

Queensland



Parliamentary Debates
[Hansard]

Legislative Council

WEDNESDAY, 6 SEPTEMBER 1911

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when the pilots could not possibly make a living by their occupation. To-day, under the system he intended to propose in a subsequent amendment, it would be quite possible for a pilot to remunerate himself to the extent of £500, £600, or £700 a year. That was in very marked contrast to the miserable remuneration pilots were receiving at the present time from the Government. They were enlarging and deepening their ports and channels to enable the vessels carrying on the trade of the State to reach their wharves, and very likely the pilots found themselves more or less not *au fait* with the character and size of the vessels that they were now called upon to navigate through the narrow, sinuous channels in their ports. For that and for other reasons that he would refer to as he proceeded, if the Government wished to exempt themselves from liability for any damage that might accrue to a vessel in charge of a pilot, they should do it in a less unjust fashion than was proposed by the Bill. He was quite prepared to admit, as a layman, that under the present system the Government were not liable for one penny of damages on account of any accident that might occur to a vessel in charge of a pilot; but they proposed to make themselves doubly sure by bringing in this Bill, under which they proposed to exempt themselves in a somewhat lame and unfinished fashion. They were protecting themselves against the shipping and commercial public while still maintaining the system that had produced the difficulties they wished to avoid. He had no desire in moving his amendment to interfere with the pilots at present in the service of the State; but any future appointments, under the system he suggested, would be made in such a manner that there would be a guarantee to the mercantile marine of Australia that nobody should undertake to navigate a vessel in any port on the coast of Queensland who was not competent and had not passed a very strict examination prescribed by the Marine Board. That might not perhaps be a guarantee, but it would be a greater measure of insurance against accidents than they had at the present time with the large vessels that were coming to their ports. The channels were narrow and sinuous, and could not always be made straight. He had not a shadow of doubt that every pilot at the present moment in the service of the State was a competent seaman, but when one of them found himself in charge of one of these huge vessels, very likely he found himself not as capable in handling them as he would be in a smaller vessel. He did not object to the Government being exempt from liability—they represented the taxpayers of the State—but they should learn a lesson from a country which had the widest and largest experience in marine matters of any country known to history—Great Britain. The system in Great Britain was not to have pilots in the service of the Crown, but to have them all licensed. In this State they were all public servants, with the knowledge that they had the Government at their back; but if the British system were adopted a pilot would realise that his bread and butter and the welfare of his family depended on his exercise of caution and prudence. Nothing induced people to exercise those virtues more than the knowledge that neglect would be fol-

LEGISLATIVE COUNCIL.

WEDNESDAY, 6 SEPTEMBER, 1911.

The PRESIDENT (Hon. Sir Arthur Morgan) took the chair at half-past 3 o'clock.

PAPER.

The following paper, laid on the table, was ordered to be printed:—Report on the working of the Queensland Government Savings Bank for the financial year ended 30th June, 1911.

NAVIGATION ACTS AMENDMENT BILL.

COMMITTEE.

Clause 1—"Short title and construction of Act"—put and passed.

HON. B. FAHEY, in moving the insertion of the following new clause to follow clause 1:—

"On and from the first day of January, one thousand nine hundred and twelve, no person authorised by license issued under the authority of the board to act as pilot in Queensland waters shall be remunerated by way of an annual stipend from the consolidated revenue of the State, or be deemed to be in the service of the Crown as represented by the Government of Queensland"—

said that the Government were now doing what should have been done years ago. The present Government were by no means responsible for the omission, because action should have been taken in the matter actually before the members of the present Cabinet were born. The volume of trade and commerce and the size and the character of the vessels conducting it at the present day in Queensland ports were very different to what they were thirty or forty years ago,

Mr. Collins.

flowed by a very serious monetary penalty. He considered that the penalty assigned by the London Board of Trade was adjusted to the capacity of the persons who would have to pay; and if the amount were made greater it would probably not be workable. He considered that £100 would induce any pilot, depending upon his reputation and his salary for his living, to be very careful in the performance of his duties. Accidents had happened in this State within the last twelve or eighteen months which need not have happened; but, if the Government wished to relieve themselves of responsibility in regard to these harassing claims and compromises, they should make provision for pilots not paid a salary by the Government. The manner in which the Government were trying to bring about what they desired seemed to be an effort to legalise a denial of justice and equity by keeping on the system which had brought about the demands and compromises to which he had referred, and had only proved expensive to both parties. As a public servant of forty-five years' service, he would not say or do anything that might be construed as a reflection upon the pilots. He did not know the pilots at present in the service of the Government in the port of Brisbane; but he had known the head of the department for many years. Next to Captain Heath, he was the most competent officer who had filled the position in Queensland; and he was an explorer and navigator of great experience. Moreover, his friend John Mackay had more than the average share of the milk of human kindness and a heart as big as his brainy head; and it was more than probable that in dealing with subordinates he had occasionally exercised mercy at the expense of his better judgment. Considering the size of the vessels coming to our ports, the efforts that were being made to accommodate them on their arrival, and the rapid growth of our commerce, he thought the change he suggested in the pilot system of the State was essentially necessary.

HON. A. H. BARLOW: In view of the great experience of the hon. member—he was sub-collector of Customs for many years, and had been acquainted with shipping all his life—anything he said on the subject was no doubt valuable; but he took exception to the amendment, because it not only upset the whole Bill, but also repealed a whole section of the Navigation Act. If pilots were not to be paid out of the consolidated revenue, how were they to be paid?

