

Queensland



Parliamentary Debates
[Hansard]

Legislative Council

WEDNESDAY, 6 MAY 1874

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LEGISLATIVE COUNCIL.

Wednesday, 6 May, 1874.

Navigation Bill.

NAVIGATION BILL.

The Hon. W. THORNTON, in moving the second reading of a Bill to consolidate and amend the laws relating to the Marine Board, Navigation, Pilotage, Harbors, Lights, and the Keeping and Carriage of Gunpowder, said the main object of this measure was to provide against, as far as they could be provided against, casualties occurring to vessels, of all descriptions, employed or trading in any way within the jurisdiction of the colony of Queensland. The Bill constituted the Marine Board, and extended its powers for the purpose of carrying out the provisions hereof, and it more clearly defined the powers of the Board than they were now defined, with a view to securing, as far as possible, the safety of persons travelling by water in this country. It was known that the two great causes of shipwreck were the incompetency and misconduct of persons in charge of vessels and the unseaworthiness of vessels. The Bill proposed to enact that no vessel, whatever, over fifteen tons burden, should go to sea unless competently commanded, and it provided against over-crowding by passengers and the over-loading of vessels. It gave authority to the Marine Board to institute inquiries, and to stop vessels from going to sea if necessary. It provided regulations with a view to prevent collisions occurring in the navigation of our waters; and, that steam vessels should be twice inspected every year,

and that they should get a certificate as to their being in proper order, as to the hull and machinery, before going to sea. The Bill was one of the most important measures that had been brought before the present Parliament, at all events. Considering the responsibility of the Marine Board, and the property and the lives that depended upon the Board having proper powers, it must be patent to everyone that such a measure was absolutely necessary. He might tell the House that the operation of the powers of the Board was imperfect, because those powers were not very clearly defined. The Act under which the Board was constituted was passed in 1866; and was a very short Act, chiefly relating to harbors and pilotage, and touching very briefly the powers exercised by the Board. In fact, most of those powers were derived from Imperial enactments. That was a very unsatisfactory state of things; and it was the feeling of the members of the Board that they could not do the good they otherwise would so long as the law remained in its present condition. The Bill was intended to repeal about twenty-one Acts which governed the Portmaster's Department and the Marine Board; some of them old enactments relating to the harbor of Port Jackson in penal times; others Imperial statutes through which were scattered provisions which were not always accessible. When he said he had had nothing whatever to do with the framing of the Bill, though a member of the Marine Board, he could not be accused of egotism in speaking of it, as he was bound to speak of it, as an excellent measure. He had gone through it very carefully, and it was clear and concise; he did not know of a single obscure clause in it, or one which any magistrate could not see his way clearly through. The credit of preparing such a comprehensive Bill was due to the Portmaster and the Honorable Captain Simpson, both naval officers of some experience; and it reflected very great credit upon them. The Bill had been drafted by a very well-known barrister, here; and, if there should be any doubt as to the legal provisions contained in it, he trusted that the legal members of the Council, the Honorable Mr. Roberts and the Honorable Mr. Browne, would assist in dispelling what might be obscure. The Bill was divided into eight parts—

"The first part relating to the Marine Board its powers and functions. The second part to the examination and certificates of masters, mates and engineers. The third part to steam navigation and regulation of passenger vessels. The fourth part to safety and prevention of accidents. The fifth part to pilotage and harbors. The sixth part to light dues. The seventh part to gunpowder. The eighth part to legal procedure."

The Marine Board was to consist of four members, to be appointed by the Governor in Council, with the Portmaster forming a fifth member, and acting as chairman; it was, in fact, the Marine Board as constituted at present, the same Board being continued in office,

and vested with the same powers as if created under the Act. The jurisdiction of the Board was defined to

"extend and may be exercised by them in and over any tidal waters in Queensland and for the distance of one nautical league to seaward from high-water mark along the coast line of Queensland."

