has been recognised and made secure by honorable members on the Government side of the House, and on the Opposition side, also. I do not blame honorable members for one instant for looking after the interest of every branch of the service. The promises which were given by the Minister in charge of the Bill, I understood to mean that before the measure was completed in committee, or before we came to the third reading, there would be some reasonable provision inserted to conserve the rights of this large number of officers. The Minister's

attention was called to their position frequently, not only by members of the Opposition but by honorable members on the Government side of the House, among whom was the honorable member for South Australia, Mr. Batchelor. He is a gentleman who has occupied the position of Ministerial head of a Post and Telegraph department transferred to the Commonwealth, and he admits that there are about 70 per cent, of the officers in the department over which he had control who have come over to the Commonwealth without one single line in this Bill to protect them in the future. To trust the Commonwealth is a very good thing to do ; but I venture to think that the position of these officers was better as servants of the State of South Australia, where they were likely to obtain reasonable consideration of their just claims and rights, than it can possibly be under the Commonwealth, unless something is included in the Bill to meet their case.

Mr Reid

- What rights have temporary officers if temporary at the time of their being taken over?

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Mr V L SOLOMON

- That is precisely the point I want to put to the Minister: Attention was called to the fact that these officers had for many years served in South Australia under promises from various Governments that, seeing their terms of service were so long, they would, although classed as provisional and temporary, be recognised as permanent officers. The sole reason these men were kept as provisional and temporary officers was in order to prevent the demand year by year for certain increments, which were provided for permanent officers from the lowest to the highest. But they were promised a Civil Service Bill, which is now being considered by a Royal commission in South Australia, and they were promised that their rights should be decided by that commission. We now find, however, that these men are passed over to the Commonwealth before the decision of the commission can be made known, or their proper classification can be arranged by the Government. I admit that seeing that federation had been looming for two or three years, undoubtedly great neglect was shown on the part of those who were at the head of the Government in South Australia, in not taking care that officers likely to be transferred were protected and their position properly defined. But would it be fair, simply because of that neglect, for representatives of that State, who take an interest in these hundreds of officers, not to ask the Minister to insert some clause in the Bill to put them in the same position as officers who have been transferred from other States', and who do the same character of work, but who happen to be classified as permanent officers? Surely there is nothing inequitable in such a request, which forms one of my reasons for moving that the Bill be recommitted. I am quite sure the Minister will admit that, during the general discussion, this point was placed before him on more than one occasion.

Sir William Lyne

- Yes, and answered, if the honorable member had been listening.

Mr V L SOLOMON

- It was answered in such a way as to hold forth a promise that the matter would be dealt with before the Bill was completed.

Sir William Lyne

- -That is not correct - I said the point was covered by the Bill.

Mr V L SOLOMON

- And it has been pointed out over and over again that it is not covered by any clause in the Bill.

Mr Reid

- Where is there such a clause?

Mr V L SOLOMON

- I cannot find any clause in the Bill ; and I would like the Minister to show me any such clause. Clause 40 provides that persons may be employed to perform work of a temporary character, and sub-clause (3) of that clause states -

No person who has been temporarily employed in any department for six months continuously, or for nine months continuously where extended, as hereinafter provided, or for six months in the whole in any twelve months..... and so on. That clause deals with temporary servants, but I am not at all certain that the whole of the large number of employes to whom I specially refer at present in the service of the State of South Australia would come under that provision. I cannot see any clause in the Bill which provides for

officers transferred under the circumstances I have mentioned, whether their terms of service in the State may have been two years, three years, ten years, or 20 years. The whole system of this Bill is that these officers are merely taken over upon the terms under which they were serving the States previously. I ask the Minister, is it not a fair thing that we should have an opportunity of submitting a clause - which should have been drafted by the Government - to deal with a matter of so much importance to so many of our public servants ? I feel sure, from the remarks of several honorable members, that this is not the only point, by a great many, in which this Bill requires alteration and amendment. Several honorable members have suggested that they would like to see amendments in clauses, and I ask them to vote with me to recommit this Bill, not with a view to going right through the measure or to harass the Minister at all, but simply with a view to correcting any of those clauses which they think are faulty. I do this because I think that if we start on an important Bill like this by saying that because its proper discussion will occupy a few more days, we should hurry it on to the Senate. and trust to that Chamber to make important alterations, we shall be establishing a very bad precedent, and one which has been prolific of much trouble in the State Parliaments. I submit that there is ample reason for the recommitment of this. Bill.

Mr SPEAKER

- Does the honorable member intend to move the recommitment of the whole Bill?

Mr V L SOLOMON

- Yes.

Mr. REID

(East
Sydney).

- If a proposition of that sort is put before the House I do not see how any honorable member can vote for it. Does the honorable member not intend to move for the recommitment of certain clauses?

Mr V L SOLOMON

- I want to reconsider clause 40.

Mr REID

- I suppose that the honorable member will be allowed to put his motion in order ?

Mr Barton

- It is in order.

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Mr REID

- Yes. But I mean to put it in sensible order. Honorable members may laugh, but they will stand the utmost absurdity from their own side of the House with very grave faces. I have seen many miracles of absurdity considered in that way by honorable members opposite. My observation is not intended to be offensive. The honorable member for South Australia, Mr. Solomon, desires, I think, to get at a certain matter in connexion with this Bill, and I am simply pointing out that as his proposition stands at present, it is not admissible. I do not think that any one could vote for it. But it is , not unusual to allow such a motion to be put right. I believe that it is unwise to make distinctions in these matters as to where honorable members sit, and it is unusual also.

Mr SPEAKER

- If the honorable member desires to withdraw his motion that the whole Bill be recommitted he can do so by leave of the House. The honorable member can then move his motion in some other form.

Mr V L SOLOMON

- I do not desire to withdraw the motion, but I wish to add to it the words "for the purpose of considering clause 40."

Mr SPEAKER

- The honorable member has moved that the whole Bill be recommitted. He cannot now amend that motion. He must either proceed or withdraw it.

Mr V L SOLOMON

- I ask leave to withdraw the motion.

Motion, by leave, withdrawn.

Motion (by Mr. V. L. Solomon) proposed -

That this Bill be now recommitted to a Committee of the whole House for the purpose of reconsidering clause 40.

Mr G B EDWARDS

- I move -

That the following words be added to the motion, " and that it be an instruction to the committee to reconsider clause 58."

Mr. H.

WILLIS (Robertson).- I move That the words "and clauses 43 and 60" be added.

Question. - That the Bill be recommitted for the purpose of reconsidering, clauses 40, 43, . 58, and 60 - put.

The House divided--

Ayes 17

Noes 38

Majority 21

Question so resolved in the negative.

Mr Conroy

- I would like to ask you, Mr. Speaker, whether, in view of your reading of Standing Order 183, the third reading of the Bill can be gone on with

Mr SPEAKER

- The question had been undoubtedly put from the Chair some time before the honorable member raised his point of order, and he has long since lost his chance of moving the recommitment of the Bill except under a suspension of the standing orders, which matter the House has just disposed of.

Original question resolved in the affirmative.

Bill read a third time.

CUSTOMS BILL

In Committee

(consideration resumed from 16th July, vide

page 2574) :

Clauses 232 and 233 agreed to.

Clause 234 -

Customs prosecutions may be instituted at any time within five years after the cause thereof.

Mr CONROY

- I think the time provided for in this clause is too long, especially when we remember the very heavy penalties attached to the slightest infraction of the Customs laws. I think three years is quite long enough to allow for instituting a civil prosecution. Of course criminal prosecutions can be instituted at any time, as there is no limitation of time in those cases. I therefore move -

That the word " five," line 2, be omitted, with a view to insert in lieu thereof the word "three."

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Sir MALCOLM McEACHARN

- I would like to see three years substituted for five, but I fear that such an amendment would clash with clause 203, which already provides for a term of five years. I think that it is a matter we may very well leave to the Minister.

Mr Kingston

-i think we had better keep to the term of five years as a matter of consistency.

Amendment negatived.

Clause agreed to.

Clause 235 -

All informations, summonses, convictions, condemnations, and warrants shall suffice if the offence or forfeiture is set forth as nearly as may be in the words of this Act.

Mr CONROY

- I, think this clause is unnecessary, as it is provided for in the Procedure Bill that the Government are going to bring forward.

Mr Kingston

- But we have not got that yet. This is a usual clause in Customs Bills.

Mr ISAACS

- Anyone would suppose from the wording of this clause that there were words in this Bill which would practically set out the forms of summons and informations for offences or forfeitures. I do not know whether the Minister means to make regulations which would supplement this provision or not, or whether he means that merely asserting that there has been a breach of any particular section of the Act would be sufficient.

Mr KINGSTON

- We shall follow as nearly as possible the wording of the Act, and if it becomes a question of evading duties we shall put it in the form of "evading the payment of duty payable upon such and such goods amounting to so much." We shall follow the wording of the Act as far as possible.

Clause agreed to.

Clause 236 -

No objection shall be taken or allowed to any information or summons for any alleged defect therein in substance or in form, or for any variance between such information or summons and the evidence adduced at the hearing in support thereof, and the Court shall at all times make any amendment necessary to determine the real question in dispute or which may appear desirable.

Mr CONROY

- The power taken under this clause seems to me to be too large altogether, because the alteration in the form of the information or summons, amounting, as it might do under this clause, to an alteration in substance as well as form, might be such as to provide for an offence entirely different from that first charged. A man might be charged with one offence, and come to the court prepared to meet it, and then find that he was called upon to answer for an entirely different offence.

According to this provision he would not be in any position to take objection. The fact that an information or summons is defective would not prevent the Customs authorities from going on afterwards ; but I do not think that they should claim to have a power that is denied to other people.

Mr McCay

-Under present practice the honorable member will find that the presentment after committals is often quite different from the charge made' in the first instance.

Mr CONROY

- I do not think that is the custom in New South Wales, and I do not think there is any necessity for a clause of this kind. A man might have no indication of the nature of the charge that he would have to meet, and he might come to the court with all his books, prepared to meet a certain charge, and then be called upon to meet a charge which might be entirely different in substance and form.

Mr HUME COOK

- Could we not trust the Bench to grant a remand in such a case?

Mr CONROY

- We might have done that ; but the Minister has declared that the courts cannot be trusted - that they cannot be trusted to take into consideration anything in mitigation of the penalties imposed under the Act. The moment that doubt is thrown on the administration of the courts - whether it be owing to a fear that it will be too lenient or otherwise - that administration is at once discredited, and such discredit has been thrown upon the courts by the Minister, possibly because they consist of unpaid magistrates. I shall move

-

That the words "in substance," line 3, be omitted.,

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Mr REID

-I believe that in almost any other deliberative assembly but this a matter of this sort would engage serious attention ; but I have tested the spirit and disposition of the committee already as to the powers that they propose the Minister shall have. I have found that the Minister is determined to break through all rules that surround persons charged with offences, and to turn them upside down in favour of the Customs authorities ; and, having found that to be the disposition of the committee also, I do not propose to take any further responsibility in connexion with this matter. I wish, however, to point out the odious

unfairness of this clause as compared with the clauses that the committee have passed.

Mr Higgins

- I rise to a point of order.

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Mr REID

- I admit that my honorable and learned friend is perfectly right. I do not wish, and I am not allowed, to reflect upon a decision of the committee. Therefore, as my language might be susceptible of that construction, I withdraw it at once. I admit that the rule is a very proper one, and that, however strong our ideas may -be, we should not indulge in any such expressions. I hope, however, that the committee will allow me to draw attention to this clause, and to the different way in which justice is meted out, according to whether the person who complains is a member of the public or a Government officer. It is quite conceivable that a man may have been seriously wronged by some act - probably well meant - of a Customs officer, and under clause 210 he has to give all sorts of notice before his right to go into court begins. Under clause 211 it is provided that -

Upon any proceeding instituted in pursuance of such notice, the plaintiff shall not be at liberty to advance any evidence of any cause of action except such as has been distinctly stated in such notice.