Hon. B. FAHEY: By results, as in Great Britain.

HON. A. H. BARLOW: If the proposed new clause were passed, there would be no fund from which pilots could be paid. Moreover, they had official knowledge that certain Estimates had been laid on the table of the financial House and referred to the Committee of Supply; and on page 50 provision was made for a harbour-master and senior pilot at £430, two pilots at £360, two at £340, two at £320, and three at £300.

Hon. G. W. GRAY: Are those the same as last year?

HON. A. H. BARLOW: No—the salaries were increased. The total increase was £500. If the amendment was carried, it would be a repeal of the policy of those

Estimates; therefore he submitted that it was not within the competency of the Council.

Hon. B. FAHEY: The amendment does not affect them in the least.

HON. A. H. BARLOW: It inferentially repealed a whole part of the Navigation Act, and did not supply any machinery to take its place. It stated that remuneration was to be paid, but it did not make provision for that remuneration. Inferentially it repealed Estimates, which, if passed by the Assembly, would become operative in law, and he could not accept the amendment.

HON. G. W. GRAY said there was a great deal to recommend what was intended in the amendment. In the old country pilot dues or fees were not put into the consolidated revenue; and in Victoria they were not put into the consolidated revenue, but were simply charged as a

[4 p.m.] wage or salary, and put into a fund called the pilotage wages fund. The Hon. Mr. Fahey was trying by this amendment to meet the objection to clause 2 of the Bill. Notwithstanding that the board in each of the three cases that had been quoted found that the pilot was at fault, the Government were now trying to exempt themselves from liability. The Attorney-General told him the previous day that he had no right to discuss the facts that he had in his hand.

The ATTORNEY-GENERAL: I do not think I mentioned that.

HON. G. W. GRAY: The hon. gentleman said so deliberately.

The ATTORNEY-GENERAL: I reminded you that the cases were *sub judice*, that is all.

HON. G. W. GRAY: It was public property that the pilots were entirely at fault. The owners of those ships were told in plain language that, if they sent their vessels to Brisbane, they must give absolute possession of them to the pilots whom they were compelled to employ. Consequently, the captain of a ship became a nonentity from the time the pilot boarded his vessel until she reached her berth.

Hon. C. S. MCGHIE: That is so in every well-regulated port in the world.

HON. G. W. GRAY: He begged the hon. member's pardon, but he must contradict him, as he knew better. In the greatest shipping and commercial country in the world—Great Britain—the pilots were not employees of the Government. That was what was aimed at by the amendment. The Government actually repudiated responsibility for the acts of their employees, despite the fact that they had passed enactments making every private employer liable for the slightest mishap. There was a right way of regulating the matter, but the Government were taking the wrong way. The Bill was most unjust to the British shipowner, on whom they relied for carrying away the vast quantity of the products of the State, including the wool clip and frozen cargoes. The pilots were thoroughly reliable men who were examined and appointed by the Marine Board, the members of which were all experts. He looked upon Captain Mackay as one of the best experts in Australia. (Hear, hear!) Until quite recently, even with the vast floating palaces which now traded to Queensland waters, the pilots had avoided

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mishaps. He again asked the Minister to table a return showing the claims that had been paid by the Government during the last twenty years in connection with damages sustained in the port of Brisbane. He was perfectly satisfied that such a return would redound to the credit of the pilots.

HON. A. H. BARLOW: Quite so. It is not what has happened but what may happen.

HON. G. W. GRAY: The hon. gentleman talked about what might happen. During his speech on the second reading of the Bill, he launched out and said that the State might become bankrupt by having to pay a claim for £500,000.

HON. A. H. BARLOW: I spoke of the finances for the year.

HON. G. W. GRAY: He would quote the hon. gentleman's words—

“It will be apparent to hon. members that a very serious loss of this kind, running to perhaps £500,000, would practically bankrupt the State for the year.”

HON. A. H. BARLOW: Exactly—“for the year.” It would involve additional taxation.

HON. G. W. GRAY: The hon. gentleman went further, and said that the Bill would not exempt a pilot from the penalties of manslaughter if anybody was killed as a consequence of his neglect.

HON. A. H. BARLOW: Quite so. It only takes away the civil remedy.

HON. G. W. GRAY: They had had pilots in the port of Brisbane for fifty years, and the talk about manslaughter was very far-fetched. Equally far-fetched was the hon. gentleman's alarming statement about the State being made bankrupt as the result of some negligence on the part of its pilots. The alarming statements that the hon. gentleman had made weakened the arguments in support of the Bill. He asked the hon. gentleman now to table the claims that had been made during the last twenty years.

HON. A. H. BARLOW: I am quite prepared to admit that they are small.

HON. G. W. GRAY: The percentage compared with the amount of shipping during the period was so small that there was no need to become alarmed or to relieve themselves of their responsibility.

HON. A. H. BARLOW: Probably people did not make claims because they did not think they would get anything.

HON. G. W. GRAY: That had not been shown by the claims that had been made. The Government always had a power behind them in the shape of the Marine Board to protect them against unjust claims. But in the three cases to which he had alluded, the Marine Board had found that the accidents were due to the carelessness of the pilots, and it was most unjust to the owners of those ships for the Government now to attempt to exempt themselves. He felt very strongly on the matter, and suggested that the Government should drop the Bill and bring in a reasonable measure that would be just to the shipowners and also fair to themselves. He intended to defeat the Bill if he possibly could.

