

JOINT/SELECT COMMITTEE REPORTS OF LEGISLATIVE ASSEMBLY - 1932

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

List of Reports of Select or Joint Committees
presented in the Legislative Assembly in 1932.

Serial No.	Short title of the Bill.	Date of presentation.	Remarks.
1.	The Indian Partnership Bill.	26.1.32.	
2.	The Wire and Wire Nail Industry\Protection) Bill.	15.2.32.	
3.	The Bamboo Paper Industry(Protection)Bill.	16.2.32.	
4.	The Bengal Criminal Law Amendment(Supplementary) Bill.	22.2.32.	
5.	The Sugar Industry (Protection)Bill.	23.2.32.	
6.	The Foreign Relations Bill.	29.2.32.	
7.	The Indian Air Force Bill.	10.3.32.	
8.	The Ancient Monuments Presentation(Amendment) Bill.	5.4.32.	
9.	The Port Haj Committees Bill.	5.9.32.	
10.	The Tea Districts Emigrant Labour Bill.	5.9.32.	
11.	The Code of Criminal Procedure(Amendment) Bill.	12.9.32.	
12.	The Children Pledging of Labour Bill.	19.9.32.	
13.	The Criminal Law Amendment Bill.	7.11.32.	
14.	The Indian Merchant Shipping(Amendment)Bill.	14.11.32.	
15.	The Indian Tariff(Ottawa Trade Agreement) Amendment Bill.	12.12.32.	

LEGISLATIVE ASSEMBLY.

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

2. Clause 2.—This clause was consequential on a change which it was proposed to introduce in section 208A of the Indian Merchant Shipping Act, 1923, by the *Explanation* included in the re-draft of that section proposed in clause 11 of the Bill. We have omitted that *Explanation*. We accordingly omit this clause.

Clause 3.—We have made no alteration in this clause, but we desire to express the view that an early opportunity should be taken to replace the word "native" wherever it occurs in the Indian Merchant Shipping Act in the expressions "native passenger ship" and "native passenger" by some word with less objectionable associations.

Clause 10.—We considered extending the period within which inoculation against cholera should have taken place to two months instead of one month, but we understand that medical opinion is inclined to insist upon a more recent inoculation. We have, however, inserted words in sub-clause (a) of the proposed new sub-section (1A) of section 206 so as to make it possible to extend the period of one month, if such a course should prove to be in accordance with medical authority. This change has necessitated a slight consequential amendment in clause 16.

Clause 11.—We have reverted to the wording of the Indian Merchant Shipping Act in section 208A on the view that it is unnecessary to exact the possession of a return ticket and the making of deposits in the case of the higher class passengers and that it is unnecessary in any case to exact the deposit of the cost of railway fares from the port of disembarkation to the pilgrim's home. We have retained, however, the proviso which is substituted by the Bill for the existing proviso, but we desire to recommend that the prescribed officer should be permitted in making his exemptions a wider discretion than is indicated by the reasons cited as grounds for exemption in the Notes on Clauses at the end of the Bill. Our reason for omitting the *Explanation* which this clause proposed to add to section 208A is that the *Explanation* would have the effect of forcing an individual on a ship which was not strictly a pilgrim ship to declare the purpose for which he was travelling to a port in the Red Sea. This compulsion we consider unjustifiable particularly as he would be travelling by a ship which would not have to conform to the regulations imposed for securing the comfort and convenience of pilgrims and so derives no corresponding advantage. It would further constitute a serious interference with the liberties of Mussalmans travelling to ports in the Red Sea by ships other than ordinary pilgrim ships to be compelled to take return tickets or deposit money. Further in order to enforce it Government would have to make it incumbent on any ship, cargo boat or otherwise, travelling to any port in the Red Sea except Suez to find out from the passengers whether they were travelling for business, pleasure or otherwise. We do not deny

that there may be individual pilgrims proceeding by ships other than pilgrim ships who may be stranded in the Hedjaz and we are informed that recently 26 such persons have been stranded at Jeddah and have applied to be repatriated. We consider these to be exceptional cases which cannot justify the making of a bad law. We have, therefore, disregarded the arguments of the official members who put forward the plea that representations have been made by His Majesty's Minister at Jeddah for some such provision as was proposed to meet the case of stranded pilgrims arriving irregularly by ships that are not strictly speaking pilgrim ships.

With reference to sub-section (2) of the new section 208B proposed by this clause, we are of opinion that in the prescribed form of the ticket to be issued to pilgrims there should appear an entry specifying the right of the holder of the ticket to the minimum space available in the between-decks required by the provisions of section 193 of the Indian Merchant Shipping Act.