So that, we see that as far as the person who brings an action against the Customs authorities is concerned, he must give notice before he proceeds, and a certain interval of time must elapse, because it is provided that no proceedings shall be instituted against any officer until one month after the notice in writing has been given. A man, therefore, cannot bring an action against a Customs officer for anything done, however bad it may prove to be, without giving notice in writing, and without an interval of a month elapsing after such notice, and- there are certain other requirements to be met. Then he is bound down within the four corners of the words written in the notice, and if by some slip in the wording of his notice - perhaps owing to his not having had the advantage of legal advice - a man with the best action in the world would go down upon a technicality without the merits of his action being considered at all. When we come to the 236th clause, dealing with Customs proceedings against private citizens, we find an extraordinary state of things, as contrasted with what is provided for in clause 211. If Customs officers and members of the general public were treated alike I would not make these observations at all ; but we actually find that it is proposed that the Customs department may go absolutely away from the substance or form of the original charge and that the person affected by the alteration is absolutely powerless to make any valid objection. The Customs department can go quite away from the substance and nature of the charge. If at the last moment they find that they cannot prove it, they can shift their ground, and make a substantial difference in the charge. It would be a most praiseworthy thing if the clause simply provided for the curing of technical defects, but it goes further, and allows a substantial change of front upon the part of the prosecuting authority. I have already called attention to the extraordinary line drawn against private citizens and in favour of public officials, but no one seems to mind what becomes of citizens so long as the officials are protected. Perhaps this is due to the climate, or it may be one of the incidents of the fiscal policy of the country ; at any rate it runs rather strongly against the somewhat antiquated prejudices which people from other parts of the world hold with regard to what is fair in the administration of justice and the settlement of disputes between two parties engaged in business who may happen to differ. As a rule, if there is a policy tending in a certain direction both parties to proceedings get the advantage of it. But here, although a private citizen is tied down to his notice in writing, the prosecuting official can depart in substance from his information, and yet the court will be bound, however unjust they may consider the departure, to compel the person charged to meet the altered case, although they may allow him a certain interval in which to make his preparations for doing so. But let a private citizen break down on his written notice by a hair's ' breadth, and the Judge will have no power to cure the defect. We tie the hands of justice in favour of one class of persons and against another class of persons. I admit that certain provisions are necessary in Customs Acts for the protection of the public interest, but in this Bill we are asked to go a little bit too far. A private citizen must give a month's notice in writing before he can proceed to action, and if he alters his notice he must allow another month to elapse, while if he does not discover a defect in it until a gentleman learned in the law commences to tear it to- pieces, his whole cause' of action is gone.. While every honest Legislature wants to prevent the success of mere technical objections, it seems to me a very- serious departure from- the policy of our laws to prevent a Judge- from

quashing a proceeding when there is a substantial alteration of the charge which is brought before the court. I would not object if private citizen and public official were treated alike. No doubt neither the Customs officials nor the Minister who prepared the Bill wish to do wrong to any one, but we are apt in legislation of this kind to go too far in discriminating between public officials and private citizens. I feel that the two clauses which I referred to do not read together fairly. They will not be a credit to us as a legislative body. The words "in substance" should come out. But the committee seem to have taken the view that the suggestion is an idle one, and therefore I shall content myself with placing my protest upon record.

Mr McCAY

- If the interpretation which the leader of the Opposition has placed upon the words "in substance" be the correct one, there is a great deal of force in what he says.

Mr Reid

- What does "substance" mean? Can even a Ministerialist make it mean "something unsubstantial"?

Mr McCAY

- I have not tried to do so. The words of the clause are a defect in substance - not a variation in substance.

Mr Reid

- A defect is worse than a variation.

Mr McCAY

- I confess that I do not pretend to have thought out the whole of the possible effects of these words, but their intention is perfectly clear, and they are quite familiar.

Mr Kingston

- They occur in the Justices Act.

Mr Reid

- Then why not give private citizens the advantage of them too?

Mr McCAY

- I listened with the greatest attention to the diatribes of the leader of the Opposition against this star chamber method of procedure, but I would remind him that a very common illustration of it occurs frequently in our courts of summary jurisdiction, when it is found that an information discloses no offence, and the information is amended so as to cure that defect. But I have very great doubt whether any court would take the view that the words would permit the alteration of an information which discloses an offence, and upon which a man has been proceeded against.

Mr Reid

- Suppose a man was charged with having done something unlawful in regard to 50 cases of goods ex a certain ship, when as a matter of fact the act complained of has been done in regard to 50 cases of goods ex another ship. Would not such a defect in substance be remediable under the words in the clause?

Mr McCAY

- I do not think that such a case would be covered by the words "defect in substance." It would come under the words "variation between the information and the evidence adduced," which is the commonest thing in the world. There is a similar provision in every criminal code that I know of.

Mr Reid

- They must have different laws here, then, from the laws we have in New South Wales.

Mr McCAY

- The right honorable member will find practically the same provision in the English Criminal Consolidation Acts, and if the words are not in the New South Wales law, they would account for any favorable difference between the convictions in that State and other places, if there be any. I think that the proviso that variations between the information and the evidence shall not affect the substantiality of the issue is found in the criminal law of all English-speaking communities, and therefore it seems to me that the right honorable member's objections were founded upon a point which it would have been difficult for him to uphold before a Full Court. He speaks of clause 2.1 as something new.

Mr Reid

- My objection is not so much to that clause as to the difference between the two clauses-- to which I

have referred.

Mr McCAY

- All the clause- wall do is to prevent wrong-doers from escaping on mere technicalities, by the tearing to pieces of the information by the gentlemen of the long robe to whom the right honorable gentleman referred. No doubt if he were defending a man charged with defrauding the Customs he would be very-much assisted in his. defence if the- clause were not passed as it stands.

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Mr KINGSTON

- I am a little bit surprised at the- observations which have been made upon this clause, but I am rapidly approaching the time when nothing which proceeds from the other side will either surprise or shock me. The right honorable member made a tremendous fuss because an amendment was not made on a certain clause, but he was here when the clause was passed. Why did he not propose an amendment? The two clauses to which he has just referred deal with quite different subjects, and for each of them we have precedent after precedent in the statute-books of all civilized countries. One can find provisions for the protection of officers in all Acts relating to departments which are given considerable powers. Certain notice must always be given before action is commenced against an officer for something he does in the discharge of his official duties, and the person who brings the action is bound by that notice. If he were not so bound, what would be the good of the notice?

Mr.reid. - But why should not the Customs officials be bound by the information?

Mr KINGSTON

- One thing at a time. I do not think the leader of the Opposition can have forgotten the fact that this clause has been found in legislation of this character for many years.

Mr Reid

- I am not referring to this clause only ; there is a number of similar clauses.

Mr KINGSTON

- As to the words " in substance " I do not mind telling the honorable and learned member what he has forgotten to mention, namely, that a provision of this sort is more than half a centuryold.

Mr Reid

- If so, it is sure to be wrong.

Mr KINGSTON

- In Stone's Justices Manual we find -

No objection should be allowed to any information, complaint, or summons, for any alleged defect therein, in substance or form, or for any. variance between such information, complaint, or summons, and the evidence on the part of the informant ; but if such variance appear to the acting justices to be such that the party summoned has been thereby deceived or misled by it, the hearing may be adjourned to some future day.

I think there is a great distinction between the two classes of cases to which the right honorable gentleman has referred.

Mr ISAACS

- The Minister is quite right in saying that this is a matter of very old established legislation, but the provision is accompanied with other terms which the Minister might fairly adopt.

Mr Kingston

- That is about the adjournment. It goes without saying that there is power to adjourn.

Mr ISAACS

- No; I think it is necessary to add words in order to make sure that justice will be done.

Mr Kingston

- This is only permissive.

Mr ISAACS

- It is necessary where there is such a stringent provision as this that it should be accompanied with the safeguard that has always been attached to it. That is the case, certainly, in Victoria and it is also the case in New South Wales, where the English Act was adopted bodily.

Mr Kingston

- That they may adjourn ; they have power to do so.

Mr ISAACS

- I am going to move an amendment, using the word "shall" I offer this for the consideration of the Minister. The English section reads- . . . provided also that no objection shall be taken or allowed to any information, complaint, or summons, for any alleged defect therein in substance or in form, or for any variance between such information, complaint, or summons, and the evidence adduced on the part of the informant or complainant at the hearing of such information or complaint as hereinafter mentioned ; Now come the important words - . . . but if any such variance shall appear to the justice or justices present and acting at such hearing, to be such that the party so summoned and appearing, has been thereby deceived or misled, it shall be lawful for such justice or justices, upon such terms as he or they shall think fit, to adjourn the hearing of the case to some future day.

Although the words are "it shall be lawful," I take it a court would compel the justices to adjourn if they thought the party had been misled or deceived, and it is only fair play that it should be so. While I thoroughly agree with the Minister that he should have the clause there, it goes on to say that the court shall make amendments necessary to determine the real question in dispute, and I think we ought to add words which will give to the person who according to the very hypothesis, has not had proper notice of the charge, the full assurance that he will and must be fairly and justly dealt with. I will ask the Minister to consent to the following words being added to the clause -

And if any such defect or variance. . . . I add the word "defect" because it was held in an English case, in 1892, that the power to adjourn is only given where there is a variance and not where there is a defect, although that defect may have misleading consequences. Therefore. I propose to make the provision complete by adding the word "defect," and my amendment will read -

And if any such defect or variance shall appear to the court to be such that the defendant has been thereby deceived or misled the court shall upon such terms as it may think just adjourn the hearing to some future day.

I think that will meet all that is required.

TheCHAIRMAN. - It will be necessary for the prior amendment to be dealt with before the amendment suggested by the honorable and learned member for Indi is moved.

Mr. REID

(East Sydney). - I am sure the amendment suggested by the honorable and learned member for Indi will be a much more substantial way of getting what is wanted, and I would suggest that the prior amendment be withdrawn.

Mr. CONROY

(Werriwa).- In order to give the honorable and learned member for Indi an opportunity of moving the amendment he has suggested, I beg to withdraw my amendment.

Amendment, by leave, withdrawn.

Amendment (by Mr. Isaacs) proposed -

That the following words be added to the clause : - " And if any such defect or variance shall appear to the court to be such that the defendant has been thereby deceived or misled, the court shall, upon such terms as it may think just, adjourn the hearing to some future day."

Mr KINGSTON

- I would ask the honorable and learned member for Indi not -to try and make this provision compulsory.

Mr Isaacs

- Make the amendment read - "it shall be lawful for the court."

Mr KINGSTON

- I would suggest that "the amendment be made to read -

But if the defendant has been misled or deceived by the variance or defect, the hearing may be adjourned.

An Honorable Member. - Who is to decide that?

Mr KINGSTON

- The court, of course.

Mr Isaacs

- The Minister alters the word "shall" to "may."

Mr KINGSTON

- That is so.

Mr Isaacs

- Insert the words - "it shall be lawful for the court," and let the higher Court decide whether it means compulsory under the circumstances. I do not think it ought to be within the discretion of the court to refuse a man justice.

Mr. REID

(East Sydney).- The Minister admits that it is only a matter of phraseology. But I would point out that as the honorable and learned member for Indi has drafted the amendment, the court has to be satisfied first that the man has been deceived or misled. If the court does not arrive at that conclusion, it will not listen to the application for postponement, and it could refuse to adjourn under the words, because it could be said that the court was not satisfied that the man had been deceived or misled.

Mr Isaacs

- That is so.

Mr REID

- Surely the amendment would be more explicit than would the clause if the word " may " were used under which the Judge might refuse to adjourn without giving any reason. Under the words of the amendment, if the Judge felt the defendant had really been misled or deceived, he would have to adjourn, and I think properly.

Mr KINGSTON

- I do not think that the honorable and learned member for Indi means to provide that on showing any misleading or anything of that character, the hearing must be adjourned.

Mr Isaacs

- I do not think the court would take notice of a mere trifle.

Mr KINGSTON

- I suppose the court would not, and I want to give the court full power. I do not know whether the honorable and learned member is quoting from the statute. I am quoting Stone's Justices Manual, the very latest edition of which quotes Jarvis's Act of 1848, which says -

But if such variance appear to the acting justices to be such that the party summoned has been thereby deceived or misled by it, the hearing may be adjourned to some future day.

I want, as far as I possibly can, to have the benefit of any decisions which may attach to this clause.

Mr Isaacs

- Then do as I suggest, and use the English words " it shall be lawful.

Mr KINGSTON

- Why ?

Mr Isaacs

- Because the Minister wants the benefit of the decisions.

Mr KINGSTON

- I am quoting the words "may be adjourned."

Mr Isaacs

- Is the Minister reading the section or the note?

Mr KINGSTON

- It is section 1 of the Act of 1848, quoted on page 34 of Stone's Justices Manual.

Mr Isaacs

- The English Act uses the words "it shall be lawful." Here is the Act of Parliament.

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Mr KINGSTON

- Then Stone's Justices Manual is wrong, though it adorns the Parliamentary Library, and is the latest edition the 33rd edition, 1901.

Mr Isaacs

-I am reading from 11th and 12th Vict., chapter 43, section 1.

Mr KINGSTON

- It is the same section as that quoted in Stone's Justices Manual.

Mr Isaacs

- The words read by the Minister are, I see, only the author's digest of the section. "

Mr KINGSTON

- It is the same thing. I do not suppose that the honorable and learned member seriously contends that there is any difference between " it shall be lawful " and " may."

Mr Isaacs

- Why not use the English words ?

Mr Conroy

- There is a great difference.

Mr Isaacs

- I will omit the words in my amendment " the Court shall " and insert in their stead "it shall be lawful for the Court."

Amendment amended accordingly.

Mr KINGSTON

- It would be much better to use the words which I have already quoted. The words suggested by the honorable and learned member for Indi were all very well for 53 years ago, but those I propose are infinitely simpler ; they are the same in substance, and I ask the honorable member to allow me to have the clause as I propose.

