

JOINT SELECT COMMITTEE
REPORTS OF LEGISLATIVE
ASSEMBLY - 1927

**The Indian Merchant Shipping
(Amendment) Bill**

List of Reports of Select or Joint Committees
presented in the Legislative Assembly in 1927.

Serial No.	Short title of the Bill.	Date of presentation.	Remarks.
1.	The Steel Industry (Protection) Bill.	7.2.27.	
2.	The Indian Merchant Shipping (Amendment) Bill.	26.3.27.	
3.	The Gold Standard and Reserve Bank of India Bill.	18.8.27.	Report of the Joint Committee.
4.	The Imperial Bank of India Bill.	18.8.27.	-do-
5.	The Indian Lighthouse Bill.	31.8.27.	-do-
6.	The Indian Securities (Amendment) Bill.	31.8.27.	
7.	The Indian Tariff (Amendment) Bill.	31.8.27.	
8.	The Indian Tariff (Cotton Yarn Amendment) Bill.	31.8.27.	
9.	The Bamboo Paper Industry (Protection) Bill.	31.8.27.	
10.	The Indian Forest Bill.	1.9.27.	
10.	The Indian Criminal Law (Amendment) Bill.	14.9.27.	

LEGISLATIVE DEPARTMENT.

We, the undersigned, Members of the Select Committee to which the Bill further to amend the Indian Merchant Shipping Act, 1923, was referred, have considered the Bill and the papers noted below and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto:—

1. Letter from the Secretary to the Chamber of Commerce, Bombay, No. 3254-296, dated the 26th November, 1926.

2. Letter from the Secretary to the Bengal Chamber of Commerce, Calcutta, No. 12-1927, dated the 3rd-4th January, 1927.

3. Letter from the Secretary to the Government of Bombay, General Department, No. 5918-13-C., dated the 6th January, 1927.

4. Letter from the Deputy Secretary to the Government of Bengal, Political Department, No. 702-P., dated the 14th January, 1927.

We have made several drafting alterations in the Bill to which it is unnecessary to refer in detail, and we now proceed to deal with other alterations which we have made, or the desirability of which we have discussed.

We considered very carefully the advisability of providing that the price of tickets should in no case be reduced below the price communicated to the Pilgrim Officer under sub-section (1) of the proposed new section 209B, which under sub-section (3) of the same section as originally framed must be reproduced in the advertisement. We have eventually decided that it would be not only unfair to the ship-owner to restrict in this manner his right of bargaining but would also be detrimental to the interests of pilgrims, many of whom may in the case of a half-filled ship be able to secure accommodation at reduced rates. We think that the only objection advanced to the practice of reducing fares, namely, that pilgrims may hang back in the hope of a reduction, is met by the provision which the Bill makes for ensuring that the ship shall start on a fixed date. We have accordingly inserted in sub-section (1) of the proposed new section 209B the word 'maximum' before the word 'price' and have provided that the advertised price shall not be in excess of the price notified to the Pilgrim Officer. At the same time the Bill as originally drafted provides no penalty for the sale of tickets

at a reduced price, and sub-section (4) of the proposed new section therefore requires no alteration other than an amendment consequential upon that made in sub-section (3).

We have rejected a proposal that the period which should elapse between the advertised date of sailing and the departure of a ship should be incorporated in the Act itself as we consider that this must be left to rules, as already provided in the Bill; and we have rejected a suggestion that power should be given to shipping companies to advertise a general programme some time before the opening of the pilgrim season as we think that such advertisements might bring pilgrims to the ports an unnecessarily long time before the dates eventually fixed for departure of those ships or in numbers for which accommodation might not be immediately available.

Under sub-section (1) of the proposed new section 209C, a ship which, having been delayed for several days in its departure from the port from which it commences its voyage, is delayed in its departure from its next port of call by a proportionate period would be liable to pay compensation twice over to pilgrims who were embarked at the port of departure, for what is really only a single period of delay. This is clearly unreasonable and we have added a proviso to the sub-section to meet this particular case.

We consider it inequitable to require, under sub-section (4) of the proposed new section 209C, the master, owner or agent of the pilgrim ship to bear the costs of a reference if he is unsuccessful and at the same time not to give him any right to recover costs if he succeeds. We have accordingly deleted from this sub-section all reference to costs.

We agree with a representation made to us that, in the event of inability to despatch a ship on the advertised date of sailing, the owner or agent should be entitled, with the permission of the Pilgrim Officer, to substitute another similar ship of not less carrying capacity than the ship advertised. A provision of this kind will not only be beneficial to the ship-owner, but will obviously tend to further the purpose of the Bill by obviating inconvenience to pilgrims. The new section 209D which we propose is designed to permit of such substitution.