HON. A. H. BARLOW: The hon. member said that the Marine Board were there to protect the Government. That was to say that the Marine Board would bring in false findings for the purpose of enabling the Government to escape liability.

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HON. G. W. GRAY: There is nothing to justify that statement. I say you have the Marine Board to investigate claims and tell you whether accidents have arisen through the carelessness of your pilots or not.

HON. A. H. BARLOW: And if the Marine Board found that an accident had been caused through carelessness, what would happen? He did not know whether a jury would accept a finding of the Marine Board as positive evidence, but it would go a long way with them, though they might take independent evidence as to the facts themselves.

HON. G. W. GRAY: I suppose you will admit that the Treasurer has endorsed the findings of the Marine Board in connection with these three cases?

HON. A. H. BARLOW: He could not help endorsing them, as the Marine Board was a judicial body.

HON. G. W. GRAY: That raises another question. Is three months' suspension sufficient punishment in such a case?

HON. A. H. BARLOW: He thought there was a great deal in what the hon. Mr. Stevens said on the second reading—that it was absurd to suspend a pilot for three months for a grave offence and inflict the same punishment on the master of a little ketch that ran on a sandbank at the mouth of a creek. But they were losing sight of the basic principle of the Bill—the alarm which the Government felt at the possibility of a great claim coming in upon them. The object of the Bill was simply to shut the door against any possible calamity of that sort. He did not think he had gone too far when he said that it would bankrupt the State for the year if they had to pay a claim of £500,000. It would cause additional taxation, and would very likely necessitate the imposition of a land tax; £500,000 was an enormous sum.

HON. G. W. GRAY: Table the claims for the last twenty years.

HON. A. H. BARLOW: He was quite prepared to admit that the claims that had been made were small. He had furnished the Hon. Mr. Carter, at his request, with particulars of the claims for two years, and the amount was very small, barring the two great troubles—the “Waipara” and “Eastern” claims. The Bill was not intended to hurt anybody, but to protect the public finances against a dire catastrophe. He was authorised by the Treasurer to say that the Marine Board and the pilot question were engaging the attention of the Government, but whether anything could be done this year or not he could not say.

HON. G. W. GRAY: Then the better scheme is to postpone this Bill until the whole question can be dealt with.

HON. A. H. BARLOW: And to-morrow a telegram might come up from Cape Moreton stating that one of these enormous vessels had been cast away, and trouble would arise. That would be to shut the door after the horse was stolen—the very thing the Bill was intended to prevent.

The ATTORNEY-GENERAL: The support of this amendment by the Hon. Mr. Gray was, to say the least, very inconsistent.

The amendment affirmed the principle that the Government should not be liable for the negligence of the pilot, and the same principle was affirmed in the Bill; and the hon. gentleman's ground for supporting the amendment was that the Government ought to be liable for the neglect of the pilot, though the pilotage authority was not liable anywhere else. With regard to the fees being paid into the consolidated revenue in Queensland, no doubt the reason for that was, as the Hon. Mr. Fahey pointed out, the small amount of shipping that came here years ago and the precarious nature of the pilots' work. It was in the interests of the pilots, and not in the interests of the Government, that the method of paying them out of the consolidated revenue was adopted; and now the hon. member turned round and said that the Government should take the responsibility for the negligence of the pilots employed and paid by them. In other words, he wanted the Government to be insurers of all the ships coming here without getting any premium for taking the risk. If the business of pilotage were carried on by the Government for profit in the same way as the railway business was carried on, it would be different. He had returns giving a summary of the figures for the last ten years; and those figures showed a loss of over £67,000 in Queensland ports during that time—debiting the salaries of the pilots, the upkeep of the pilot boats, and other matters in connection with administration.

Hon. G. W. GRAY: There is also ls. a ton paid on the tonnage of the ships.

The ATTORNEY-GENERAL: He did not know whether the hon. member thought they were paying too much; but the inevitable result of making the Government responsible for damage caused through the negligence of pilots would be to raise the rates; so that the hon. member, instead of being a friend of the shipping community, was really doing them harm. The hon. member talked about the Government trying to get out of liability. He understood the hon. member to take the view that under the existing law the Government were not liable; and that being the case, they were not trying to get out of a liability.

Hon. G. W. GRAY: You misunderstood me.

The ATTORNEY-GENERAL: If the hon. member did not say it, that was the view expressed by other hon. members; and he thought the majority of hon. members took the view that the Government were not liable. There was a division of opinion on the matter amongst leading barristers; and the object was not to exempt the Government from a liability which did not exist, but to declare the law on the matter—to put Queensland into the same position as other countries, and prevent the Government from being harassed by law suits when there was no necessity. Another point made by the Hon. Mr. Gray was that there had been very few claims within the last twenty years; and he asked to have the claims tabled. He did not possess that information, but he might point out that within a period of two years four or five claims had been made, including one of £100,000 and another of £25,000. Was not that sufficient to justify the Government in getting the law on the question settled? With respect to the amendment, it was hardly fair to bring forward such a drastic amendment without notice. It was inconsistent

with the provisions of the Bill; and it seemed to transgress the constitutional practice hitherto observed in dealing with the financial policy of the Government. Moreover, it was a provision which could be defeated by any Government. The amendment provided that pilots must be paid by fees instead of being paid out of the consolidated revenue; and if the Government wished to make it inoperative they could cut down the fees to the vanishing point, and perhaps there would be no pilots at all. Perhaps the Hon. Mr. Fahey thought that pilots would get £500 or £600 a year, but he had no definite information to show that their incomes would not fluctuate. They might reach double that amount, or they might be less than half of it. The thing was too vague and uncertain, and it was inconsistent with the Bill. If the amendment were carried, clause 2 would have to be altered or struck out. He hoped the Committee would reject the amendment.