Mr. ISAACS

(Indi).- If I thought there was no material difference I should not hesitate for a moment in acceding to the Minister's request. But I see a great difference. The Minister's words say " that if the party has been deceived," and what I want to point out is-

Mr Kingston

- It is for the court to find.

Mr ISAACS

- If the Minister desires, as he said he did, to have the benefit of all the decisions on the matter the closer we keep to the words on which those decisions have been given the better. I really think the words I suggest are well worn, well used, and well understood and that they carry out the object. I see no reason for departing from the words.

Mr KINGSTON

- I do not want to occupy unnecessary time upon a question of this sort. The words are so well worn that they have seen their day. The way in which they can be translated into modern English is to be found in the learned work to which I have referred. We have been trying to get this Bill through in 1901 shape, and do not let us put a blotch upon it from 53 years ago.

Mr Isaacs

- "Shall" is modern, and very effective.

Mr KINGSTON

- Do not let us mutilate the Bill.

Mr Reid

-Mutilate?

Mr KINGSTON

- If the words were those of the honorable and learned member for Indi, I should never dream of using an expression of that sort; but, dug up as they are from the statute book of 1848, I do venture to suggest that we can improve them, and the way in which I propose to improve them is in the form in which I recommend this clause to the committee.

The CHAIRMAN

- Does the honorable and learned member for Indi propose to withdraw his amendment?

Mr ISAACS

- I do not object to withdrawing the amendment if the Minister objects to the words "it shall be lawful." If I adhered to the strict justice of the case I should ask for the word "shall," for the simple reason that it is a condition that the court shall express its belief that the defendant has been misled or deceived. But I leave it to the words of the English Act out of deference to the Minister's desire to have the benefit of English decisions.

Mr KINGSTON

- I regard the words as a blot, but at the same time I want to get the clause passed, and, therefore, will accept the honorable and learned member's amendment.

Mr. REID

(East Sydney). - I wish to draw your attention, sir, to the difference which pervades a dispute as to drafting between the honorable and learned member for Indi and the Minister, and the way in which I am treated. I can never get a word in at any price.

Mr. CONROY

(Werriwa).- I should like to draw attention to how necessary it is that the amendment of the honorable and learned member for Indi should be carried. Clause 239 compels a defendant to go into the box. That is a very serious thing, and I think, therefore, that the amendment should be carried.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 237-

No conviction warrant of commitment or condemnation order or other proceeding matter or thing done or transacted in relation to the execution or carrying out of any Customs Act shall be held void quashed or set aside by reason of any defect therein or want of form and no party shall be entitled to be discharged out of custody on account of such defect.

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Mr CONROY

- In the mind of the Minister, evidently, any offence committed against the Customs is much more criminal than any other offence that can be committed. The- Bill has been framed somewhat upon those lines, but if- the Minister can show me any precedent for what is proposed in this clause, there may not be so much objection to it.

Clause agreed to.

Clause 23S-

No witness on behalf of the Minister or collector in any Customs prosecutions shall be compelled to disclose the fact that he received or gave any information or the nature thereof or the name of the person who gave such information, and no officer appearing as a witness shall be compelled to produce any reports made or received by him confidentially in his official capacity, or containing confidential information.

Mr CROUCH

- Will this not be tantamount to absolutely prohibiting any cross-examination of witnesses? I think that the Minister might consider the matter. I suggest that after the word "information," line 4, we should insert the words "to an officer in his official capacity." The clause recognises that information has to be given by a good many side channels, and sometimes it is very necessary that it should reach the Crown. It is' not desirable sometimes to force a witness to disclose the source of his information, as otherwise that channel would be closed in the future. As the clause now stands the main branch of cross-examination will be stopped.

Mr REID

- I was going to point out, very much as the honorable and learned member for Corio did, that surely in any investigation before- the court the person who is giving evidence as an informer should be open to cross examination. All our rules seem to be going by the board now. The right to cross-examine a man who appears as a witness against an accused has been conceded until now. But what is the most vital point upon which a man can be cross-examined ? Is it not his personal interest in the matter in dispute ? Surely the man who is an informer, and who expects to get a third of the penalty if the accused is convicted, ought to be open to cross-examination ? According to this provision, however, he could not be cross examined either by the accused or by his counsel. He could not be asked as to whether he is not- practically the principal in the prosecution, the person who set the law in motion, and who is to receive a substantial pecuniary reward if the accused is convicted. I put it to my right honorable friend-

Mr Kingston

- That is not in the clause. The right honorable- and learned member misunderstood it.

Mr REID

- I will read it again. The clause states -

No witness on behalf of the Minister or Collector in any Customs prosecution shall be compelled to disclose the fact that he received or gave any information or the nature thereof, or the name of the person who gave such information, &c.

The words I am speaking of are, " No witness shall be compelled to disclose the fact that he gave any information." Does the Minister mean to say that on the wording of that clause, the informer being in the witness-box, he could be asked "Did you give any information in reference to this proceeding. " ? Will my right honorable friend seriously contend that he could be asked that question under these words ?

Mr Kingston

- The right honorable and learned member is laying stress on the word "gave."

Mr REID

- Yes. If my apprehension is wrong, I am willing to surrender my view, but it seems to me that an informer would exactly come under these words as the person who gave the information. Surely the person- who gave the information would be the informer. He would be the person who led to the proceedings by giving the information, and would be entitled, if the prosecution were successful, to one-third of the penalty imposed. We know that in all courts of justice these are matters which the "courts ought to have before them. Surely the court ought to be in a position to know these facts.

An Honorable Member. - Would this clause stop the ordinary admission of a witness ?

Mr Kingston

- No.

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Mr REID

- Then if it would not stop an admission, why should the informer be put in such a position that he can go behind this clause and refuse to give any information? If he refuses to give information and the question whether he is really not the principal in the prosecution cannot be asked for the purpose of the inquiry, he will be regarded by the .Ridge not as an informer at all, because there is no evidence that he is an informer, and the adjudicating authority must be guided only by the evidence. If the witness were asked, "Did you give the information which led to these proceedings being instituted"he would probably say, " I decline to answer a question of that sort ; you know that I am not compelled to answer it." That is not a position in which he should be put. It takes out of the hands of the person cross examining the material question of disinterestedness.

Mr A McLEAN

- He would not be telling the whole truth.

Mr REID

- The witness has sworn solemnly to tell the truth, the whole truth, and nothing but the truth, and now my right honorable friend is undermining even a sacred and solemn incident in a court of justice. It may be said that the mere fact that the witness refused to answer the question might be taken as a sort of admission.

Mr Kingston

- It would. Would it not ?

Mr REID

- Is it fair that the adjudicating authority should be forced by the exercise of its own reasoning to arrive at a fact which the person being tried is prevented from getting by way of cross examination? Should an adjudicating authority be put in that position ? I do not think so. The bulk of these cases I know will come before courts of petty sessions, where there is no jury; and we know that a prejudice is often found to exist in regard to informers. When the decision comes from the Bench there may not be the same delicacy in dealing with such matters that exists in other circumstances. I must say that I feel some responsibility in endeavouring to alter the clause

Mr McCAY

- I wish to ask if the clause as it stands would not cover a case of this kind : Supposing that a Customs witness in the box had given evidence that A had committed a certain offence, and he were asked in cross-examination, "Did you tell X that A did not commit the offence"? He must decline to say whether he gave the information; or what was the nature of the information. What would be done in a case of that

kind? In addition to that I would ask the Minister whether it is not a proper thing in Customs prosecutions, that all parties should know that a man is an informer, if he is one. Those who have heard evidence given by informers in Courts of summary jurisdiction, have sometimes known such evidence to be discredited, and the fact that the man is an informer may, in some cases very properly cause doubt as to the value of his evidence. Moreover, this is a doubt that the Court should have cognizance of. I take it that the Minister wishes to protect the Customs officers against the necessity of disclosing the names of the public-spirited citizens who may have given information about certain offences against the law.

Mr Reid

- I do not object to that; was referring to another question. If they kept informers out of the box there would be no harm in refusing to give information about them.

Mr McCAY

- No, there would be no harm; but I think the words "or gave" cover a good deal more ground than the Minister intends to cover, and it is a question whether, in view of the clause being capable of such a wide interpretation, the advantages that the Minister expects the department to derive would not be outweighed by the possible disadvantages that might be experienced in the administration of justice.

Mr Isaacs

- Is this intended to protect an employe who may have given information as to what his employer is doing ?

Mr KINGSTON

- Yes, amongst other things it is intended to operate in that way. No doubt the criticisms that have been directed to a part of the clause are fair enough, but the position is this : In customs prosecutions and in other classes of cases, however reluctant we may be, we have to avail ourselves of the assistance of informers, and their names should not be unnecessarily disclosed. I think that is a principle that is recognised everywhere. On the other hand, a man should not be permitted to step into the box and pose as an independent witness when he is to all intents and purposes an informer, and very possibly interested in the result of the case.

Mr Reid

- Yes, that is one trouble.

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Mr KINGSTON

- The question is whether the clause goes too far. As to the principle, it has been laid down by various high authorities that a witness cannot be asked, and will not be allowed to produce documents when such production may be prejudicial to the public interests, and it is desirable to put this provision within the four corners of an Act. Chief Justice Eyre has said : -

It is perfectly right that all opportunities should be given to discuss the truth of the evidence against the prisoner ; but there is a rule which has universally obtained on account of its importance to the public, for the detection of crimes that those persons who are the channels by means of which the detection is made should not be unnecessarily disclosed.

I am inclined to think, as at present advised, that we can strike out the words " or gave," and the name of the informer will not then be disclosed unless he chooses to go into the box.

Mr Isaacs

- Supposing he is compelled to go into the box ?

Mr KINGSTON

- If he is, well and good. If an informer is compelled to go into the box he will be in just exactly the same position as any other witness. The probability is that he would be called on behalf of the prosecution, and if he should be put forward as the means of sustaining a charge against a defendant, I think his character should be exposed. When, however, it is not a matter of credibility, but one altogether immaterial to the issue and simply a question as to where or from whom an officer obtained certain information, the position is different. I move -

That the words "or gave," in line 3, be omitted.

Mr REID

- I think the Minister should consider whether he is not by this amendment depriving a Customs officer of the right to refuse to disclose certain statements of his own to another Customs officer.

Mr Kingston

- That would not be evidence.

Mr CROUCH

- I think the Minister is going rather farther than we asked him to go, and that the amendment will affect the object of the clause very adversely. The amendment I suggested is, I think, preferable.

Mr O'MALLEY

- I am very glad that the Minister has agreed to the amendment, because as the clause stood it seemed to me that it was only legalizing blackmail. It is the duty of the Government to make it as easy as possible to do right and as hard as possible to do wrong, but this clause as it stood first would have made it easy to do wrong.

Amendment agreed to.

Clause, as amended, agreed to.

Progress reported.

INTER-STATE COMMISSION BILL

Second Reading

Sir WILLIAM LYNE

- I move-

That the Bill be now read a second time.

I feel that the task before me is rather a heavy one, especially in the presence of so many of my legal friends, who know more about the laws on which the Inter-State Commission Bill is based than I do. I intend, however, to speak, not from a lawyer's stand-point, but from the stand-point of common sense. I do not mean by that to say that most lawyers have not common sense. In view of the reports and articles, especially the leading articles, which have appeared in the daily press during the last week or two, since this Inter-State Commission Bill was placed before the public, one might feel disposed to reply in a great measure' to the criticisms which have been passed, and, to some extent, to omit reference to other parts of the Bill, which, to my non-legal mind, are just as important as are those which have been referred to in the press. In connexion with this matter I am struck by the unanimity of the press throughout the States. I would not for a moment suppose or wish to insinuate that there has been any common communication from any one centre to bring about this extraordinary consensus of opinion.

Sir Malcolm McEacharn

- The honorable gentleman sees that they have common sense.

Sir WILLIAM LYNE

- The ship-owners the honorable member means ?

Sir Malcolm McEacharn

- No, the press.

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Sir WILLIAM LYNE

- I think the shipowners have a lot of common sense especially when they fancy they are menaced in any way. That, however, is by the way. I am afraid I shall have to ask the House tonight to bear with me at any rate during a part of my speech, which I am afraid will be a little wearisome because I intend first of all to refer to several clauses in the Bill and also to the Acts from which they are taken. I do not mean honorable members to infer from that that all the clauses in the Bill are taken from these various Acts because there are one or two very important ones that do not appear at all, either in the English or in the American Acts. I wish to point out, in connexion with this measure, that we are instituting in Australia something that we are quite unaccustomed to, something that we have never had an opportunity - although the necessity has existed - of creating before, in the shape of an Inter-State Commission ; and I am not at all surprised to find that a section of the public take fright at something to which they are unaccustomed.

It is well known, I suppose, by a large number of honorable members that this is, no new thing, and those who took part in the Convention know that the provision for this Inter-State Commission was practically forced upon the Convention. The Convention was compelled to take the action it did in passing the provisional clauses in connexion with this commission.