The tenth clause gave full power and authority to the Board, within its jurisdiction, to carry out the provisions of the Bill;—to inquire into any matter connected with seamen, cargoes, shipping, the conveyance of passengers, navigation, wrecks, casualties, pilots and pilotage, the preservation of and improvements in harbors, and all matters connected with lights, light-houses, and light dues. The Board might, at any time, send inspectors on board any vessel whatever to see that the different provisions of the Bill were complied with;—in the second part, as to examinations and certificates of masters, mates, and engineers;—in the third part, as to steam navigation and regulation of passenger vessels;—in the fourth part, as to safety and prevention of accidents. The third and fourth parts were considered the most essential parts of the Bill. Authority was given to the Board to summon witnesses and to take evidence, and to decide matters, as in a court of justice. Any inspector or surveyor under the Bill might go on board a vessel at all reasonable times and ascertain by inspection whether her hull, machinery, and equipment were seaworthy and in safe condition; in fact, to ensure that the provisions of the third and fourth part, just referred to, were fully complied with and carried out. The second part, relating to examinations and certificates of masters, mates, and engineers, would relieve the Board from a very anomalous position it occupied at present. Under an Imperial Act, the Board had authority to inquire into casualties which might occur at sea; it had the power to suspend or cancel the certificates of ship-masters and officers; but, through error or oversight, it had not the power to examine and confer certificates, which, in some cases, proved a very great hardship. He knew of a case, not very long ago, in which the mate of a ship that came to Brisbane had commanded and navigated the ship from a time very shortly after her leaving England until her arrival at this port, the captain having died very early on the voyage. That mate was very anxious to undergo an examination for a master's certificate; and the owners were also very anxious that he should be confirmed in the position of captain of the ship; but there was no authority in this colony to examine him and to grant the required certificate. The agents of the vessel, much against their will, were obliged to appoint a captain—to put a man in command nominally—holding a certificate; and very much to the disadvantage of the officer who had safely navigated the ship on her

outward voyage. The 21st clause enacted that—

"Examinations shall be instituted for persons who wish to procure certificates of competency for all or any of the following grades that is to say—(1.) Master of a foreign-going vessel. (2.) First mate of a foreign-going vessel. (3.) Second mate of a foreign-going vessel. (4.) Master of a home-trade vessel. (5.) Mate of a home-trade vessel. (6.) Master of a coaster. (7.) First-class engineer. (8.) Second-class engineer. (9.) Third-class engineer."

The Board had power to appoint examiners, and to give to those who passed the examination, the certificates mentioned:—

"Provided always that such qualifications for the respective grades aforesaid shall not be less nor inferior to those which are or may be from time to time required by the Board of Trade and every examiner shall receive such remuneration as the Board shall with the approval of the Treasurer direct."

At the same time, the Board had authority to give "certificates of service," that was, to persons who from their service were qualified;—for instance, any officer of the navy above the rank of navigating sub-lieutenant, or a master or mate who had been in command of or serving in a foreign-going or home-trade ship for a certain number of years; and those certificates should have the same force as those obtained by examination. For persons in command of vessels proceeding from any port of Queensland to any other of the ports of the colony, provision was also made:—

"Every person who before the first day of January one thousand eight hundred and seventy-four has served as master of a coaster of more than fifty tons shall be entitled to a certificate of service as master of a coaster."

Every vessel proceeding from any port of Queensland, and not exempted, must be provided with officers holding valid certificates of competency under the Bill,

"or equivalent certificates from the Board of Trade or other competent authority according to the following scale—(1.) If she be a foreign-going or home-trade vessel of one hundred or less than three hundred tons with a master and first mate duly certificated. (2.) If she be a foreign-going or home-trade vessel of three hundred tons or upwards with the master first mate and second mate duly certificated. (3.) If she be a coaster of fifteen tons and upwards or a foreign-going or home-trade vessel of less than one hundred tons with a master duly certificated."

If any vessel should proceed to sea without properly qualified officers, holding certificates, as provided, according to what the vessel might be, the master or owner thereof should "forfeit and pay a sum not exceeding £100." Steamers must carry certificated engineers. The Council knew the danger of incompetent persons having charge of steam engines. Examinations, in a similar manner to those before-mentioned, must be passed by persons acting as engineers on board steamers; and there was a very severe penalty upon any per-

son engaging to act as officer or engineer without having a valid certificate, as provided. If any person should so act, or if any person employed him to act, as officer or engineer, each would be liable to a penalty of £50. A master was bound to produce his certificate of competency at the Customs before his ship was cleared; failing which, the ship would be detained. The Marine Board

"may themselves investigate or may cause inquiry to be made and evidence to be taken by an inspector appointed under this Act either alone or together with any other person appointed by the board or may cause an investigation to be held by justices as herein directed,"

when, within or beyond the limits of the colony, any vessel had been in distress, or lost, wrecked, stranded, abandoned, or in collision with any other vessel, or damage had been sustained, or life lost thereby; and when complaint was made of incompetency, or misconduct of any officer, whose certificate was liable to be cancelled or suspended. In cases where there was no inspector of the Marine Board within reach, it would be competent for the justices of the peace to hold inquiry; they, of course, procuring the services of persons competent and skilled in navigation or machinery to act with them. That might very often occur. Every steamer, no matter what she was, must be surveyed twice a year by a shipwright-surveyor, and a competent engineer. She would get a certificate which would be in force only six months. There were three classes of certificates to be issued, so as to ensure the safety of the vessels:—

"1. 'A sea-going certificate' where according to the declaration of the surveyors such vessel is adapted for sea service. (2.) 'A harbor certificate' where according to such declaration such vessel is adapted for harbor or short coasting service. (3.) 'A river certificate' where according to such declaration such vessel is adapted for river service only. And every such certificate shall state according to the declaration—(1.) The limit if any within which the vessel may ply. (2.) The number of passengers if any which the vessel may carry distinguishing the number which may be carried in each part of the vessel. (3.) The period during which the vessel may ply. (4.) The date at which the certificate will expire."