Finally, we are of opinion that it is not possible to exempt the port of Calcutta from the provisions of the Bill. We realise the risk that the opening of Calcutta as a pilgrim port may become inoperative owing to the unwillingness of ship-owners to provide steamers under the conditions imposed by the Bill but we prefer that risk to the certainty that pilgrims will otherwise

be delayed for long periods whilst bookings are being filled.

2. The Bill was published in the Gazette of India, dated the 6th November, 1926.

3. We think that the Bill has not been so altered as to require re-publication, and we recommend that it be passed as now amended.

J. W. BHOORE.

GHAZANFAR ALL.

F. W. ALLISON.

W. S. J. WILLSON.*

ABDUL QAIYUM.

SARABHAI N. HAJI.

MD. YAKUB.

MOHAMMAD SHAFEE.†

A. H. NATIQUE.

A. SUHRAWARDY.

FAZAL I. RAHIMTULLA.

MD. ISMAIL KHAN.

The 26th March, 1927.

* Subject to qualification, vide my speech on the motion for reference to Select Committee.

† I sign this report subject to an amendment in section 2, clause 3, that instead of "within such time as may be prescribed," the words "not less than thirty days" be inserted.

MD. SHAFEE, —24-3-27.

(Words printed in italics indicate the amendments suggested by the Select Committee.)

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BILL

Further to amend the Indian Merchant Shipping Act, 1923.

WHEREAS it is expedient further to amend the Indian Merchant Shipping Act, 1923, for the **XXI of 1923**, purpose hereinafter appearing; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Merchant Shipping (Amendment) Act, 1927.
Short title and commencement.

(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

2. After section 209A of the Indian Merchant Shipping Act, 1923 (here- **XXI of 1923**, inafter referred to as the said Act), the following sections shall be inserted, namely:—
Insertion of new sections 209B, 209C and 209D in Act XXI of 1923.

“209B. (1) The master, owner or agent of any ship which is intended to sail on a voyage as a pilgrim ship from any port or place in British India shall, before advertising such ship for the conveyance of pilgrims or offering to convey any pilgrim by such ship or selling or permitting any person to sell a *passage* ticket to any pilgrim for conveyance by such ship, supply to the prescribed officer (hereinafter referred to as the Pilgrim Officer) at the port or place from which the ship is to commence the voyage, and at each port or place in British India at which it is to touch for the purpose of embarking pilgrims, full particulars as to the class, tonnage and age of the ship, the maximum number of *passage* tickets of each class to be issued, the ~~maximum~~ price of each class of ticket, the date on which the ship is to sail from that port or place, the ports, if any, at which it is to touch, the place of its destination, and the probable date of its arrival thereat.

(2) The master, owner or agent shall supply to the Pilgrim Officer, within three days from the date of demand, such further *information* in regard to the matters mentioned in sub-section (1) as that officer may in writing demand from him.

(3) Within such time as may be prescribed before the date of the sailing of any such ship from any port or place in British India, the master, owner or agent of the ship shall advertise at such port or place in such manner as may be prescribed—

- (a) the place of destination of the ship,
- (b) the proposed date of sailing from that port or place which shall be the date communicated to the Pilgrim Officer under sub-section (1), and
- (c) the price of each class of *passage* tickets, which shall not be in excess of the price communicated to the Pilgrim Officer under sub-section (1).

(4) Any master, owner or agent who—

- (a) without reasonable cause, the burden of proving which shall lie upon him, fails or refuses to supply any particulars or information which he is by or under this section required to supply, or supplies false particulars or information, or
- (b) advertises any ship for the conveyance of pilgrims, or offers to convey pilgrims by any ship, or sells or promises or permits any person to sell passage tickets to pilgrims for conveyance by any ship, without having first supplied the particulars required by sub-section (1) and in accordance with the provisions of that sub-section, or
- (c) advertises a date of sailing from any port or place other than the date communicated to the Pilgrim Officer at that port or place under sub-section (1), or advertises a price for passage tickets at that port or place in excess of the price so communicated, or
- (d) offers to convey pilgrims by any ship from any port or place in British India or sells or promises or permits any person to sell passage tickets to pilgrims for conveyance by a ship from any such port or place without having made advertisement, as required by sub-section (3), of the matters specified in that sub-section, or
- (e) sells or permits any person to sell to any pilgrim any passage ticket at a price in excess of the price communicated to the Pilgrim Officer under sub-section (1),

shall be punishable with fine which may extend to two thousand rupees.