Sir Malcolm McEacharn

- As far as the railways were concerned.

Sir WILLIAM LYNE

- Yes, and as far as shipping is concerned. I shall show, I think, before I resume my seat that it was clearly contemplated by the Convention that the control of the commission should extend to ocean carriage as well as to the railways.

Mr G B EDWARDS

- To the back door, as well as the front.

Sir WILLIAM LYNE

- Quite so ; and I am very glad to hear the honorable member for South Sydney refer to that, because it was not the State of New South Wales that was anxious for the establishment of the Inter-State Commission, but rather the other States ; and New South Wales had to bow, and did bow, to the wishes of the other States represented in the Convention. As I said, I shall commence by referring to a few of the clauses which are most important. Having been present at a gathering - at a very influential gathering - of ship-owners and others in Sydney I had an opportunity of hearing many of the objections -raised against the various clauses in this Bill. These objections extended to the Inter-State Commission having any power to investigate or to control any rates connected with shipping either coastal or external.

Mr BRUCE SMITH

- So far as the provisions refer to private enterprise the representations were limited to that.

Minister for Home Affairs

Sir WILLIAM LYNE

- Excepting His Majesty's ships of war there are no publicly owned ships here at the present time. New South Wales does not own any nor does Victoria, and, therefore, this must apply absolutely to privately-owned ships. The first portion of the Bill deals with the interpretation of various terms used in it. Great exception was taken to the interpretation of the words " common carrier." The definition given in the Bill is that - "Common carrier" includes the Railway Commission or Commissioners, and the persons or authorities controlling the railways, ferries, or other carrying agencies of the Commonwealth or of any State.

To my non-legal mind it appeared at first that this did not possibly apply to shipping, but I have since obtained a definition of the words " common carrier," which shows that this provision in the Bill is only an addition to the common law interpretation of the term, and that "common carrier" means - Every person who plies with a carriage by land, or a boat or vessel by water, between different places, and professes openly to carry passengers and goods for hire.

Mr V L SOLOMON

- Is there any interpretation of the term in the Interpretation Bill which we passed recently ?

Sir WILLIAM LYNE

- I did not follow that measure closely. I left it to my legal friends. This, however, is an interpretation that I have obtained in -addition to the interpretation of the term which is contained in the Bill. Great exception was also taken to the next expression " external and Inter-State commerce." I desire to point out to honorable members that that expression is taken from a United States Act-

The provisions of this Act-

I am quoting from the United States Act to Regulate Commerce - shall apply to any common carrier or carriers engaged in the transportation of passengers or property wholly by railroad or partly by railroad and partly by water -

Sir Malcolm Mceacharn

- That relates to the through rate.

Mr BRUCE SMITH

- In the United States they carry partly by rail and partly by water. First by rail, then over a lake, and then by rail again.

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Sir WILLIAM LYNE

- I shall come to that later on. I want to get through this particular part as soon as I can without wearying the House. The quotation continues - when both are used under a common control, management, or arrangement for a continuous carriage or shipment from one State or territory of the United States or the

district of Columbia, to any other State or territory of the United States, or the district of Columbia, or from any place in the United States to an adjacent foreign country, or from any place in the United States through a foreign country to any other place in the United States, and also to the transportation in like manner of property shipped from any place in the United States to a foreign country, and carried from such place to a port of transshipment, or shipped from a foreign country to any place in the United States, and carried to such place from a port of entry either in the United States or in an adjacent foreign country That is the clause as it appears in the United States Act. As my honorable friend says, I know that it applies to carriage by rail and carriage by vessels over lakes and rivers. I think it also extends to coastal carriage in connexion with the railways, but it does not extend generally to the coastal shipping. I wish to direct attention to the fact that in two reports issued by the Inter-State Commission of the United States they have pointed out that the very absence of the particular provision in regard to shipping that we have included in this Bill has caused great trouble there, and they are fighting hard to get it adopted. I have no doubt that the shippers are trying just as hard to prevent it. The Inter-State Commission state, at page 70 of their report for 1889, as published in Vol. I. of "Miscellaneous Documents of the House of Representatives" for 1889-90, that -

When the Congress was given power to regulate commerce among the States, railroads had no existence. To whatever extent the regulation so provided for was intended to include transportation or transportation charges, it must have had special reference to the then existing transport methods, which were mainly by lake, river, or coastwise carriers.

The regulation for which provision is made in the Act to regulate commerce does not apply to commerce as it was conducted when the power to regulate was conferred. The Act applies to water transportation only when "used under a common control, management, or arrangement for a continuous carriage or shipment," in connexion with a railroad, and as part of a line or route of which another part is a railroad, and leaves carriers engaged in transportation wholly by water independent of regulation. The exemption of so considerable a part of transportation from the operations of the law is a serious hindrance to the regulation of that which the Act includes. . . . These are some of the effects of unregulated water transportation. Its usefulness must not be in the least impaired, but it is both expedient and just that it should be so far regulated as to prevent its demoralization of other transportation. This requires carriers by lake, river, and coastwise to publish and maintain tariffs as do carriers by rail, and be alike subject to the general provisions of the Act.

Only one of the five great lakes on our northern border is wholly within our territorial limits, but upon all the fluctuations of unregulated rates and charges are so frequent as to create confusion and uncertainty in charges on railroad traffic.

Then the report goes on to point out that on these lakes there are 200,000,000 tons of shipping. That was the capacity for the season, so that honorable members will see that these lakes are really inland oceans, and the carriage over them is immense.

Sir Malcolm McEacharn

- Does the passage which the honorable gentleman has quoted appear in the report for 1889 1

Sir WILLIAM LYNE

- In the report for 1889. I only give these- short extracts in order to show that although not included in the United States law as it stands now, there- is a very great effort being made to get this provision imported into it, and strong reasons are given for its adoption. I intend to quote- now from the report for 1893, where a similar reference is made.

Mr BRUCE SMITH

- Does not the Minister see the distinction 1 They point out that the absence of control over outside shipping prevents them from carrying out the objects of the Act which are included in the Act.

Sir WILLIAM

LYNE__ And that it demoralizes their action in connexion with the railways.

Sir Malcolm McEacharn

- Is it not extraordinary that this has been going on since 1889 1

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Sir WILLIAM LYNE

- If the honorable member will allow me to proceed we shall get on much better. The report sets forth -

Congress did not see fit to include carriers operating upon the lakes within the provisions of the Act to regulate commerce, except so far as they may engage in connexion with railways in the transportation of Inter-State traffic "under a common control, management, or arrangement for a continuous carriage- or shipment" over a route "partly by railroad and partly by water."

The partial, regulation thus imposed has not failed to result in considerable uncertainty and confusion, and obviously offers opportunities for evasions and subterfuges, contrary to the spirit and intent of the statute. The attention of Congress was called to this fact by the commission in its Third Annual Report, page 7, as follows : - " The exemption of so considerable a part of transportation from the operations of the law is a serious hindrance to the regulation of that which the Act includes. "

These statements appear at page 59 of the commission's report, as published in Volume II. of " Miscellaneous Documents of the Senate" for the year 1893-4. There are many other passages which I could quote, but I will not refer to them further. I have simply read these extracts in order to show that there has been a strong desire expressed that this provision should be included in the United States Act, and reasons are given why shipping should be included within the definition of a common carrier. They do not go to the same extent in Great Britain, but I should like to say that the commissioners and the board in Great Britain are placed in this position, that they can deal finally, I think, with nearly all cases that they are instructed to supervise. In the United States, however, the commission can only report. It is not given the power of absolute decisions. It is not a court of record in the same way as is the commission in Great Britain, or as it is proposed that the commission shall be here. In Great Britain the law goes this far ; that in section 28 of the Railway and Canal Traffic Act 1888 it is provided that -

The provisions of section 2 of the Railway and Canal Traffic Act, 1854, and of section 14 of the Regulation of Railways Act, 1873, and of any enactments amending and extending those enactments shall apply to traffic by sea in any vessels belonging to or chartered or worked by any railway company, or in which any railway company procures merchandise to be carried in the same manner, and to the like extent as they apply the land traffic of a railway company.

Honorable members will see that, in Great Britain, this provision is extended at least to all that shipping which is connected either directly or indirectly with the railway companies. Then, again, in regard to harbours, section 30 of the Railway and Canal Traffic Act, 1888, provides that -

Any port or harbor authority or dock company which shall have reason to believe that any railway company is by its rates or otherwise placing their port, harbor, or dock at an undue disadvantage as compared with any other port, harbor, or dock, to or from which traffic is or may be carried by means of the lines of the said railway company, either alone or in conjunction with those of other railway companies, may make complaint thereof to the commissioners, who shall have the like jurisdiction to hear and determine the subject matter of such complaint as they have to hear and determine a complaint of a contravention of section 2 of the Railway and Canal Traffic Act 1854, as amended by subsequent Acts. It will be seen, then, that in Great Britain they have come up to the verge of ocean-going ships, and that they have a law, which has been in existence for a great many years, under which the railway companies cannot have their ships and carry their goods at preferential rates, or carry goods on any other ships under preferential rates. They cannot carry anything on their railways at rates against any individual, or as against any harbor authority without the consent of the railway commissioners. The same thing exists in the United States of America.

Mr Higgins

- And our States are all coastal, and the population is chiefly on the coast.

Sir WILLIAM LYNE

- Yes. I refer to this matter in order to show the reason why this clause has been worded in the way in which it appears in the Bill. Later on I shall refer to the discussion which took place in the Convention upon this matter, and to one or two other matters which refer specially to the word " external " as against Inter-State commerce, because a large part of this dispute relates to our external commerce. The other part, the coastal trade, is very nearly akin to our railway traffic; but as regards the external trade I shall refer to that later on.

Mr BRUCE SMITH

- The Minister loses sight of the great distinction which cuts under his whole speech, namely, that the whole of the laws in England are to regulate the monopoly of the railways, which is quite different from

sea traffic.

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Sir WILLIAM LYNE

- I was going to say, when I read an extract from the report of the commission in the United States, that there, it is said, the law was brought into existence -before there was a railway, and was therefore passed without considering what would be the effect, or has been the effect, of railway companies since. The idea was to regulate the general internal traffic of the States, and to a great extent the external traffic. But as to the interjection of the honorable- and learned member for Parkes, I think I must be like my friend, the Minister for Defence, and go on without paying -too much attention to interruptions. The second part of the Bill creates the Inter-State Commission, and that part largely follows the course which has been adopted in the United States. I have heard those who say that we should not follow the example of that country. But I would ask what better example, or what other example, have we to follow ? We to a very large extent followed the United States in our Constitution Act. If we can find anything good, or find good parts, in the United States Constitution to take an example by, and we find that under that Constitution they have created an Inter-State Commission to protect their States and to protect companies because the Inter-State Commission in America is not only to protect States, but also to protect individuals from being improperly dealt with, and unduly, and unjustly charged - then I say we must look to the past history of the United States to give us the greatest information. That is the reason we have gone so often to the United States in connexion with this matter. In the United States they have, I think, five commissioners, and so far as I can gather these commissioners are paid £1,500 a year. We propose three commissioners, one of whom, as our Constitution Act provides, must belong to the legal fraternity. That is quite right so long as the legal member does not overshadow the other two. My impression of a good InterState Commission, especially if shipping comes in, is that it should be composed of the best men that can be obtained, and that we require a legal man, a business man, and a railway man.

Mr Higgins

- The Bill is kinder to the lawyers than the Constitution Act, because there is nothing in the Constitution Act providing that a lawyer must be a member of the Inter-State Commission.

Sir WILLIAM LYNE

- At any rate, that is the provision in the Bill ; but we think a great deal of the lawyers - there are so many of them in the Cabinet. When we come to clause 7, which provides for the salary of the commissioners, I shall propose to give a higher salary, at any rate to the chairman, than £1,500 a year.

Mr O'Malley

- That is high enough.

Sir WILLIAM LYNE

- I do not think 30. This is an appointment for seven years ; but at the expiration of that time an alteration can be made, and other officials appointed, or if the railways are given over to the Commonwealth; and it is thought desirable, we can get rid of the Inter-State Commission ; but in the meantime we want the very best men that can be obtained. The most important clauses, and those to which I shall mainly refer, are in Part 3 and Part 5 of the Bill. Part 3 deals with the regulation of commerce, and to clause 15, which deals with rates and preferences, great objection was taken by the deputation to which I have referred. The clause reads -

All rates fixed or made by any common carrier -

For any service rendered in respect of external or Inter-State commerce ; or

For the receiving, delivering, storage, or handling of goods in connexion with external or Inter-State commerce ; or

which affect external or Inter-State commerce, shall be reasonable and just, and every such rate which is unreasonable or unjust is hereby prohibited.

That clause is taken from the United States Act.

Mr BRUCE SMITH

- As applied to rail ways.