HON. M. JENSEN: The proposed amendment really abolished pilotage unless followed by a consequential amendment. At the present time section 128 of the Navigation Act gave the Governor in Council power to decide how licensed pilots were to be remunerated, and what proportion of the pilotage dues was to be received by the pilots. By the proposed amendment, pilots were not to be remunerated by the Crown, and they were not to be in the service of the Crown. Then this absurd position was created: Voluntary pilots acting without remuneration, and not in anyone's service. He inferred from the Hon. Mr. Fahey's remarks that his object was to secure a better class of pilot—a pilot who must pass a very severe examination. All the machinery for that existed at present. There was a provision in the Navigation Act by which the Governor in Council might authorise the board to grant licenses to pilots and to determine their qualifications; and with the assistance of the Government they could make the qualifications quite as stringent as they wished.

Hon. A. J. CARTER: They never would vote sufficient money to pay the pilots. My colleagues and myself time after time sent a requisition for an increase, which has never been granted.

HON. M. JENSEN: This amendment does not affect that; it provides for a pilot who is not remunerated, and who is not in the service of the Crown. Then with regard to punishment, the suggestion was made that the pilot should be liable to the extent of £100. Among the powers which the Governor in Council might confer on the board under the Navigation Act was the power to make regulations for the proper conduct of pilots, and for punishing any breach of such regulations by the suspension or cancellation of their licenses, or by the infliction of penalties. Instead of being limited to £100, they could make it £500 under that provision. The Hon. Mr. Gray argued as if compulsory pilotage was solely for the benefit of the people of [4.30 p.m.] Queensland; but it was just as much for the benefit of the ship-owners. Suppose there was no compulsory pilotage, and the captain of a big vessel wrecked his ship in the bay and she lay there for three months. What would be

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the effect on other vessels arriving from abroad during that period? Would they not pray for compulsory pilotage?

HON. C. S. MCGHIE: Who would have to remove the ship?

AN HONOURABLE MEMBER: The Government of Queensland.

HON. M. JENSEN: There would be a loss to succeeding ships until the vessel was removed.

HON. A. H. BARLOW: The insurance premiums would immediately go up.

HON. M. JENSEN: They would go up enormously.

HON. B. FAHEY: They are going up now.

HON. A. H. BARLOW: That is owing to the war scare and the Declaration of London.

HON. M. JENSEN: As was mentioned the previous day by the Hon. Dr. Taylor, £2,000 was the maximum amount that could be claimed from the Railway Department—a department that was carried on, amongst other things, for profit. As the hon. member said, if a man had been earning £4,000 or £5,000 a year, the maximum amount that could be claimed if he was killed, was only £2,000. Here there was to be no limitation whatever. He had looked up the case mentioned by the Attorney-General in which the State of Tasmania was sued for a wrongful arrest made by a constable, and the High Court held that the State was not liable. One of the counsel argued that, if the State was liable in such a case, it would be equally liable for all the acts of the justices of the peace appointed by the Government, and for all the acts of health officers. And, if a Government was to be held liable for the acts of everybody appointed by it, why not make it responsible to a litigant whenever the decision of a judge was reversed?

HON. A. H. BARLOW: That was practically the position taken up by Ransome in connection with the case of *Ransome v. Brydon, Jones, and Co.*

HON. E. J. STEVENS: The last argument of the Hon. Mr. Jensen was not a very powerful one. Justices of the peace were not experts, but were simply political appointments. (Laughter.) But pilots were supposed to be first-class men in their work, although, according to the evidence he had quoted on the second reading, some of them were nothing of the sort. In the case of the "Eastern" the pilot admitted that hundreds of times he had gone out when he could not see the leads or the beacons—that hundreds of times he had run the risk of wrecking a ship, and at last he succeeded. His contention was that if the Government compelled shipowners to employ certain men then they should have a measure of responsibility. One other point he wished to mention was that the Marine Board were not sufficiently severe on the men who failed in the execution of their duty. He was very glad to hear from the representative of the Government that the reformation of the Marine Board—though the hon. gentleman did not call it that—was engaging the attention of the Government; but, if this Bill was not passed, relieving the Government of all responsibility, they would be much quicker in bringing about that reformation. He did not think the Portmaster should be chairman of the Marine Board. The pilots were practi-

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cally appointed by him as Portmaster, and, as the present Portmaster was a man with a very strong personality, he practically ran the Marine Board. As the Hon. Mr. Fahey said, he was a man with a very big heart, and he refrained from dealing severely with pilots who committed faults. He was not there for that purpose, but to hold the scales of justice evenly, and if a man failed in doing his duty he should be dismissed or otherwise punished in proportion to the gravity of his offence. There was a great deal in the contention of the Government that the responsibility in these days of enormous ships was too heavy for them to bear; but, if they wished to be relieved of their responsibility, they should pay salaries which would enable them to employ men who were thoroughly capable of dealing with a different class of ships to what had traded to their ports in the past. Some of the present pilots were absolutely unfit to handle such vessels. Two of them had wrecked ships, and a third, through his ignorance of the currents of the river—with which he ought to be familiar—crashed into a wharf and damaged both the ship and the wharf. For such serious offences only trivial punishments were inflicted, and so the thing was to go on. If the Bill were defeated, the Government would probably take steps to bring about a reformation sooner than they would if the Bill were passed.

