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THE PARLIAMENT OF THE COMMONWEALTH.

No. 115.

VOTES AND PROCEEDINGS

OF THE

HOUSE OF REPRESENTATIVES.

WEDNESDAY, 22ND APRIL, 1908.

1. The House met pursuant to adjournment.—Mr. Speaker took the Chair, and read Prayers.
2. PETITION.—Mr. Batchelor presented a Petition from certain producers resident in South Australia who utilize oil engines in connexion with the irrigation of their properties, praying that the House will reduce the standard of flash of kerosene oils to 73° Fahrenheit, which is regarded by eminent authorities as perfectly safe.
Petition received and read.
3. MESSAGES FROM HIS EXCELLENCY THE GOVERNOR-GENERAL.—ASSENT TO BILLS.—The following Messages from His Excellency the Governor-General were presented, and the same were read by Mr. Speaker :—

NORTHCOTE,

*Governor-General.**Message No. 33.*

A Bill intituled "*An Act to provide for Compensation to be paid on Retirement or on Decease of certain Officers of the Commonwealth,*" as finally passed by the Senate and the House of Representatives of the Commonwealth, having been presented to the Governor-General for the Royal Assent, His Excellency has, in the name and on behalf of His Majesty, assented to the said Act.

Government House,
Melbourne, 14th April, 1908.

NORTHCOTE,

*Governor-General.**Message No. 34.*

A Bill intituled "*An Act to amend the 'Australian Industries Preservation Act 1906,'*" as finally passed by the Senate and the House of Representatives of the Commonwealth, having been presented to the Governor-General for the Royal Assent, His Excellency has, in the name and on behalf of His Majesty, assented to the said Act.

Government House,
Melbourne, 14th April, 1908.

NORTHCOTE,

*Governor-General.**Message No. 35.*

A Bill intituled "*An Act to grant and apply a sum out of the Consolidated Revenue Fund to the service of the year ending the thirtieth day of June One thousand nine hundred and eight and to appropriate the supplies granted for such year in this Session of the Parliament,*" as finally passed by the Senate and the House of Representatives of the Commonwealth, having been presented to the Governor-General for the Royal Assent, His Excellency has, in the name and on behalf of His Majesty, assented to the said Act.

Government House,
Melbourne, 16th April, 1908.

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4. CUSTOMS TARIFF BILL, (1907)—SENATE'S REQUESTS.—The Order of the Day having been read for the consideration in Committee of the whole House of the Requests made by the Senate in regard to this Bill—

Point of Order.—Sir John Forrest raised a point of Order that the Senate, in making requests for increases in duty, had exceeded its powers under the Constitution.

Mr. Joseph Cook submitted that it was not desirable for the Speaker to give a ruling involving an interpretation of the Constitution.

Speaker's Ruling.—

Mr. SPEAKER said in reply.—The right honorable Member for Swan was good enough, two weeks ago or thereabouts, to wait upon me and inform me that he intended to raise the question which he has raised this afternoon. The notice which the right honorable Member was kind enough to give me has enabled me to go quietly through the matter relating to it before it was actually raised in the House, with a view of determining what my ruling ought to be. I am therefore prepared to give a ruling at once, which may be of service to the House. First, in regard to the point raised by the honorable Member for Parramatta, it is true that the obligation does not rest upon me to interpret the Constitution. I have ever striven as far as possible to avoid doing anything of that nature. I recognise that the only body fully entitled to interpret the Constitution is the High Court; and I should be sorry even to seem to assume any of the functions which pertain peculiarly to it. Not even this House has the power finally to interpret the terms of the Constitution. Further, on three or four occasions I have been asked, before to-day, to rule as to what the privileges of this House are in regard to certain Messages which have come before us—as to whether such Messages ought to be received, and as to whether we ought to consider them. To rule on such points is surely part of my duty; and hitherto I have striven to perform that duty with a sense of the responsibility which rests upon me. In the same way to-day I am asked whether a Message which is about to be remitted for the consideration of the Committee is one that ought to be received by this House, or whether our privileges are in any way entrenched upon by suggestions for raising certain Customs duties. I propose to deal with the questions raised by the right honorable Member for Swan in the reverse order from that in which he has raised them. He has pointed out that if some of the suggestions made by the Senate were allowed one result would be that the Senate would prove to be possessed of powers that are not possessed by this House. He has pointed out that this House has not the power, except on the motion of a Minister of the Crown, to raise duties proposed by any measure before the House. I suppose that the right honorable Member was referring to Standing Order 171, which reads as follows:—

No amendment for the imposition or for the increase of a tax rate or duty shall be proposed by any non-official Member in any Committee on any Bill.