Sir WILLIAM LYNE

- As applied to railways and shipping connected with railways. The United States law, as I say, was the inspiration for that clause, and though it does not apply to coastal shipping, I will show, I think, before I

resume my seat, that the provision is seriously necessary, seeing that, as the honorable and learned member for Northern Melbourne has said, . each of our States has a coastal line, and the coastal shipping is very much in the same position as railways, though not under Government control. Clauses 16 and 17 deals with undue preferences upon State railways and rates necessary for development, and the words are merely in accordance with the Constitution Act. I shall not attempt to interpret what these clauses mean. I think there was some doubt in the Convention as to what they meant, and they will have to be interpreted, I have not the slightest doubt, by the High Court before very long. Another clause objected to was clause 18, which deals with equality of charges under similar circumstances. That clause is taken from the 8 and 9 Vice., chapter 20, section 90, and also from the United States Act. I shall not read the provisions of those Acts ; but the wording of the clause is almost the same. Then we come to clause 19, which provides that undue preference is not to be given. Great exception was taken to this clause. I do not say it is true, but I have often been told, and I believe it is true, that extreme preferential rates are given in connexion with shipping companies, and that the discount in some cases amounts to a very large percentage of the whole freight.

Sir Malcolm McEacharn

- It is utterly untrue.

Sir WILLIAM LYNE

- I told some of the shippers whom I met that if they would confidentially give me any information on that score I should be much obliged. I know what is stated; but, of course, I cannot know whether it is true.

Mr BRUCE SMITH

- Does the Minister know that in England 95 per cent, discount is given on files?

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Sir WILLIAM LYNE

- If that were given to every one alike, there would be no complaint ; but when it is given to one and not to another, then it should be stopped.

Mr BRUCE SMITH

-Is the Minister going to legislate against liberality ?

Sir WILLIAM LYNE

- I always have been liberal, so far as I could be. Now we come" to clause 21, which is known as the " long and short haul clause," This provision is strongly objected to by shippers ; I suppose for the reason that under it a shipper will be prevented from taking a cargo, say from Melbourne to Newcastle and back to Sydney, for less than he would take it straight to Sydney. This provision will also apply to the railways. A short time ago, when a preferential rates fight was being waged, goods could be brought from Sydney to Wagga and back to Junee for less than they could have been taken straight to Junee. That was done repeatedly by storekeepers. The clause is to prevent goods being carried a longer distance past a certain place and back to it more cheaply than they could be carried straight there. I believe I am right in saying - perhaps the honorable member for Melbourne will correct me- -that at the present time freights from and to Melbourne, from and to Adelaide, and perhaps from and to Fremantle, are cheaper to ports north of Sydney than to Sydney.

Sir Malcolm McEacharn

- That is not correct. If the Minister comes, to me, I will give him correct information.

Sir WILLIAM LYNE

-I had the information from a gentleman who belongs to one of the shipping companies, and who told me that rates from Newcastle, south are cheaper than from Sydney south in a great many cases.

Mr Thomson

- Why should that not be so if the ship earns more money ?

Sir WILLIAM LYNE.- If we do not interfere with the practice, shippers will still have a perfect right to make these differences. But why. should the railway commissioners carry goods from Sydney to Wagga and back again to Cootamundra for less than they charged. to take them straight to Cootamundra? .

Mr Thomson

- Because the trains do not earn more money by that arrangement.

Sir WILLIAM LYNE

- If a lower freight is charged, how can more money be earned? . '

Mr BRUCE SMITH

- It will have to be shown that shippers have an interest in giving one State an advantage over another.

Sir WILLIAM LYNE

- I will come to that point presently, if the honorable and learned member will wait. Clause 22 is another clause to which great exception was taken. . I do not know why that should be so, unless it was thought that the Government intend to compel carriers generally to carry all indigent persons, paupers, and others for nothing. " A similar provision is, I think, in the English Act, and it is in the United States Act, where a reservation is made by the Government that certain persons and certain goods shall be carried free. The power, of course, is not to be abused, but is to be used in connexion with the poorer classes of persons, sub-clause (b) of clause 22, providing that -
Nothing in the Act shall render unlawful the free carriage of destitute persons transported by charitable societies' or by State or municipal governments, and the necessary agents employed in such transportation.

Sir Malcolm McEacharn

- The only objection to that clause is the carrying of distinguished visitors, which is unfair.

Sir WILLIAM LYNE

- Do not the shipowners carry distinguished visitors now ?

Sir Malcolm McEacharn

- No ; that is not so.

Sir WILLIAM LYNE

- I think they are generous in that respect.

Mr BRUCE SMITH

- It is a sprat to catch a mackerel sometimes.

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Sir WILLIAM LYNE

- Clause 23, dealing with facilities for traffic, was also objected to. That is taken from the Interstate Commission Act of the United States, section 3, and also from the Railway and Canal Traffic Act of 1854, section 2. That clause prevents the carrier, whether he be a shipper or the owner of a railroad, from refusing facilities not only for the carriage of traffic; but also for the removal of traffic ; because the reports of the Inter-State Commission of the United States point out that the question of quick transit is a very important one. Where there is a break in the transit the prevention of undue delay is of as great consequence as is the purchasing and paying for the goods. If we do not prevent a railway or shipping company from stopping goods at any particular point, and unduly delaying them there, it can give all the preference which ; it is possible to give, without coming under the provisions of the law. This clause is to prevent the possibility of such a thing taking place. One clause that is not taken either from the English or the American Act is clause 25. It is very important, and relates to the jurisdiction of the commission. I want just now, in passing - perhaps I shall come back to the point later on - to refer to the provisions which I have inserted in that clause to prevent any State from doing what has been done recently in New South Wales: In New South Wales, since the resumption of the wharfs by the Government, a certain wharfage rate has been decided upon by the Harbor Trust Commissioners. I have not had time to ascertain whether anything similar is done by the Melbourne Harbor Trust ; but if a vessel goes from any Inter-State port - say Melbourne, Adelaide, or Brisbane - to New South Wales, she has to pay a wharfage rate. A proclamation has been issued in New South Wales exempting all coast-line vessels trading within the waters of that State from the payment of this rate. That is to say, if a vessel loads at the Tweed and goes to Sydney she is not subject to any wharfage rate at all.

Sir Malcolm McEacharn

- The goods are liable to wharfage, surely.

Sir WILLIAM LYNE

- The wharfage rate that would have to be paid by vessels trading beyond the coast-line of New South Wales is not charged. If a vessel went from Twofold Bay to Sydney she would be exempt. If she started from any port this side of Gabo she would have to pay the rate, and if she started from Southport, which is on the other side of the Tweed Heads, she would have to pay it. I was not a strong advocate for the establishment of an Inter-State Commission, but the fact remains that after a long fight, and after three

sessions of the Convention had been held, we have embodied in our Commonwealth Constitution the provision that one State shall have no preference over another; I feel that whether it is New South Wales, Victoria, South Australia, or Queensland

Mr O'Malley

- Or Tasmania.

Sir WILLIAM LYNE

- Tasmania will take all she can get, I have not the slightest doubt. What I say is that there should be every provision made to prevent any undue advantage being given to one State as against another.

Sub-clause (c) is inserted to prevent any harbor trust or State Government giving any undue preference in regard to shipping, such as has been given in New South Wales recently.

Sir Malcolm McEacharn

- Can the Commonwealth cancel our Harbor Trust laws here?

Sir WILLIAM LYNE

- I think we can prevent the Harbor Trust here from doing anything which is in the nature of State competition against State. If honorable members will turn to the next clause and look at sub-clause (3) they will find the words -

The commission may declare the regulation, or any part thereof, to be ultra vires; and thereupon the same shall cease to have any effect.

That provision is intended to give effect to the power of making regulations under clause 25. I think that would apply to any harbor trust, if there were a violation of Inter-State rights.

Sir Malcolm; McEacharn

- If ships and goods are made free at the wharfs in New South Wales, can we compel the Melbourne Harbor Trust to make ships and goods free here?

Sir WILLIAM LYNE

-I think we could compel the Harbor Trust in New South Wales to keep their rates on. We could prevent them from reducing, by gazetted; regulation, in favour of New South Wales vessels the charge that is made upon other vessels. Clause 32 is not in the American, nor is it, I think, in the English Act. But it is a very just clause. It states -

The commission, in any matter in which it has jurisdiction, shall have power to grant, and shall grant, either absolutely or on such terms and conditions as may be just, all such relief as any of the parties thereto may be entitled to in respect of any claim properly brought forward by them in the matter; so that, as far as possible, all matters in controversy between the parties regarding the matter of complaint, or arising out of or connected with the matter of complaint, may be completely and finally determined, and all multiplicity of proceedings concerning any of such matters may be avoided.

That is a new clause which is inserted with a view of allowing the commissioners to do justice in many cases in which otherwise they might not have the power. Clause 33 gives the power to award damages. It is taken from 5.1 and 5.2 Victoria. It is not in the United States Act.

Mr Poynton

- Could one State get damages from another State?

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Sir WILLIAM LYNE

- The Bill would apply against the Railways Commissioners, and I suppose that it would apply to questions of State between. State. Clause 34 has reference to orders on two or more carriers. It is taken from section 1-4 of 51 and 52 Victoria, cap. 25. A weakness was found in the early days, both in the United States and Great Britain, in cases* where the goods were carried by two persons, in compelling the order of the commission to have effect on both when it had reference to the same goods. This clause is intended to confer a power similar to that given in the English Act. Clause 41 relates to appeals. An appeal can be made to the High Court only upon a point of law, not upon a question of fact. The next clause provides that the commissioner may state a case under certain conditions, if that course be necessary. These two clauses are taken from 36 and 37 and 52 and 53 Victoria. The clause of all that has created such a buzz is, clause 44. There is no doubt it is a very drastic provision, but I think it is one which will have to be passed if the Act is going to be of any effect. It is taken from the United States Act. It refers to the annual reports by carriers. No doubt it is an inquisitorial clause, but if the

commissioners had not the power to compel information on some condition such as that, the measure could be evaded, and their work would be almost absolutely nullified.

Mr O'Malley

- Would the commission have power to prevent the steam-ship companies from competing with the railways ?

Minister for Home Affairs

Sir WILLIAM LYNE

- I

do not think they would. I do not think that is intended, although it has been stated by the shipping companies that it would have that effect. I do not think it would as between railway- and shipping companies. But it will have that effect where any Inter-State matter is involved; whether it be on the rivers or on the ocean, in such cases the commission would undoubtedly have power to interfere.

Mr HIGGINS

- Is this information to be published ?

Sir WILLIAM LYNE

- According to clause 49 secrecy is to be observed, but without reading it very carefully I cannot say whether it applies to the particular point which the honorable and learned member has raised.

Sir Malcolm McEacharn

- According to the clause 45 the commission may give such information as they may think necessary.

Sir WILLIAM LYNE

- Yes. An annual report is required from the commissioners. The clause provides -

The commission shall once in every year make a report to the Minister, which shall be laid before both Houses of the Parliament within 30 days after the making thereof, if the Parliament be then sitting, and if not, then, within 30 days after the next meeting of the Parliament. The report shall contain a summary of the work done, and proceedings taken by the commission during the preceding year, and such information and data collected by the commission as it may deem of value for the determination of questions, connected with the regulation of commerce, together with such recommendations as to further legislation, as the commission may deem expedient.

I take it that these reports from the commission will be very much, on the lines of the United States reports: They do not go much into details such as those to which the honorable and learned member for Northern Melbourne alludes, but they deal with lump sums and amounts in a general way. But in the case of a company where a complaint has been made and investigation has proved something wrong in connexion with the rates, I question very much whether the commissioners would not conceive it to be their duty to give the information.

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Mr O'Malley

- They do that.

Sir WILLIAM LYNE.- They do that in some cases in the United States. Clause 46 is taken from 36 and 37 Victoria, and clause 47 is taken from the United States Act, where similar provisions are enacted with respect to joint rates by several carriers operating on continuous lines. In addition to the other penalties the carriers there are liable to a writ of mandamus. Part 6 of the Bill is headed "miscellaneous," and I do not think there is any necessity to refer to more than clause 54, which gives the commissioners power to make regulations. Now I wish to turn to another statement which has been so often repeated. It has been stated even, since I have been speaking - that the Federal Convention never intended the Inter-State Commission to deal with shipping. If honorable members will turn to page 1512 of the records of the Federal Convention session in Melbourne, they will find some very important information bearing on this matter. After the Adelaide session was over, and after - if I may be allowed to put it so - the ground work was laid for the future developments, we came to deal with this question again on the 25th February in

Melbourne, and to deal with it upon a clause which had been inserted in the draft Bill in Adelaide. The clause was No. 96 then, I am not quite sure what its number is now. The clause stated -

The Parliament may make laws constituting an Inter-State Commission to execute and maintain upon railways within the Commonwealth, and upon rivers flowing through, in, or between two or more States,

the provisions of this Constitution relating to trade and commerce.

I wish honorable members to mark the wording of that clause as it came up for consideration in Melbourne. When it was being considered later on at the Melbourne Convention, the Prime Minister said, among other things -

If it is necessary to give the Parliament power at all, Parliament should have that power in an unrestricted form so as to enable the Inter- State Commission to execute and maintain the trade and. commerce provisions generally.