HON. C. S. MCGHIE: Most of those who had spoken seemed to have missed the point of saying who was to be made responsible. Having been at sea himself for a considerable time, he had always understood that the insurers were responsible in the event of an accident to a ship. Some hon. members had said that they did not blame the pilot service. Well, whom did they blame? The only conclusion to be drawn from the speeches of hon. members was that the present members of the pilot service in Brisbane were incompetent.

HON. E. J. STEVENS: Hear, hear! Some of them are.

HON. C. S. MCGHIE: Another conclusion to be drawn was that their salaries were insufficient. Well, they might not be sufficiently paid, but he would like to ask some of those who had spoken how their salaries compared with the salaries of the commanders of some of the large vessels of which they took charge. What was the salary, for instance, of the commander of one of the magnificent Orient liners?

HON. E. J. STEVENS: A good deal too little.

HON. C. S. MCGHIE: A good deal too little, but certainly very little more than was paid to our pilots. In fact, he did not think they were paid as much.

HON. P. MURPHY: But they get their food.

HON. C. S. MCGHIE: So did the pilots whilst on duty. Pilotage was a very important thing. The Hon. Mr. Gray had said, in reply to an interjection from him (Mr. McGhie), that the Government had nothing to do with the pilot service in Great Britain. Well, the Government might have nothing to do with the pilot service, but at least it had to do with the formation of the boards that controlled the service. It was practically the same in all the important ports in Great Britain which he had visited. You must

either take the pilot that was offered to you, or you must have exemption from pilotage—which was precisely the same rule as that which applied in the Brisbane River. The reason why men were exempted from pilotage in the Brisbane River was that they knew the port as well as, some of them better than, the pilots, because they were in and out so often. But it was quite a different matter with a ship coming from oversea. Perhaps the captain of that ship had never been to Brisbane before, and even if he had, the channels altered so much that in six or twelve months they might not be the same as when he was here previously. Therefore, he must have a pilot. The inference from what some hon. members had said was that some of the pilots who were offered to him were not competent. On that point he (Mr. McGhie) could not express any opinion; but he did not care what kind of examination had to be passed, or what class of man was appointed to the position, they were always liable to have accidents. One of the most famous ports in the world for pilots was the port of Calcutta. He did not know whether any of his hon. friends had ever been at the Sand Hills when a pilot came aboard a ship, but he came like a nabob, and took entire control of the ship. Between the entrance to the Hoogly River and Calcutta there were many skeletons of ships, but the Government of India or the pilots had never been held responsible for the loss of any of those vessels. They had all been lost going out or in, because once a ship took the ground in that river she was lost. They had heard of three of the Brisbane pilots. Well, what position would the master of a ship be in if a man came alongside and said he was a pilot? The captain would know nothing about the credentials of that pilot.

HON. P. MURPHY: He would not be allowed to practise without a license.

HON. C. S. MCGHIE: He was not to be allowed to practise unless he was licensed, and then they were told that those who allowed him to practise were to be held responsible for any loss that might be occasioned by him. Even if the amendment were agreed to, those wishing to join the pilot service would have to pass an examination prescribed by a competent board, and who was to appoint that board? And who would offer his services to that board if his salary was precarious, and he did not know how much he was to receive? Under such a system he did not think they would get any pilots at all. There was certainly one way in which the Government might relieve themselves of any responsibility, and that was to refuse to pilot ships at all or to have anything to do with pilotage. But would that not be a serious matter for the people of Queensland and for the shipping companies? He contended that the pilot service of Brisbane had been conducted as well as any pilot service that he had ever known. It was properly constituted, and, if they had a new pilot service to-morrow, it must be constituted, if not directly through the Government, by order of the Government. But to say that the Government should be responsible because they had appointed the machinery by which those men would be examined and appointed was surely out of all reason. Were not ships insured against any accident that might occur in the Brisbane River? There seemed to be some doubt as to whether the Government were responsible or not. Personally, he thought they were not liable, though, not

being a lawyer, perhaps he did not know; but it seemed very unreasonable that they should be liable, and if they were liable, the sooner they were relieved of that liability the better. The Committee would very greatly neglect its duty not only to the Government of Queensland, to whom they were responsible, but to the shipowners who traded with this port, if they did not deal with the matter. He hoped the Bill would be passed, if not in its present form, then with some amendments, though he thought the amendment proposed by the Hon. Mr. Fahey was altogether out of the question.