If we were at any time in Committee on any Bill it would be impossible then to receive or make any proposal for the increase of any "tax rate or duty," unless that increase were moved by a Minister of the Crown. But on the earlier stages of a Bill—on the motion for its initiation when the House is not in Committee on the Bill, but is dealing with preliminary resolutions relating to the imposition of duties—it would be competent for any honorable Member to move for any increase which he might desire, at that stage. So that the contention that the practice which is sought to be followed by another branch of the Legislature to-day would give that branch of the Legislature larger power than this House possesses, is not quite correct. We are only estopped from taking such action as would increase a "tax rate or duty" at one stage—that is, when the House is in Committee on the Bill. The next point raised by the right honorable Member for Swan—I am still taking his points in the reverse order—was as to the intentions of the framers of the Constitution itself—whether it was intended to give to the Senate such powers as it claims. That is a matter as to which my ruling can be asked, but not a matter upon which I should be prepared to rule. Whether the practice which has been adopted does or does not confer upon that branch of the Legislature larger powers than the authors of the Constitution intended is not, I think, a question upon which my ruling is really sought. Then comes the next point to which the right honorable Member has referred, and concerning which he has kindly given me, in writing, a statement of his contention. The right honorable Member submits that it is not competent for the Senate to make a suggestion under section 53, paragraph 3, of the Constitution, that any item in the Tariff Bill as sent to it by the House of Representatives be increased. That paragraph provides that—

The Senate may not amend any proposed law so as to increase any proposed charge or burden on the people.

In this case the Senate has not made any amendment. It has simply sent to this House a Message inviting us to amend it if we think fit. The Constitution clearly provides that in the case of measures for certain specified purposes the Senate may not make any amendment; it may merely make suggestions or requests for amendments. If the Senate had power to amend the Customs Tariff Bill, an amendment made by it would be obeyed by the Department of Trade and Customs precisely as it instantly obeys any amendment made by this House whilst the schedule is under consideration. It is therefore clear that the Senate makes nothing in the nature of an amendment by making a request to this House. The making of a request by another place is not followed by action on the part of the Department of Trade and Customs until that request has been considered by this House, and agreed to. Unless this House makes the amendment requested, the Department takes no notice of the decision of another place, and that decision has no operative value. It is simply a request to us to make a certain amendment. The next point

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arising under section 53 of the Constitution relates to the paragraph immediately following that which I have just read—

The Senate may at any stage return to the House of Representatives any proposed law which the Senate may not amend, requesting, by Message, the omission or amendment of any items or provisions therein.

Those words contain no limitation precluding the Senate from making a request for an amendment which may mean an increase of taxation. This question has not previously been directly ruled upon by me, but it has come before the House on two or three occasions. On turning to vol. 1, page 385, of the Parliamentary Papers for 1905, honorable Members will find a detailed reference to all the cases in connexion with which points similar to this have arisen. When the first Tariff Bill was before the Senate certain requests were made, including one that the Excise duty on tobacco should be increased. A Message from another place embodying those requests came before this House, and was considered. No point of order was raised; the request for the increased duty was considered together with others, and a vote of the House was taken. The point raised to-day by the right honorable Member for Swan was nearly touched later on when the Sugar Bounty Bill of 1903 was before Parliament. In connexion with that Bill the Senate made a number of amendments—not requests—amongst those amendments being one which clearly involved an increased burden upon the people. When the Senate Message was called on in the same way as that now before us was called on to-day, I stated that in my opinion the Senate had gone too far. I took the view that we ought not to consider an amendment of the Senate which clearly involved an increased burden upon the people. I concluded by stating that if the Senate had desired that this amendment should be made, its proper course under paragraph 4 of section 53 of the Constitution would have been not to make it, but to send to this House a request that it should be made here. The present Prime Minister, as Attorney-General, moved that the Bill be returned to the Senate with a statement that the amendment could not be received in the form sent, since it was not competent for another place to make it, but that if it desired it could make a request to this House in respect to it. The Senate forthwith sent a Message to this House requesting that the amendment should be made; the House proceeded to debate the matter, and the incident was closed by this House making the amendment desired, with a modification. If honorable Members examine the debates on the Sugar Bounty Bill of 1903 they will see that the point now raised by the right honorable Member for Swan was then practically ruled upon. We come now to the next point raised by the right honorable Member that the words "omission or amendment" in paragraph 4 of section 53 of the Constitution give no authority to the Senate to suggest an increase of any proposed charge or burden on the people. It seems to me that, there being no limitation in that paragraph precluding the consideration of a request for an increase of taxation, we have no right to refuse to consider such a request. Such requests may be considered entirely on their merits, and we have power to reject, modify, or accept them. Honorable Members will find references to this question in *Hansard* for 1902, pages 14885, 14892, 14918, and 15676. I rule finally that the Message which we have received from the Senate is one which it is within the power of the Senate to send, and one which, following the precedents we have laid down on two or three occasions, we may well consider and deal with upon its merits.

Mr. Speaker then left the Chair, and the House resolved itself into a Committee of the Whole.

Mr. Speaker resumed the Chair; Mr. McDonald reported that the Committee had made progress, and that he was directed to ask, That the Committee may have leave to sit again.

Resolved—That the House will, to-morrow, again resolve itself into the said Committee.

5. ADJOURNMENT.—Sir William Lyne moved, That the House do now adjourn.

Question—put and resolved in the affirmative.

And then the House, at nineteen minutes past ten o'clock p.m., adjourned until to-morrow at half-past two o'clock p.m.

MEMBERS PRESENT.—All Members were present (at some time during the sitting) except—Mr. Atkinson, Mr. Thomas Brown, Mr. Carr, Mr. Edwards, Mr. Fowler, Colonel Foxton, Mr. Frazer, Mr. Fuller, Mr. Harper, Mr. Hans Irvine, Mr. Johnson, Mr. Kingston, Mr. Page, Sir John Quick, Mr. Reid, Mr. Spence, Mr. Webster, Mr. Willis, and Mr. Wynne.

C. GAVAN DUFFY,
Clerk of the House of Representatives.