Now, the powers of the Commonwealth with regard to trade and commerce, are, as some honorable members may know, set forth in section 98 of the Constitution, which provides that-

The power of the Parliament to make laws with respect to trade and commerce extends to navigation and shipping, and. to railways the property of any State.

There was a statement made that the InterState Commission should have power to deal with trade and commerce generally, and trade and commerce according to the section I have just read includes navigation and, shipping.

Mr Thomson

- Was the Prime Minister supporting or opposing the Inter-State Commission?

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Sir WILLIAM LYNE

- The honorable member will see in a few minutes the whole history of the matter from the stage when the clause was altered into its present form. The 99th section of the Constitution provides that-

The Commonwealth shall not, by any law or regulation of trade, commerce, or revenue; give preference to, one State or any part thereof over another State or any part thereof.

Returning to the record of the Melbourne Convention, the honorable and learned member for Bendigo, speaking immediately after the Prime Minister, said -

The clause as it. stands would restrict the operations of the Trade and Commerce Commission to railways and rivers only, whereas the powers of the commission should be applicable also to roads and ocean navigation between the various States.

That is what my honorable and learned friend said at page 1514. On the next page, the honorable member for Wentworth said -

I understand that one of its chief functions will be to interpret and adjudicate upon matters arising out of the trade and commerce provision.

That is not quite so emphatic as the previous statements, but it shows the bent of the honorable member's mind when the discussion was proceeding. Then the Prime Minister speaks again and says - I think the Interstate Commission should have some of the powers expressed in the Constitution in regard to water traffic.

Further on he says- .

We are about to say that an Inter-State Commission shall be appointed to execute and maintain the Commonwealth provisions relating , to trade and commerce. I understand that the general sense of the Convention-

And I wish honorable members to listen to this- is that the restriction as to railways and rivers should disappear ; that the Inter-State Commission should deal with commerce throughout the States without any restriction.

Now, that was after considerable debate had taken place, and that was the interpretation that was placed upon the debate by the leader of the Convention. He further says -

We are giving in the Constitution power to the Inter-State Commission to execute and maintain within the Commonwealth the provisions relating to trade and commerce.

It is clear, then, that the provisions we are inserting in the Constitution in relation to trade and commerce will be under the jurisdiction of the Inter-State Commission, and that is really all we want.

Then the leader of the Opposition speaks, and he is referring to what the commission . will have to look after if the railways are handed over by the various States. He says-

If the railways are taken over the rivers are left, and questions may arise of public roads, trade and commerce, generally, so that under any set of conceivable circumstances the Inter-State Commission is a body which will be useful.

That was on the question as to whether the

Inter-State Commission would be likely to be done away with in a few years. He says further - In the manifold ramifications of trade and enterprise of all kinds, and in the extension of business over more, than one colony, I feel sure that a number of matters are bound to arise.

Mr. Douglas refers to the matter in much the same terms, but I need not quote his remarks. Then the honorable member for Bendigo says -

I understood that the qualifying and limiting words with regard to railways and rivers were to be eliminated.

I do not know what could be stronger or more emphatic.

Sir Malcolm McEacharn

- That applies to rivers and railways.

Mr BRUCE SMITH

- There is not one of those quotations which refers to ocean-going steamers.

Sir WILLIAM LYNE

- I beg the honorable and learned member's pardon. The honorable and learned member for Bendigo referred to ocean navigation, and there is no doubt that right through the piece the whole foundation of the discussion was that the Inter-State Commission should have full control over everything relating to trade and commerce.

Mr Higgins

- Is there any serious doubt as to that having been the intention of the Convention ?

Sir WILLIAM LYNE

- All I can say is that I have had communications from a number of people. I have been told by those interested in shipping, and it has been stated in the press - I did not trouble to bring the quotations from articles which have been published in the papers not only in Victoria and New South Wales, but in South Australia - that it was never intended that the powers of the commission should apply to ocean navigation and shipping. That is why I am taking the trouble to show a justification for framing the Bill in the way that it has been framed. If my honorable colleague the Attorney-General, who I am sorry to say is absent through sickness this evening, and myself had left this provision out of the Bill, we should have been at once liable to be charged with not carrying out - or perhaps with directly opposing - the intention which is so strongly marked in the Convention debates in connexion with the Inter-State Commission.

Mr Higgins

- There was more talk about the railways, simply because they were the most difficult to deal with.

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Sir WILLIAM LYNE

- The honorable and learned member for Bendigo moved -

That the words "upon railways" be struck out

That was agreed to. He then moved -

That the words "and upon rivers flowing through, in, or between two or more States," be struck out

This was also agreed to. Then the right honorable member for Tasmania, Sir Edward Braddon, who was fighting against this at the time, and was objecting to what had been done, said in a most concerned manner

Now we discover that this tribunal has to deal with every possible matter relating to trade and commerce. The honorable member was objecting to the proposed powers that were to be given to the Commission, and fighting against them, but I quote what he said to show what his impression was. After the debate was over, the clause was brought up in the form in which it now appears in the Constitution, and it is entirely different from the clause I read, upon which that debate was based. It seems to me, therefore, that there can be no two opinions as to the intention of the Convention. After the foundation of the Commission had been laid in South Australia, mainly upon the reports of the Commissioners of Railways, and the statements made in the connexion with the rivers, the matter was allowed to remain in abeyance until after the meeting of the Convention in Sydney. Subsequently, at the Melbourne Convention, as I have shown by the speeches I have quoted from, it was clearly intended that the control of the Inter-State Commission should apply to trade and commerce generally, and I think I can claim for the Government that in proposing that shipping be included within the provisions of this Act we have only done what the

Commonwealth Act has directed us to do ; nothing more. Probably there are those who object to it, but we were compelled to make the submission to Parliament upon this matter as complete as it could be, and whatever alteration may take place, I do not think the House, or the country, or even the shipping community can blame the Government for the course they have taken. If the shipping community were asleep at the time, and they are not often to be caught napping, that is their misfortune, and they must not blame the Government for submitting the question in its most complete form, when we have received an absolute direction to submit it for the consideration of Parliament. I would like now to say a few words in reference to the necessity for an Inter-State Commission at as early a date as possible, if we are to prevent the state of things which has existed on our railways for so many years, and is existing at the present time. I hold here a statement which I believe is absolutely true, that preferential rates exist on the railways of Victoria and New South Wales at the present moment. I understand also - although I was unable to obtain the definite figures - that the rates charged on the steamers trading up and down the Murray are differential in the extreme in competition with the railways of both New South Wales and Victoria. Now, I wish again to say that in putting into the draft Commonwealth Bill provisions for an Inter-State Commission, we were not asked to do it by New South Wales. New South Wales, though perhaps it has not been to her commercial advantage, has proved that she can fight the other States with her preferential rates, but it was the object of the other States to prevent her from continuing to work her railways at these low rates, and continuing to take the trade, which, from its geographical position would otherwise go to Adelaide or to Melbourne. If this is to be carried into effect, then New South Wales is only agreeing to what was the determination not only of the Convention, but of the people of Australia. I find according to a report which has been supplied to me by Mr. Oliver, that -

The ordinary rate for third class goods from Melbourne to Echuca is for example, 7s. 7d. per ton, but on goods for places in New South Wales, north of an imaginary line from Jingellic, through Gerogery to Balranald, the rate is 3s. 4d. per ton, a reduction of more than 25 per cent. on the ordinary rate. Larger reductions are made to Balranald, the rate being 2s. per ton ; to Eusston and Mildura, 1s. 10s. per ton ; and to places on the Darling River, 1s. 2s. 6d. per ton, the latter being a reduction of 75 per cent. off the ordinary rate.

Similar reductions are made for certain special articles. For example, wool packs to the Darling River district are charged 11s 9d. per ton, the ordinary rate from Melbourne to Echuca being 19s. per ton for six ton lots, and 1s 5s. 6d. per ton for smaller lots.

In regard to wool it is much the same.

Mr. Oliver
reports that

Competition for the trade of the Lower Darling and the Lower Murray has always rested entirely between Victoria and South Australia, but as the New South Wales Railways approached the southern border, competition between the two colonies for the trade of Riverina became keener, until 1889, when a proposal (which had been made by New South Wales two years before) to increase the rates all round in each of the colonies of New South Wales, Victoria, and South Australia, was given effect to. Some time subsequently Victoria, after giving intimation of her intention, withdrew from the compact as far as the Darling River district was concerned, on the ground that South Australia was benefiting by the arrangement at the expense of Victoria.

New South Wales, in addition to having reduced rates between Sydney and the competitive districts, charges increased rates for wool conveyed by rail to Albury or Corowa en route to Melbourne, as well as upon general goods which come from Melbourne at reduced rates, but has made every possible effort to arrive at an arrangement which would be agreeable to all the States concerned.

In 1895 an agreement was arrived at between the Railway Commissioners of New South Wales, Victoria, and South Australia which would have practically put an end to the competition, but the Government of the day in Victoria refused to ratify the proposals.

Competition between the railways of New South Wales and Queensland was abolished about the middle of 1899 by an arrangement which was agreeable to both States.

So that there is no competition there now.

Sir John Quick

- Does the commissioner, say anything about the Hay railway?

Sir WILLIAM LYNE

- Yes. I am going to deal with the matter fully.

Sir John Quick

- Mr. Oliver seems to put it all on to Victoria.

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Sir WILLIAM LYNE

- I am going to give the whole matter fully. The report gives the following statement as to rates : -

Mr Clarke

- What does the word "competitive " mean?

Sir WILLIAM LYNE

- It refers to fighting rates.

Mr Watson

- The preferential rates in New South Wales, which are referred to in the report, are for goods entering into New South Wales territory.

Mr Isaacs

- Are there any secret rebates which are not mentioned?

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Sir WILLIAM LYNE

- I am giving the statement to honorable members as it is given to me by the commissioner. The woolpack rates are as follow : -

Now we come to the sugar rates. The report is as follows : -

SUGAR RATES

Mr Isaacs

- Is there any secret rebate which is not mentioned there?

Sir WILLIAM LYNE

- The report is pretty complete. All I want to show is what is being done at the" present time.

Sir John Quick

- Hear, hear; but give us both sides.

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Sir WILLIAM LYNE

- I am doing that. Now we come to fencing wire rates : -

Sir John Quick

- Has the Minister seen the report by Mr. Mathieson, formerly the Victorian railways commissioner ?

Sir WILLIAM LYNE

- Yes ; but I think it is the same. This can be analyzed ; and if it is not true, it should be shown to be untrue. It is given to me authentically, and no commissioner has a right to hand me what is an untrue report.

Mr McCay

- The honorable gentleman is only detailing the sins of Victoria

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Sir WILLIAM LYNE

- I am doing this in order to prove my case as to the necessity for having this Bill made law at an early date. The report continues : -

WOOL RATES.-

I have given these facts without any desire to shield one side or the other. We. are all here to represent every State, and I wish to give the best information that I can obtain in order to show the necessity which exists for carrying these proposals into effect. In regard to the Darling River and the Murray River barges, I have not obtained 'the rates which rule; but I know that preferential and differential rates do exist. During the past few "years the Railway Commissioners have annually sent up one of their officers to the Darling River before the wool season commenced, in order to make contracts with sheep-owners for the carriage of their wool to Sydney. They have had to cut their rates very low to compete with the cheap river boat charges, The Inter-State Commission will have the power, not only to deal with the barges on the rivers, and with the railways, but to deal with other carriers of wool and other products. If a man comes within the

meaning of the term "common carrier," no matter in what part of the country he may be, there is not the slightest doubt that, if we are going to carry this matter to a proper conclusion, the Inter-State Commission must have control over the whole of the carriers of the States. Where the shipping companies may come in, if they are not brought under this Bill, is in the competition as between State and State. It will be seen by the rates to which I have referred that the New South Wales charges are not as low for the whole distance, although perhaps lower on the mileage basis, as the rates are for the carriage of goods down the Darling, and from the Riverina country to Victoria. Produce from Riverina is carried down to Melbourne, shipped on board - steamers - perhaps being used as ballast - and taken round to Sydney and Newcastle at a lower rate than that at which it could be sent direct by rail to Sydney. In this way the freights for the carriage of produce from Riverina might be brought down as between State and State considerably lower than the railway rates. That is where the shipping companies would come in and interfere with Inter-State traffic.

Sir Malcolm McEacharn

- But we should have to charge 20s. or 30s. more for the carriage of produce to Sydney that way.

Sir WILLIAM LYNE

- I do not think so. If the honorable member will look at the rates he will see that the charge is 11s. 9d. from the Darling to Melbourne, and no doubt he would charge 10s. or 12s. 6d. a ton to carry the produce round from Melbourne to Sydney by one of his steamers.

Sir Malcolm McEacharn

- But it does not go to Sydney ; it goes to England.