HON. A. A. DAVEY said it went without saying that in the interests of the community ships should be able to get into our harbours with safety, but it was a matter of history that pilots were not remunerated anything like in proportion to the value of their services. There was a tendency all over the world to make the private employer responsible for the acts of those whom he employed, and personally he believed in that principle; but if the principle of the employer's liability was right as applied to the private employer, he could not feel any great admiration for any Government wanting to shirk its duty in that respect. He was sorry to say that in some of our States the Governments were amongst the greatest sweaters, but that was by the way. He thought the Government should do all they could to see that ships were properly piloted; but the argument that they should be responsible for damage caused through any mishap was one which could not be justified. If that principle were adopted, there would be nothing to prevent an enormous charge being made on account of damage resulting from some supposed misconduct of the pilot. If the Government were to be made responsible, it should be well understood that they could charge the shipping companies an amount that would correspond with the premium they would have to pay to protect themselves. Then there would be an outcry about the charges being too high and driving shipping away. The whole thing pointed to the necessity in the near future of placing our harbour and shipping business and wharf business in the hands of a harbour trust, who would deal with all shipping matters, including also the appointment of pilots. Considering our rapidly-growing commerce, he thought the time had arrived when steps should be taken in that direction. Masters and pilots throughout the world—throughout Australia, at any rate—were, in his opinion, wretchedly paid; why they did not insist on a fuller recognition of their services he did not know. He hoped that the good sense of the community would see that the men who navigated large ships and had the safety of thousands of lives in their hands were paid well while so engaged, because it was undesirable that they should continue in that work until they became old. It was work that should be taken up by men in their prime—men who were at their very best. He could not support this amendment, and he hoped the Bill would be passed with whatever amendments were necessary to make it work well.

HON. P. MURPHY said he merely rose to ask a question to enable him to decide how to cast his vote. Did the placing of a pilot on a ship excuse the insurance company from paying damage if the ship was wrecked?

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HON. A. H. BARLOW: No; but if they did not take a pilot, the insurance company probably would not pay.

HON. P. MURPHY: Why was a claim made against the Government if the insurance company were responsible?

The ATTORNEY-GENERAL: The insurance company are at the back of men who bring an action against the Government.

HON. P. MURPHY: Was he to understand that, if the owners failed to get anything from the Government, they would still be able to get it from the insurance company?

The ATTORNEY-GENERAL: They go to the insurance company first; then they make a claim on the Government for the benefit of the insurance company.

HON. P. MURPHY: If he did not get damages against the Government, would he still be able to get his insurance?

The ATTORNEY-GENERAL: Yes; he goes for the insurance company if he fails in his claim against the Government.

HON. P. MURPHY: He understood now that an owner sending a ship to Queensland insured the ship, and if she was lost, whether there was a pilot on board or not, he could get his money from the insurance company.

HON. G. W. GRAY: Those large ships are only insured proportionately: they cannot get cover for the full amount.

HON. P. MURPHY: The owners took the risk, and they naturally recouped themselves by putting it on the freights. Where property was lost through the negligence of the Government, he would not be a party to excusing the Government if nobody else was entitled to pay; but he understood that the insurance companies had to pay.

HON. B. FAHEY said the Hon. Mr. Barlow led the Committee to infer that the amendment had a tendency to upset the financial policy of the Government; but that was not the case by any means. It did not affect the salary or the status of any pilot in the service of the Government at present; it merely applied to pilots to be appointed after 1st January next. The Hon. Mr. McGhie led them to infer that they were responsible to the Government for any action they might take. That was not so. Every hon. member in that House should be thoroughly independent in his action; and that was the position he had always occupied and would continue to do so. He wished to assure hon. members, in reply to the Hon. the Attorney-General, that in moving his amendment he had no intention of harassing the Government. His experience in marine matters impressed him strongly with the growing necessity of adopting the change in our pilot system which the amendment suggested. He did not think, from the remarks of the Hon. Mr. Davey, that that hon. member clearly understood the tenor of the amendment. It did not tend in any way to impose on the Government any liability that did not attach to them at present. No matter what occurred in connection with pilotage or in connection with shipping, as long as the law remained as it was at present, consumers and taxpayers were ultimately responsible for any mistake made by a pilot.

[Hon. P. Murphy.]

Question—That the proposed new clause (*Mr. Fahey's*) be inserted to follow clause 1—put; and the Committee divided:—

CONTENTS, 7.

Hon. F. T. Brentnall	Hon. G. W. Gray
" A. J. Carter	" E. J. Stevens
" J. Cowlshaw	" W. F. Taylor
" B. Fahey	
Teller: Hon. E. J. Stevens.	

NOT-CONTENTS, 10.

Hon. A. H. Barlow	Hon. C. F. Marks
" A. A. Davey	" C. S. McGhie
" A. Hinchcliffe	" P. Murphy
" M. Jensen	" T. O'Sullivan
" T. A. Johnson	" H. Turner
Teller: Hon. C. F. Marks.	

Resolved in the negative.

[5 p.m.]

On clause 2—"Liability for neglect of pilot"—

HON. A. H. BARLOW moved the addition of the following subclause:—

"(3.) Nothing in this section shall be construed to affect or in any way prejudice any right of action accrued or any action, petition, or other proceeding commenced or presented before the passing of this Act; and all such rights shall continue, and all such actions, petitions, and other proceedings shall be of the same effect and may be continued, proceeded with, and completed as if this Act had not been passed."

Amendment agreed to.

Clause, as amended, put and passed.

HON. B. FAHEY said that, as he had intimated, he had intended to move an amendment consequent on the amendment that had just been lost; but, owing to the defeat of that amendment, the other was superfluous.

Clause 3—"Power to cancel license to pilot"—put and passed.

On clause 4—"Application to other vessels of provisions of Navigation Acts relating to steamships"—

HON. A. H. BARLOW moved the omission in line 16 of the words "sailing ships and to."