Those were very necessary provisions, particularly as to river and harbor steamers. All were aware that those vessels, on public holidays, went down to the Bay crowded in a very dangerous condition. Not only any steam vessel proceeding to sea, but any such vessel going on an excursion, without such certificate, would be liable to a penalty. Passengers would be protected, to a great extent, now. Provision was made for accommodation to be afforded to deck passengers, and for preventing them from being crowded together, without shelter, and for securing the comfort of passengers against being interfered with by horse-boxes and by cattle or other animals carried on deck. It was very certain that

such provision was necessary here. Very stringent rules were laid down for preserving proper discipline, the Marine Board being empowered to carry out the Passengers Act; also, for the prevention of accidents, in regard to vessels carrying lights, and other precautions with the view to prevent collisions. If the board had any reason to believe that a vessel was unseaworthy, it could order an inspection, and if an unfavorable report was made by the officer inspecting, it could detain her. The laws relating to pilotage and light dues were amended to a certain extent by the Bill. The necessity for an alteration was this: all vessels were now liable to pilot dues according to a schedule which was framed under the existing Marine Board Act. Since that had been done, two new ports had been created, Bundaberg and Endeavour River; and, as they were not included, it was difficult to say what should be paid there. But the most important alteration was, that coasters that did not employ a pilot should be exempt: vessels trading within the limits of the colony, from any port to another, should be exempt from pilotage and light dues. That was a very wise provision, indeed. Although the colony would lose about £3,000 a-year by it, yet it was beneficial for the colony to encourage her own vessels in the development of trade as much as possible. The provision would be a very great relief, no doubt; and it would be the means of a great many more vessels being engaged in the coasting trade. Those dues were now very heavy on small vessels. There was, also, another very excellent provision—that every vessel, no matter how small, must carry a proper supply of medicines. That was a thing which he knew very well was never done in a small vessel. He had known a vessel go to Normanton and back, and there was nothing to show that there was any medicine on board. If there was only one man besides the master, the vessel must carry an adequate supply, as provided by the Bill. The Bill invested the Marine Board with all powers given to any similar body, by recent Imperial enactments. He did not see why the Marine Board of Queensland should not possess the same powers as any other similar body exercised in any other part of the world. A great many of the clauses were new and taken from late Imperial Acts. They would be found to work well for the trade of this colony. The trade of Brisbane had greatly increased, as was shown by the tonnage of the vessels that had arrived and cleared at the port; and the number of ships that was registered in the colony showed a very large increase, also. The average tonnage of foreign and intercolonial ships, entered inwards, for the first five years after Separation, was 53,663; the average tonnage, outwards, was 50,835. During the last five years, ending 31st December, 1873, the foreign and intercolonial tonnage was, inwards,

76,779; outwards, 73,921. The tonnage, coastwise, during the first five years was, inwards, 17,647; outwards 19,518;—during the last five years, inwards, 36,020; outwards, 39,469. The number of ships now registered in the colony was 59, whose aggregate burden was 3,031 tons. The time had fairly arrived when we should have navigation laws of our own; the lives and property of our own people were as valuable to this colony as were those of the people who travelled on the coast of Great Britain.

The Hon. H. G. SIMPSON said that, as one of the members of the Marine Board who had taken an active part in endeavoring to put the Bill into shape, and to make it acceptable to the House and to the other branch of the Legislature, he should just say a few words. His honorable friend, Mr. Thornton, had gone much more into the *minutiae* of the affair than he should attempt to do; and he had only to mention the feeling which actuated those who assisted in framing the Bill, and which was this—There was considerable discrepancy between the laws of this colony and the mother country, and the object of the Marine Board was to bring the law of Queensland into harmony with the Imperial Act. In many points there was a great difference; and it had been found that the Board had more authority, actually, over English vessels than over colonial vessels. The Board had been guided throughout by the feeling that it was desirable that the law of Queensland should be in harmony with the Imperial law of the present day and with the laws of the other colonies, which had not been overlooked. They had done their best to that end. He might say that even since the Bill was originally drafted by the Board, the Portmaster, Captain Heath, had found it necessary to introduce certain alterations that had become part of the Imperial law; and, he thought, that gentleman had consulted all the other members of the Board, who perfectly agreed with him in the alterations which had been introduced into the Bill. It was scarcely necessary, he thought, that he should say anything more. There were three members of the Marine Board in the House who could give any information that might be required by honorable gentlemen. If the Bill should pass, it would have important effects on the welfare of the country. He should support the second reading.

Question put and passed.