209C. (1) If the pilgrim ship fails to proceed from any port or place on the date advertised under sub-section (3) of section 209B as the date of sailing therefrom, the master, owner or agent shall become liable to pay as compensation to each pilgrim who has paid his passage money on or before such date the sum of one rupee for each completed day during which the sailing of the ship is delayed after that date:

Provided that such compensation shall not be payable in respect of any period during which the departure of the ship is impossible owing to any cause not arising from the act or default of the master, owner or agent, and the burden of proving such cause shall lie on such master, owner or agent:

Provided, further, that, where compensation has been paid or has become payable to any pilgrim in respect of delay in the sailing of the ship from any port or place and the sailing of the ship from any other port or place is thereafter delayed beyond the date advertised in that behalf, the pilgrim shall be entitled to compensation only in respect of any period by which the duration of such further delay exceeds the duration of the delay in respect of which he has already received or become entitled to compensation.

(2) In the event of such failure, the master, owner or agent shall be bound forthwith to inform the Pilgrim Officer at the port or place at which the delay occurs of the number of *passage* tickets of each class which have been issued for the voyage on or before the advertised date of sailing.

(3) Any sum payable as compensation under sub-section (1), shall be paid on behalf of the pilgrims entitled thereto to the Pilgrim Officer at the port or place at which the delay occurs on receipt by the master, owner or agent of a notice from that officer specifying the sum payable, and that officer shall, in such manner as may be prescribed, pay to each such pilgrim the compensation paid in respect of his detention :

Provided that, if an objection is made by the master, owner or agent that the sum specified in any such notice or any part of such sum is not payable by him, the sum paid or, as the case may be, the balance thereof remaining after payment to the pilgrims entitled thereto of compensation the right to which is not in dispute, shall be held in deposit until the objection has been decided :

Provided, further, that, if for any reason the compensation due to any pilgrim cannot be paid to him at the time of embarkation or at or before the time of his disembarkation at the port of his destination, the sum so remaining unpaid shall be made over to such authority administering any fund maintained for the assistance of pilgrims as the Local Government may, by general or special order, designate in this behalf.

(4) If the master, owner or agent objects that the sum specified in the notice issued under sub-section (3) or any part thereof is not payable by him, he may, at the time of payment of such sum, give to the Pilgrim Officer notice of his objection, together with a statement of the grounds thereof, and the Pilgrim Officer shall ~~thereupon~~ either cancel or modify the aforesaid notice in accordance with the objection and refund the sum held in deposit under sub-section (3), or refer the objection for decision to a Presidency Magistrate or a Magistrate of the first class exercising jurisdiction in the port or place at which the ship is delayed; the decision of the Magistrate on such reference shall be final, and there shall be refunded to the master, owner or agent any amount allowed to him by such decision.

(5) On the failure of any pilgrim ship to proceed from any port or place on the date advertised under sub-section (3) of section 209B as the date of sailing therefrom, the Pilgrim Officer at that port or place shall forthwith give notice of such failure to the officer authorised to grant port-clearance to ships thereat, and such officer shall refuse port-clearance to the pilgrim ship until the master, owner or agent produces to him a certificate of the Pilgrim Officer that all sums payable by way of compensation under this section up to the day on which the ship is to proceed have been paid.

209D. Notwithstanding anything contained in section 209B or section 209C, where any ship which has been advertised under sub-section (3) of section 209B for the conveyance of pilgrims has been or is likely to be delayed beyond the advertised date of sailing, the owner or

agent may, with the permission in writing of the Pilgrim Officer, substitute for it any other ship which is of the same class and is capable of carrying not less than the same number of pilgrims of each class, and on such permission being given the advertisement shall be deemed to have been made in respect of the ship so substituted and all the provisions of those sections shall apply accordingly in respect of such ship."

3. In sub-section (1) of section 213 of the Amendment of section 213, Act XXI of 1923. said Act, after clause (qq) the following clause shall be inserted, namely :—

"(qqq) the manner in which the proposed date of sailing shall be advertised under section 209B; the appointment of Pilgrim Officers for the purposes of that section and sections 209C and 209D; the manner in which payment shall be made under section 209C to pilgrims and to the Pilgrim Officer; and the procedure to be followed by masters, owners or agents and by Pilgrim Officers and Magistrates in proceedings under that section;".

4. Sections 11, 12, 12A and 12B of the Protection of Pilgrims Act, 1887, and sections 11 and 12 of the Protection of Muhammadan Pilgrims Act, 1896, are hereby repealed.

Bom. Act II
of 1887.
Ben. Act I
of 1896.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

Report of the Select Committee on the
Bill further to amend the Indian
Merchant Shipping Act, 1923, with Bill
as amended.