HON. A. H. BARLOW moved the insertion in line 17, after the word "power," of the words "and to sailing ships so far as relates to surveys."

Amendment agreed to.

Clause, as amended, put and passed.

The Council resumed. The CHAIRMAN reported the Bill with amendments, and the report was adopted. The third reading was made an Order of the Day for Tuesday next.

JOINT COMMITTEES.

APPOINTMENT OF MEMBER OF ASSEMBLY TO LIBRARY COMMITTEE.

The PRESIDENT announced the receipt of a message from the Assembly intimating that Mr. Charles Joseph Booker had been appointed a member of the Joint Library Committee in place of Mr. Richard John Cottell, deceased.

HEALTH ACT AMENDMENT BILL.

SECOND READING

HON. A. H. BARLOW said: This is a Bill to amend the Health Act of 1900. It is

to a large extent a consolidation and amendment, and is purely a Committee Bill, dealing with a vast variety of subjects. In clause 2 the amendments are merely formal. In the interpretation clause a number of gaps have been stopped, which were discovered in the course of legal proceedings, and definitions have been made more complete and effectual. Clause 5 relates to sewers, and makes unoccupied lands liable for sewerage rates in the same way as such lands are liable for water rates and local authority rates. The clause goes on to prohibit the discharge of house water into street channels not being sewers. Clause 17 extends the present powers of the Health Act, which now are limited to houses built after the first day of January, 1901. This clause cuts away the exemption, and in future all houses are to be liable. Clause 8 gives enlarged powers to a local authority for various cleansing purposes. Clause 9 repeals certain sections of the Health Act of 1900 to make way for better and more complete sections. Clause 10 is preliminary to the question of adulteration. It defines adulteration as mixing or diluting with any substance in any quantity or in any proportion which diminishes its nutritive properties; as making an article under the standard; as containing any prohibited article, any substance in excess of the quantities permitted by the Act; as being mixed, coloured, powdered, or coated, or stained in any manner whereby damage, deterioration, or inferiority is or may be concealed; as being the product of a diseased animal; as being damaged, deteriorated, or perished; as being a food containing methyl, alcohol or, not having paid Customs or excise duty, containing more than 2 per cent. of proof spirit. The next subclause deals with repacking in old bottles, and so on, for purposes of deception. Then it requires that the proportion of various narcotics shall be stated on the package or on a label. It prohibits incorrect statement of weights or false descriptions, and it provides that articles shall comply with the Commonwealth trade marks law. It further provides that a food or a drug may be sold as a mixture, and shall not be deemed to be adulterated if sold as a mixture in accordance with the Act. Drugs have to comply with the British Pharmacopœia. Sales by an agent come upon the agent. There is a clause in a later part of the Bill dealing with the principle. The next part of the Bill deals with prohibitions—prohibitions as to pure food, mixtures—such, I presume as borax drugs fraudulently adulterated with a view to increasing their bulk, weight, or measure, or to conceal their inferior quality. It deals with things which are not of the nature, substance, or quality that they are represented to be. The mixing matter is to be pure, and is to be stated. I presume an instance would be where coffee is sold with chicory. It would have to be stated what the article really was, and the chicory would have to be pure. It makes an exception with respect to any food or drug known as a compounded article, or a drug not recognised by the British Pharmacopœia, if it is mixed with anything not injurious, and there is no attempt at fraud; also with respect to a drug supplied by prescription by a medical practitioner, or compounded and supplied by a pharmaceutical chemist; also with respect to any mixture exempted by the regulations. Packages con-

taining food are to bear labels with description and weight of contents. Power is given to the Commissioner to examine and report upon articles advertised; and this will have a desirable effect on nostrums advertised to cure everything from brain disease to a bunion. It will also deal with fraudulent devices said to effect cures. There was one exposed some time ago in connection with defective hearing. Poor people afflicted in that way neglected to get medical assistance and spent their money on so-called electrical devices, in which the electricity did not amount to anything. This will put a stop to that. The Commissioner may print in the *Gazette* and in any newspaper in Queensland any report he may make under this provision of the Bill after the other party has been heard. He has power to make an interim prohibition of sale; and the cost of publication is to be borne by the vendor, importer, or owner of the food, drug, or article in question. He may prohibit the sale of injurious articles, including quack apparatus; and no person may advertise any prohibited article. With respect to disinfectants and preservatives, he may prohibit the sale of any disinfectant or germicide, but the vendor is entitled to be heard. That principle of justice runs through the whole thing. He may require any disinfectant to be labelled, and directions to be set out on a label attached to the package. I suppose that when this becomes law, fraudulent and non-effective disinfectants will be immediately stamped out—nobody will buy them. Within proclaimed areas no person can sell milk unless he is licensed and his premises are registered; and the seller must have his name and his registered premises inscribed on his vehicle; and he is not to carry any water in the conveyance in which milk is carried for sale.

HON. C. F. MARKS: Whether in the milk or out of it?

HON. A. H. BARLOW: Yes. This only applies in proclaimed areas. Then it provides that no person shall sell the milk of a cow suffering from any disease; and the fact that a diseased cow is in the milking-yard is *prima facie* evidence that the milk of such cow has been sold. Bread is treated in much the same way as under the existing Act. There is to be inspection of foods in course of delivery to detect short weights. This is pretty strong. Power is given to stop any vehicle by which articles of food are conveyed, and if the weights are found to be apparently deficient or otherwise unjust the goods may be seized.