Sir WILLIAM LYNE

- Some of it goes to Sydney. Produce also goes down the Darling to the river mouth, and is shipped from Adelaide in the same way. I know that produce is brought down from Riverina to Melbourne and shipped round to New South Wales, and probably to Adelaide, at a lower rate than that for which it could be taken direct on the railways.

Mr Thomson

- Does the Minister propose to make the producer pay a higher rate for the carriage of his goods in order to get this traffic for the New South Wales railways?

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Sir WILLIAM LYNE

- All I can say is, that unless the produce is brought down through Melbourne and round by water to Sydney, the whole of the Riverina trade will have to pay a higher rate than it has been paying for some time past. I take it that under the Commonwealth law there must be even rates. Goods from Melbourne to Hay or from Hay to Melbourne must be carried on the railway at the same rates as from Hay to Sydney and Sydney to Hay. If that be so, there must be a levelling up of the rates all round regarding Riverina, where the producers have had all the benefit of the fighting rates.

Sir Malcolm McEacharn

- Why should they not?

Sir WILLIAM LYNE

- I do not say they should not, but when we have a law for even rates the effect will be to level up rates. I have said so many times.

Mr Thomson

- For the information of the committee will the Minister say whether, if goods can be carried profitably and cheaper by water down the Murray, for instance, than by rail, he is going to force goods to come by rail at the higher rate?

Sir WILLIAM LYNE

- I can say. There are many things which will have to be decided by the High Court. I have not the slightest doubt that if we adopt the true principle of preventing Inter-State advantage, we must apply it to river steamers in the same way as to railways. What is the use of preventing railways from drawing trade from one State to another unduly, if we allow river and coastal shipping to do it.

Mr Harper

- Then it may prove a calamity to have a railway to a place.

Sir WILLIAM LYNE

-I scarcely think -that will be so ; but I . am showing, I think conclusively, that this must have been in the minds of the Convention during the debates from which I have quoted to-night: The Convention saw that we must deal with shipping as well as with rivers, if we were to make the whole thing complete. If we are not going to make the whole thing complete, it is quite a (different matter. I might go further, and say that it would be possible for a State to subsidize a steam-ship company. Take, for instance, a large ocean steam-ship company, and a desire on the part of a State to make a special effort in favour of a particular port. What is to prevent the State from subsidizing that company, though it is an ocean-going company?

Mr BRUCE SMITH

- Would it not be time enough to deal with that by-and-by 1

Sir WILLIAM LYNE

- If we are going, to say that it is time enough to deal with this matter when occasion arises, there may be something in that contention.

Mr BRUCE SMITH

- We have gone on for. 50 years without it being done.

Mr JOSEPH COOK

- We are going to strike at .the natural advantages a State may now possess.

Sir WILLIAM LYNE

- If we do as is done in the United States of America, we shall have to do that, and so we shall, if we are going to do as they do . in Great Britain so far as harbors are concerned. As I have already shown, no railway in Great Britain has a right to give a preference to one harbor over another, .and no shipping connected with railways has a right to give preference in freights to one person over another. Although honorable members may not agree with me, they must allow me to show the weak points which will remain if shipping be left out of the Bill. That is all I want to do, and that being so I have done my duty up to the present stage. I do not think I shall detain the committee longer. I have, .as shortly as I could, explained the Bill, and shown what may be, or will be effected under its provisions. The Bill is as complete as the Government can make it at present. If it is not thought wise to go to the extent proposed by the measure, that will not injure the Bill, nor will there be any reflection on the Government. I will say that the Government are fully determined, to go .so far, at any rate, that they will deal with shipping in connexion with railway freights and in connexion with rivers, if they do not deal with ocean shipping.

Mr Reid

- I guarantee the Minister will change .his mind before the Bill is through.

Sir WILLIAM LYNE

- I do not change . my mind quite so often as the honorable and learned member.

Mr Reid

- - We will see; the Minister will change his mind.

Sir WILLIAM LYNE

- The honorable member need not try to " bluff" me in that way.

Mr Reid

- I am not "bluffing" the Minister, but merely telling him beforehand.

Sir WILLIAM LYNE

- I will change my mind when I see good reason, but not before.

Mr Reid

- That is what I mean.

Sir Malcolm McEacharn

- Does the Minister mean by his remarks that shipping will come under the Bill when there is through carriage by both rail and shipping ?

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Sir WILLIAM LYNE

- In the first place, I say that river shipping must come in, in justice to the State of New South Wales and to Victoria, and shipping must come in when there is a diversion of trade from one State to another.

Sir John Quick

- Does the Minister mean that the Bill includes Interstate commerce by ocean carriage 1

Sir WILLIAM LYNE

- The Bill does, as it is at present ; and shipping will come in when it is connected with railways or rivers in the same way and under the same limits as in the United States and in Great Britain. I think I may say the Government will not allow, or will try not to allow', this provision to be taken away.

Sir Malcolm Mceacharn

- Quite right.

Sir WILLIAM LYNE

- But as regards the ocean traffic, I feel desirous of hearing the debate before I can say positively on behalf of the Government whether ocean - and that includes general coasting - traffic will be included when it is not connected with railways tfr river traffic. I shall not detain the House longer at present, but when this Bill has been postponed for, say, a fortnight, and time has been allowed to still further analyze and digest its provisions. I hope that on resuming the debate honorable members will accept the measure in the spirit in which it has been submitted by the Government - with a desire to carry out the intentions of the Constitution, and not from any party spirit. That the Bill will not be amended is, perhaps, more than I can hope; but, at any rate, the Government have done their best to submit the measure in as complete a form as possible. I shall anticipate with a great deal of pleasure the debate which will take place, and the speeches which will be delivered by those who have a great deal more knowledge about the internal working of shipping, freights, discounts, and "rings" - if there be "rings" - than I have had an opportunity of acquiring. I hope to be able to obtain a little more light on the subject. I have given all that I could obtain up to the present time as to the effect of the working of the Commissions in England and the United States. Whatever is the result of the debate, I feel sure the generosity of the members of this House will receive the measure not in a party spirit, but in that spirit of completeness in which it is submitted by the Government.

Debate (on motion by Mr. Reid) adjourned.

CUSTOMS BILL

In Committee

(consideration resumed from an earlier hour of the evening,
vide

page 2668) :

Clause 2.39 (Defendant a competent witness).

Mr REID

- I do not know whether the Minister will be inclined to adjourn the House after the important speech we have just heard. There seems a general wish that we should adjourn, and we could finish the Customs Bill to-morrow evening. So far as I can see, the Customs Bill will be the business for to-morrow, and we will undertake to help the Minister for Trade and Customs through with it.

Mr KINGSTON

- There are one or two debatable clauses which I would be willing to postpone, but as to the other clauses, the night is still young, and I would like to get on with the work. I do not propose to detain honorable members later than the usual hour.

Mr McCAY

- Is this one of the debatable clauses ? I confess that, much as I recognise the necessity of giving large powers in connexion with Customs prosecutions, I am not yet reconciled to the idea of putting the defendant into the box. in order to convict him out of his own mouth.

Mr KINGSTON

- I am willing to postpone clauses 239 and 240.

Clause postponed.

Clause 240 postponed.

Clause 241 agreed to.

Clause 242 agreed to.

Clauses 243 and 244 agreed to.

Clause 245 (Release of Offenders).

Mr REID

!- would point out the extraordinary position in which clauses 243 and 245 place matters. Possibly the

High Court of Australia may commit a person to gaol until a certain penalty is paid. Then the gaoler can contravene that order and set the person at liberty, whether the fine be paid or not. I do not know whether it is possible to put this matter in any other way, but it seems to me a very inconvenient method to allow practically by this provision the gaoler to set at nought the order of the High Court. I know what the intention is, but the provision strikes me as rather novel.

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Mr Kingston

- Until the penalty is paid. The sub-clause shows what it means. It is intended that a man shall stay in gaol, for varying terms, according to the amount of the penalty.

Clause agreed to.

Clause 246 agreed to.

Clause 247 .

Where the committal of any offence causes a forfeiture of any goods, the conviction of any person for such offence shall have effect as a condemnation of the goods in respect of which the offence is committed.

Mr McCAY

- I wish to remind the Minister that very large penalties may be inflicted by courts of summary jurisdiction, and this clause also gives them the power of forfeiture with regard to goods, but it does not refer to the condemnation of goods. I ask whether there should not be something in the proceedings to show that the condemnation of the goods follows upon the conviction of the offender and the imposition of the penalty.

Mr KINGSTON

- The spirit of the Act is to give large powers to these summary courts of jurisdiction, and it does not necessarily follow that the amount of the goods will be very extensive. It is limited by the £500 specification.

Clause agreed to.

Clause 248-

In all Customs prosecutions the Court may award costs against any party or claimant, and all provisions relating to the recovery of penalties shall extend to the recovery of any costs adjudged to be paid.

Mr REID (East Sydney). - I wish to ask if this clause is intended to provide that when a defendant succeeds, and the Customs prosecution fails, the defendant shall get his costs? What I wish to ask is - "How is a person to recover his costs against the Customs?" If it were an action against an officer of the Customs I could quite understand that the Crown would pay. But, supposing that the Crown fails-

Mr Kingston

- The money must be paid.

Mr. REID.- The Minister might say - "I will not pay." Then, the man could not recover it.

Mr McCAY

- Does this clause intend that a man may be imprisoned for non-payment of costs?

Mr Kingston

- That is so. Why not?

Mr McCAY

- Personally I am strongly of opinion that to re-enact laws for imprisonment for debt, except, on, special grounds, would be a mistake. It is a well understood thing that the costs are at the risk of the Crown. In Victoria, I am not aware of any provisions by which a man can be imprisoned for non-payment of a debt, except under the special circumstances set out in the Imprisonment of Fraudulent Debtors Act.

Mr Kingston

- They arrange these things much more admirably in South Australia.

Mr McCAY

- If in South Australia a man may be imprisoned for the nonpayment of his debts then I do not think that that State shows such wisdom as it usually displays. Under this clause if an offender were ordered to pay a shilling costs he might get seven days' imprisonment. If he were ordered to pay two guineas costs it is possible that he might not have the two guineas, although that fact would not release him from its payment. I ask the Minister either to omit the clause or to amend it in such a way as to insure that we are not introducing into the Commonwealth, provision for imprisonment for nonpayment of debt.

Mr V L SOLOMON

- If he has served his imprisonment he is still liable.

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Mr McCAY

- That is in connexion with the fine. There is a good deal to be said on both sides of that question, although it is [on a decidedly different footing to that of a man not paying what, "after all, is really a civil debt: The provision in the Bill really . means the increase of the penalty by the amount of the costs imposed. It may also mean a further increase in the term of the imprisonment. If a man is ordered to pay a fine of £1 and 1s. costs he may be imprisoned for one month for non-payment of the £1, and for a further seven days for the non-payment of the shilling, and he would still have to pay the money afterwards. In connexion with the imposition of fines this practice may be defensible enough. It seems to me to be the only working scheme by which we can insure the Crown securing payment of its fines. I do not I know of any other workable system which can be substituted for it. Without it people who are fined could flout the Crown by saying - " I have not the- money, and you can do as you like." But this is an altogether different matter. If the Minister had put it in black and white that any. person neglecting to pay the costs ordered against him in a Customs prosecution should be imprisoned, I venture to say that the provision would at once have struck honorable members as remarkable. If that is so in connexion with Customs prosecutions, why not in other matters; because the non-payment of the costs is not an assistance in anyway to the sheeting home of an offence ? It is not in any way ancillary to the necessarily wide powers which we give to the Minister for Trade and Customs. I must ask the Minister to omit the whole clause.

Mr KINGSTON

- We must have some remedy for costs, and the reason that I put the matter in this way is that with us the costs and the penalty are very much associated, and have regard to and deal with the same thing. The honorable and learned member knows that justices often take into consideration the costs and the penalty, and make the penalty less on account of the costs being large, or vice versa. There are not, it seems to me, very good grounds for a distinction between the two. However, I do not mind meeting the honorable and learned member; and therefore I move-

That after the word " provisions " the words "of this Act" be inserted ; and that after the word " penalties" the words "except commitment to gaol." be, inserted.

Amendment agreed to.

Clause, as amended; agreed to.

Clause 249-

All penalties and forfeitures recovered under any Customs Act shall be applied to the following, purposes in such proportions as the Minister. may direct, and in default of such direction in the following proportion - One half shall be paid into the consolidated revenue and the other half to the seizing officer ;

If there be an informer as well as a seiz- king officer, one-third shall be paid into the consolidated revenue; one-third to the seizing officer and one third to the informer.

But no officer shall receive a share as seizing officer and also as informer and no person shall be entitled at law to recover any share in any such penalty or forfeiture.

Mr REID

-I was going to express my doubt as to the wisdom of allowing officers of the Customs to participate in the penalties imposed under this Bill.

Mr Kingston

- It is always done;

Mr REID

- I know that it is a usual tiling, but I have no sympathy with it. I think that an officer is supposed to do his duty. Take, for example, the police; who have to perform very arduous duties; I never heard of the police force having a provision made in their favour that they should share in any pecuniary advantages arising from the conviction of offenders.

