

REPORT OF PROCEEDINGS OF THE CONFERENCE.

sity of having the indicator which we desired to have in connection with our fruit and our butter and those perishable things, large quantities of which are carried. The motion of Sir Joseph Ward has mainly this object in view, to prevent the bill of lading from absolutely taking away every protection from the owner of the goods, because that is what it does. He must go and insure his goods, and sometimes he cannot do that under the conditions. It seems to me it is very necessary to follow to a large extent, if not wholly, the law we have in existence at the present moment, which is a fact so far as Australia is concerned at any rate.

MR. ANDERSON : With regard to what you said as to tell-tale thermometers on board ship, it is common report that gas meters are untruthful, but I believe their veracity is very great as compared with tell-tale thermometers.

SIR WILLIAM LYNE : Perhaps it is so, but Mr. Anderson knows very well that his ships were among those which refused to tender under it. We were told, in answer to our pressing the question, that we must watch the result and must rely upon the officers of the ship looking after the goods.

MR. ANDERSON : We think our officers understand their business, and the responsibility is upon them of carrying the fruit in good condition.

SIR WILLIAM LYNE : And the poor shipper whose butter or fruit is ruined—what has he to fall back upon?

MR. ANDERSON : Can you tell me of any case in which that has happened?

HON. DUGALD THOMSON : I would like to say a few words upon this matter. In this I cannot agree with the objections of the shipowners (hear, hear). If those "hear, hears" are meant to indicate that I have agreed with them previously, I can only say this, that the attitude I have taken at this Conference is to deal fairly with all the parties concerned. I shall oppose what I think are unfair propositions coming from any quarter. Now, I have had a great deal of experience of bills of lading and shipping contracts, and the result of the safeguards that the shipowners have secured for themselves in recent years in their bills of lading. If you look at the bill of lading of 50 or 60 years ago you will see it is an absolutely different document from the document of to-day, and that every clause which has been put into that bill of lading since has been to enable the shipowners to escape from their common carrying liabilities, and to leave every loss, if possible, with the shipper of the goods. Now, Mr. Norman Hill has said that can be covered by insurance. Mr. Hill knows, I am sure (at any rate if he does not, the shipowners know), the enormous cost of insuring with particular average. And the reason of that is this, that the extreme possibility of loss is always taken by the insurer, which may occur in the worst managed vessel, and the vessel in which the goods are least looked after, and that is fixed as the rate of premium. But that insurance does not cover the enormous national loss which is occurring, and has been occurring, through the shipowners escaping from their responsibility of looking after the goods when they are the only people who can look after the goods. That is a false principle. If a person who has the custody of the goods, and is the only person who can look after those goods, fails to do so, then there is no one else can do it, and surely if the responsibility is to be on anyone it ought, with reasonable restriction, to be on the shipowner who has the custody. Owing to that not being the case, on our Australian coast and over-sea also, there has been a constant loss occurring that was absolutely unnecessary. That is a national loss. It amounted to very big figures on the Australian coast, because the person who had the goods in custody was freed from the responsibility of looking after them. Now, that is undesirable, and all this Australian Act does, so far as I am aware at any rate, is to bring the shipowner back to his common carrying responsibilities—he is not allowed to escape them, and may I point out to Mr. Norman Hill that, whilst he says that the shipowners will have to get a higher freight if these responsibilities are put on them, that they were actually carrying from the United States, where the Harter Act is in force, at lower rates than they were carrying from Great Britain, where there was no such provision.

MR. PEMBROKE : The Harter Act protects the shipowner.

HON. DUGALD THOMSON : I would like to see the comparison. I am quite willing to enter into that matter if desired. I would like to see in what this differs from the Harter Act. There are protections here also for the shipowner. I quite admit that some of these things, such as the lower rates from the United States, are affected by competition in particular directions. This low freight lasted for a long time, and owners found apparently no reason to increase their freights on account of that responsibility, and why should they so long as they are properly protected? It only means this, that in the one case where the responsibility is theirs they look after the goods, and the loss is not incurred. In the other case where there is no responsibility, they do not look after the goods, and the loss is incurred. We had ample proof of that on the Australian coast where great carelessness was shown in the treatment of goods; often they were allowed to be pillaged even under the eyes of the officers of the ships. Cases of fruit were allowed to be emptied, and the empty cases were handed over as a sufficient fulfilment of the contract. Now as to liberty of contract. I myself where there is real liberty am perfectly in agreement with those who would propose not to interfere with that liberty, but there is no liberty, because when the shipowners combine as they do, the shippers have to ship under any conditions which they seek to impose, and that has been the case. Therefore I hold that the proposal of Sir Joseph Ward is a desirable one. I do not know how far the publishing of a fair bill of lading will go, but I think it is desirable. And may I point out that in the Australian Act the shipowners are protected against a great many things. They are protected against faults or errors in navigation, perils of the sea or navigable waters, acts of God or the King's enemies, the inherent defect, quality or vice of the goods—that is perfectly right—the insufficiency of package of the goods, the seizure of the goods under legal process, any act of omission of the shipper or owner of the goods, his agent or representative, or saving or attempting to save life or property at sea, or any deviation in saving or attempting to save life or property at sea. And they are only liable where there is a failure to exercise due diligence and to, properly man, equip, and supply a ship and keep the ship seaworthy. I need not read the rest which Sir William Lyne has read, but it is only where they have failed to exercise due diligence and where there has been negligence, fault or failure in the proper loading, stowage, care and delivery of the goods that they are liable.

HON. W. M. HUGHES : It puts them on the level of ordinary carriers.

HON. DUGALD THOMSON : Now I believe all these responsibilities attached to shipowners at one period—common carrier liabilities. They have seen reason to put clauses in the bill of lading to specially exempt themselves. If the bill of lading of 60 years ago were adopted, with exceptions for special circumstances—I quite agree with the need of special conditions in some circumstances, but they can always be filled in—then there would be no necessity for these Acts. The shipowners are exercising their powers in combination, and I think they are going too far; they are leading to a heavy loss of goods, which is a national loss and unnecessary, on account of refusing to accept their own responsibilities. I think in their own real interests—if not their immediate interests, which are not always the real interests of any concerned—it would be much better if, instead of expecting the shippers (for as Mr. Hill said there were some unreasonable companies who would not acknowledge claims) to be satisfied with the reasonableness of a particular shipowner and were able to recover nothing—where the owner is not reasonable—they were to allow fair conditions. They could have a variation of these where necessary, but there should be only reasonable conditions in their bill of lading. That, I am sure, would be, in the end, in the best interests of the people who now sustain this national loss, and in the best interests of the shipowners themselves.

MR. LLEWELLYN SMITH : Would you be content with the Harter Act, because it differs materially from the Australian Act?

HON. DUGALD THOMSON : I do not think it does. I have the comparison here.

MR. NORMAN HILL : The Act which you have quoted from and the exemptions are all conditional on the ship at the beginning of the voyage being seaworthy in all respects. Therefore, if the ship in the case I put,