AN HONOURABLE MEMBER: Why not?

HON. A. H. BARLOW: I do not know why not. The only question is whether the community will put up with it or not. Then there is a clause dealing with olive oil; also a clause providing that leaden pipes shall not be used in drawing beer; also that no cooking utensil or appliance shall be sold if the metal of which it is made contains more than a certain proportion of lead, or is soldered or tinned with metal containing more than 1 per cent. of lead, or containing enamel or indiarubber which yields lead to acetic acid under certain conditions, or which contains more than one-fourth of a grain of arsenic per pound of metal alloy, enamel, or indiarubber. Then it is provided that no person shall manufacture or

Hon. A. H. Barlow.

sell wallpaper or toys containing poisonous substances; and textile substances or leather intended for clothing must not contain arsenic, lead, antimony, or barium, or any substance intended to fraudulently increase the weight. Boots and shoes are not to have paper soles; and shoddy woollen goods are to be prohibited. Then we come to the filtration of the water from which aerated waters are prepared. There are powers of inspection, removal, sampling, and analysis. We then come to the possession of ingredients for adulteration, and that is made punishable. If a person is found with adulterating ingredients in his possession it will be taken that he was going to use them. Then it is provided that the agent or servant is to be liable in addition to the principal; but the agent or servant may recover from the principal any damages given against him if he can show that he acted in ignorance. Then the importer or manufacturer is made liable with respect to closed packages. There are various legal provisions as to what will be a defence. If any person gives a guarantee which is found to be a false guarantee it is a defence under the Bill if he proves that he received a guarantee from the person from whom he purchased, and that he had no reason to believe it was adulterated, and that he sold it in the same state as when he purchased it. When the defendant is a servant or agent he is protected by the guarantee whether it is true or false. Then there are provisions with respect to legal proceedings; and it is provided that all proceedings in respect of an offence under this part of the Act shall be taken in a summary manner before a police magistrate sitting alone. (Hear, hear!) The burden of proof is on the defendant; and no prosecutor or witness is compelled to disclose the fact that he received information from anyone, or where he got his information. In the event of a second offence of adulteration, the offender is to be gazetted, and a placard is to be stuck up in his place of business for twenty-one days. That is done in France. Any newspaper may reprint these proceedings. Then provision is made for regulations with regard to defining food and drugs, prescribing standards, and so on. Very extensive powers are conferred on the Commissioner in these matters. No food sold under a fancy name, by reason only of being sold under such name, is to be exempt. Manufacturers of proprietary foods containing no unwholesome ingredient will not be required to disclose their trade formulæ. The vendor will have recourse against his principal, as is provided in another part of the Bill. Then we come to the part dealing with infectious diseases, in which we shall have the assistance of our medical friends. Hospitals and places of reception provided by local authorities for patients are to be subject to the approval of the Commissioner. Then the Commissioner may make a charge for disinfecting; and he may cause to be removed any bedding or clothing for the purpose of disinfection and may then cause them to be returned. I think under the original Act he was compelled to destroy them in the case of infectious diseases. Then comes a provision with regard to sending children to school with an infectious disease. That is in the regulations of the department now. Then we get to the rats and insects declared to be a nuisance and a pest. I hope

[*Hon. A. H. Barlow.*

the mosquito will come under the lash of this enactment. For my part, to save the community from dengue fever I would not object to any expense or any inspection; and I hope the community will not, in this beautiful cool weather, forget that the dengue time will come round, and that the mosquito is the enemy of mankind. Then the Commissioner may make orders on people who do not comply with any order published in the *Gazette*. Certain duties are imposed on the owner to make sanitary provision, and the Commissioner may make regulations to check infectious diseases. He may also cause hairdressers' implements and tools to be sterilised. The Commissioner is an absolute king over the whole thing. He has power to take the health of the community into his consideration, and do all that he can to spare the people from disease. There are certain provisions for the notification of infectious diseases. Then we come to this unfortunate creature known as the typhoid carrier. Modern research has proved that some people who do not themselves suffer from enteric fever are living and walking manufacturers of typhoid. When these unfortunate people are caught, the Governor in Council may, on the recommendation of the Commissioner, cause them to be isolated and detained. Then there are strong regulations for private hospitals and midwifery hospitals—all of which are of a very technical character. Then comes the question of nurses. They are to be qualified and registered.

HON. C. S. MCGHIE: No more "Mother Camps."

HON. A. H. BARLOW: There is to be a board for the registration of nurses, and they can be prohibited from practising in cases where they are likely to carry puerperal fever.

HON. C. F. MARKS: That is a very serious matter.

HON. A. H. BARLOW: Finally, if the local authority is lax and lets things drift, the Commissioner may take the matter in hand and make it do its duty. If it is necessary to construct works to protect the health of the people, the local authority may borrow for the purpose without taking a poll of the ratepayers. That is a most cursory glance at the Bill, and I shall be glad if some hon. gentleman will move the adjournment of the debate when I sit down. I move that the Bill be now read a second time.

HON. T. A. JOHNSON: I beg to move the adjournment of the debate.

Question put and passed.

Resumption of the debate made an Order of the Day for Tuesday next.

ADJOURNMENT.

HON. A. H. BARLOW: I move that the Council do now adjourn. On Tuesday we will take the second reading of the Health Act Amendment Bill.

Question put and passed.

The Council adjourned at half-past 5 o'clock.