Mr CROUCH

-It goes to their superannuation fund.

Mr REID

- I have no objection to a provision of that sort. But the principle which is here laid down seems to me

rather an unhealthy feature in Customs administration. The men who go into the field of battle do not get any share of the spoils.

Mr Watson

- They do in China.

Mr REID

- That has been the subject of criticism and censure. I do not suppose that it is done under proper military rule. It seems to me wrong that public officers; who are paid for doing, their duty should be associated with informers, in a mercenary sense, in cases in which they prosecute.

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Mr KIRWAN

- I wish to ask, the Minister if he cannot see his way clear to alter this provision so as to mitigate the evil which it will establish. The evil to which I refer is that of compensating men for acting as informers. The system of giving compensation to informers has produced an evil that is worse than that which it was sought to abolish. I know that it has been the custom to recognise informers in this way for the sake of detecting crime, but I think that at the starting of our Commonwealth we should not be bound too much by the customs of the past. If we are to recognise the customs of the past we shall never have any reform, and I would ask the Minister to see if something can be done to mitigate the evil which this clause would tend to perpetuate. It may be said that the revenue can not be protected by any other means, but I would rather see the revenue suffer, even to a large extent, than perpetuate the terrible evil that is bound to be encouraged if this clause is carried in its present form. In a magisterial capacity I have some knowledge of the disadvantages of employing informers in connexion with the licensing laws. In Western Australia the result has been that a number of men have made a trade of informing against hotel-keepers and others, and they have actually, in some instances, manufactured cases of sly-grog selling, and in other instances encouraged the sly sale of grog in order to get a share of the penalty. That is well known to the police; and wherever the system of informing is recognised the same evil obtains to a greater or lesser extent. I can quite understand that it would be necessary to pay compensation in the case of information being given to the authorities by an employe who knows that smuggling is being carried on by his employer. If such a person gives information, it may result in the loss of his position, and he must be compensated, but, with the exception of cases of this kind, the payment of compensation to informers should not be recognised as a principle. It will be very much better for us to try and protect the revenue without encouraging an evil of this sort, which I am perfectly sure is loathsome to every one, and it seems too bad that in order to abolish one evil we should propose to establish another which is quite as bad, if not very much worse.

Mr. CROUCH

(Corio).-I very strongly support the arguments of the leader of the Opposition. I know that informers are an abominable class, and that it is only men of a very low type who will take up such work. I may point out further the position the Minister is leading us into. He is really proposing not only to pay men as informers, but to compensate the seizing officer who acts after the informer has done all the work. The informer is to scent out an offence, and is then to give the seizer the necessary information to enable him to come in. The seizer simply acts at the request of another man, and yet he is to be paid as much as the informer, namely, a third of the amount recovered in the way of penalty. It seems to be an absurdity on the face of it that there should be any such distribution of reward, and I would like the question of the apportionment of the money to be left to the discretion of the Minister. This might be secured by the insertion of the words "may be applied" instead of "shall be." If the seizing officer displayed any special acumen or intelligence he might be rewarded as well as the informer, but there certainly should not be any hard-and-fast rule on the subject.

Mr V L SOLOMON

-I agree with the leader of the Opposition, and with the honorable and learned member for Corio, that it is a bad system which the Minister seeks to perpetuate under this Bill. I object altogether to the principle of Customs officers being allowed to participate in the proceeds of fines and seizures. When the Minister was addressing the House on the second reading, I called his attention by interjection to this very clause; and my reason for doing so was that during a lengthy business experience in Port Darwin, in the course of which I had a very close connexion with Custom-house work, I found that the system of permitting

Custom house officers to participate in fines and penalties, led to a very great evil. My experience was that it induced the Custom-house officers to be overcritical in many instances, and to convert offences of the most trivial importance into cases which would permit them to make seizures,' and participate in the penalties. I remember one instance which will show how very badly this system works. A large number of Chinese passengers, some 200, I think, landed at Port Darwin by steamer from Hong Kong. Amongst those Chinese were several who had small quantities of opium and tobacco about them - very small quantities indeed, something under a pound of opium, or perhaps a half-pound tin, each. At any rate the Customs officials, who were very keen in scenting out offences, and in making seizures, arrested some ten or twelve of these Chinese passengers, and although there was little or no evidence of any combination or collusion amongst them, the prosecution was so framed as to charge these men with being , concerned in an attempt to smuggle the total quantity of opium and tobacco represented by the twelve separate quantities which they had in their possession.

Mr Kingston

- Was the honorable member interested in the case?

Mr.V. L. SOLOMON. - I was interested in the storekeepers who were acting as interpreters for the passengers concerned, and I arranged for the employment of the lawyer who was defending the case. The result of the prosecution was that each of these twelve men was fined three times the value of the whole of the small quantities of opium brought in by them.

Mr Reid

- That would be 36 times the value of each individual parcel.

Mr V L SOLOMON

- Yes. That was the position, and under the stringent clauses of the South Australian law - though a great deal of the present Bill is quite as stringent - there was no redress. There was no absolute proof that these twelve men were working together, any more than it could be said that any half-a-dozen passengers off a mail boat were working together because each of them brought ashore a few cigars.

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Mr Kingston

- How did these men have the opium concealed - in their pigtails ?

Mr V L SOLOMON

- No ; they had loose clothing, and they could hide a little opium in their clothes as well as the. Minister can hide the meaning of a clause. If it had not been for the fact that the Customs officers participated, to the extent of a half, in the fines and penalties recovered, that action would never have been brought ; but each individual Chinese would probably have been charged with having attempted to smuggle the small quantity of opium or tobacco that he had about him, and there would have been no attempt to exaggerate a number of individual offences into a conspiracy to defraud.

Mr HARPER

-That could only happen at. Port Darwin.

Mr V L SOLOMON

- It can and will happen in lots of other places, but, of course, it is more liable to happen in an outport where a defendant cannot have the advantage of the best legal talent to take up his case. As the leader of the Opposition has put it, surely Customs officials, who are intrusted with most important duties, and are supposed to be above suspicion, can be trusted to do their duty without an additional incentive in the form of a share of the fines and penalties. The Customs officers ought to be as well: able to perform their duties as our taxation officers are, or as well as any other officers discharging equally responsible duties. Our officers . should be paid salaries commensurate with the importance and difficulties of their positions, and we should not continue the system of giving civil servants a share of what I may be permitted, for the sake of emphasis, to term blood money, to induce them to be honest and do their duty to the State.

Mr KINGSTON

- There is one thing to be said in the first instance in favour of a clause of this class, and that is that it finds a place in every Customs Act in the civilized world. Secondly, it is not simply intended for the protection of this revenue, but is designed also for the protection of honest traders against dishonest competition. Thirdly, speaking of the objection of the honorable and learned member for Corio that the clause is not permissive, I would point out that the clause is. permissive, and that the proportions in which

the penalties shall be distributed or shared is entirely within the discretion of the Minister, and it is only when the Minister does not make a direction as to how the penalties are to be allocated, that the proportions specified in the Bill are to be followed. The honorable member for South Australia will see that the case he has cited is really a very strong argument in favour of the encouragement of extra vigilance on the part of Customs officers. He tells us that if it had not been for this extra vigilance on the part of Customs officers the action he mentions would not have been brought against these Chinese at all. I do not hesitate to tell honorable members that a large proportion of the population of the Northern Territory consists of Chinese, and that a very considerable number of these Chinese spend half their time in trying to defraud the revenue, especially in connexion with the introduction of opium, which is very heavily taxed, and is the chief source of revenue.

Mr Reid

- The Customs officer seems to spend all his time trying to defraud the Chinamen.

Mr KINGSTON

- They were caught only after long years of the invasion of the Act.

Mr Reid

- They had only just arrived from Hong Kong.

Mr KINGSTON

- The honorable member for South Australia was interested in cases of the kind. On a variety of occasions because Port Darwin laboured under the distressing disadvantage of having no lawyer; and, in the absence of professional assistance, he placed his valuable aid at the disposal of litigants.

Mr JOSEPH COOK

-What have these little anecdotes to do with the clause ?

Mr KINGSTON

- If the honorable member does not know, it is his misfortune.

The CHAIRMAN

- The incident referred to by the honorable member for South Australia was strictly applicable to the clause, and the Minister is in order in referring to it.

Mr Reid

- Why does not the Minister meet us half-way ? Let the Customs officer take half the forfeiture when he discovers the fraud, and let the informer take half when he discovers it.

Mr KINGSTON

- Full power of control is reserved to the Minister in the early part of the Bill.

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Mr Reid

- But if the clause remains as it is the officers of the department will be dissatisfied if a third is not given to them. Mr. KINGSTON.- Then they must remain dissatisfied. The Minister will exercise his controlling power to the best of his discretion. The Government cannot pay its Customs officers at so much per day, or for so many hours work, for these seizures, because the information necessary to bring them about is often obtained only after many weary hours and days of working and watching. The necessity for a provision of this sort has been recognised wherever there are Customs laws.

Mr PAGE

- I have a very strong objection to the clause. In Queensland some years ago when informers were paid by results there were men who went into out-of-the-way camps, where no lawyer could be obtained to defend accused persons, and swore informations against people for serving them with grog, when these people had not been in the camp at all. At one camp that I was in seven or eight persons were fined from £20 to £50 each on the information of two informers, who were never out of a public-house. A subscription was taken up, and some of the persons who had been fined went to Brisbane, and laid their case before the Minister, with the result that the informers were arrested for perjury, but no bill was filed, so that the persons aggrieved had very little benefit. If I had my way, I would shoot all informers ; but, even if informers should be given part of a forfeiture, I do not know why a seizing officer should get any of it, because he only comes in after the informer has done everything. I agree with the honorable member for South Australia, Mr. V. L. Solomon, that if the Government want their officers to do dirty work they should pay for having it done ; and, although I am opposed to the introduction of coloured people into this

country, I believe in giving justice to Chinamen, and to every one else, and in not allowing them to be victimized, as they might be under the clause.

Mr. CROUCH

(Corio).- The Minister has tried to meet the position by stating that whoever is at the head of the department will exercise his discretion. I propose to force him to do so, by making the clause read - All penalties and forfeitures recovered under such Customs Act shall be applied to such purposes in such proportions as the Minister may direct.

I therefore move -

That the words "the following" be omitted, with a view to insert the word "such."

Mr E SOLOMON

- I hope that the Minister will accept the amendment. This informing business has been carried on in the West to such an extent that one of our Judges has declared that he looks with great suspicion upon the evidence of informers generally. In many cases men have gone about in disguise and made people commit wrong which they would not have committed but for their temptation. I hope, however, that it will be left to the Minister to compensate a deserving officer who has found out something wrong.

Mr KINGSTON

- I understand that honorable members do not object to giving the Minister power to appropriate these forfeitures as he thinks fit. If that is so, the clause might be made to read -

All penalties and forfeitures shall be applied in such manner as may be prescribed.

Mr. V.

L. SOLOMON (South Australia). - I suggest that the Minister should accept the amendment of the honorable and learned member for Corio. "As may be prescribed" by what?

Mr Kingston

- By regulation.

Mr V L SOLOMON

- Such regulations would very probably re-enact what the clause to which we are now objecting enacts, and we should not have an opportunity of objecting to them until they have come into force. I know how these things have been done in regard to State Parliaments, and I do not know that there has been any great improvement in Ministers since they entered this Parliament. Perhaps it would be as well to postpone the clause.

Mr KINGSTON

- I regard it as a proof of the confidence of honorable members in the Minister that it is desired to leave the allotment of these forfeitures solely to him, and I therefore accept the amendment.

Mr PIESSE

- I never heard of a Minister being given such power as the clause, as it is proposed to amend it, would give him. I shall vote against the amendment, because I think it is unconstitutional and improper.

Mr V L SOLOMON

- Does the honorable member not think the amendment better than providing that certain rewards shall be given to informers and officers?

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Mr PIESSE

- The committee are giving the Minister power to dispose of valuable property without any provision for bringing him to book. The clause, as it stands, says that the Minister may apply the money to the three or four purposes mentioned. The consolidated revenue has to have some of it, the seizing officer gets some of it, and the informer gets some of it, and the Minister is not allowed any discretion as to the proportion in which the money must go.

Mr. REID

(East Sydney). - I want the Minister to understand that one

of the terrible consequences of his accepting the amendment will be that the next clause - must go, and I know that he does not like to lose a word of the measure.

Mr KINGSTON

- Our plan is to shorten the Bill whenever we can, and clause 250 must go.

Amendment agreed to.

Amendment (by Mr. Kingston) proposed -

That all words after "direct," line 4, be omitted.

Sir MALCOLM MCEACHARN

- I do not think the words in reference to the seizing officer receiving a share should be omitted. . '

Amendment agreed to.

Clause, as amended, agreed to.

Clause 250 negatived.

Progress reported.

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22:35:00

House adjourned at 10:35 p. m..