In the proposed section 208C we have altered the words "British Minister at Jeddah", here as elsewhere, to "His Majesty's representative at Jeddah". We desire to add a recommendation in connection with the refunds here provided for that Government should notify the heirs and the legal representative of a pilgrim when news of his death is received and should also publish the fact of such death by notification in the official Gazette. We have restored the expression "half the passage-money paid by the pilgrim" which was employed in section 209 of the Indian Merchant Shipping Act, because half the passage-money paid by the pilgrim would, in the normal course, be a larger sum than the value of the return part of the ticket. We have omitted sub-section (4) of this proposed section in consequence of the omissions we have made in the proposed new section 208A and we have omitted sub-section (6) for the same reason. In sub-section (5) our amendments are aimed at providing for a case which appears to have been overlooked and to give to the pilgrim himself as well as to a person nominated by him the right of applying for the refund there provided for. We have re-drafted sub-section (7) to exclude refunds of deposits from the possibility of any deductions.

In sub-section (2) of the proposed new section 209 we have introduced a small amendment to save the exercise of the rights conferred by sub-section (5) of section 208C.

Clause 12.—We have revised the proviso with the definite idea of encouraging pilgrims in their own interest to deposit their return tickets with His Majesty's representative at Jeddah.

Clause 13.—We considered the possibility of specifying a definite period before which detailed information as to sailings should be advertised. We do not consider this practicable but we have amended section 209C to emphasize the importance we attach to the giving of ample notice.

We have omitted *clause 15*. We consider that the provisions already contained in, and made by rule under, the Indian Merchant Shipping Act are sufficient for achieving the purpose aimed at by this penal section.

Clause 16.—The introduction of the new sub-clause has already been explained in connection with clause 10. Regarding sub-clause (e) we were apprehensive of the provision enabling fees to be charged for pilgrims' passes, but we are satisfied with the explanation given by the Honourable Member in charge of the Department that it was the intention of Government to take power to charge fees only in the case of passes issued in pilgrim ports to pilgrims not resident in those ports and not to charge fees for passes issued elsewhere, for instance, in a pilgrim's own district.

3. We recommend that Government may consider the feasibility of introducing provision in

the Indian Merchant Shipping Act to authorise a Haj Committee to lodge complaints on behalf of pilgrims against the master or owner of a pilgrim ship for breaches by such master or owner of the provisions of the Act. We recognise that the matter is one of some complexity and, in the absence of detailed examination of the implications of such a provision, we have ourselves abstained from making any.

4. The Bill was published in the Gazette of India dated the 19th March, 1932.

5. 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.

ABDUR RAHIM.

G. S. BAJPAI.

*MD. SHAFEE DAOODI.

*WAJIHUDDIN.

*S. MURTUZA.

*G. MORGAN.

MD. IBRAHIM ALI KHAN.

*M. MASWOOD.

BHAI PARMA NAND.

ISMAIL ALI KHAN.

CHAUDHURY MUHAMMAD ISMAIL KHAN.

NEW DELHI,

The 5th November, 1932.

* Subject to a minute of dissent.

MINUTES OF DISSENT.

The alternate systems of compulsory return ticket and deposit of passage money have worked for so many years to the detriment of ignorant pilgrims to the Hedjaz. The Shipping Company having large resources at its disposal has been able to encourage return ticket system and has thus monopolised the pilgrim traffic to the exclusion of other less resourceful shipping companies.

The retention of the deposit system alone will not necessarily tell upon any shipping company but is calculated to ensure the pilgrims on their return journey a ready ship to board much earlier than under the return ticket system. We, therefore, wish to record our opposition to the retention of the alternate systems in the Bill.

MR. SHAFEE DAOODI.

S. MURTUZA.

Cooked food.—Certain clauses of the Bill relating to cooked food on contract basis during voyage on board the ship, in my opinion, entail undue hardship to Indian pilgrims to Hedjaz. I therefore do not agree with the majority of members of the Select Committee in adopting such drastic measure. I find no justification in introducing this system which is full of great many difficulties. It involves extra expense to the poor Indians without any guarantee whatsoever as to what extent it will be beneficial to the pilgrims, and moreover I have great doubts as to whether it will ultimately prove successful.

In support of my views I would quote from the report of the Haj Enquiry Committee the following:—

"Instead of being all of one class as the Javanese Pilgrims are, the Pilgrims from India are not only drawn, as has already been stated, from the different provinces of India itself, the inhabitants of which are not used to the same kind of food; but also include Persians, Afghans, Bokharans, Tibetans, Chinese, Burmese, and Malays, and under the existing conditions, any attempt to supply all varieties of food to which each of these different classes is accustomed would be likely to prove a failure."

The Report of the Haj Enquiry Committee further states that:—

"Under the existing conditions, many experienced witnesses have, while admitting the desirability of proposed innovation, expressed the opinion that the difficulties are insuperable, or at any rate so great that all that is possible for the present is to make further experiments with the Hotel system."

After careful consideration of certain other paragraphs of the said Report upon which this Bill is based, I consider that at the present time of world-wide depression and reduced purchasing power of poor Muslims of India, especially those who go to pilgrimage not on a pleasure trip, but to fulfil their religious duty, it is absolutely necessary that expenditure should in no way be increased but, on the other hand, reduced to a minimum. It is an admitted fact that shipping companies with highly paid staff cannot supply "cooked food" to the satisfaction of so many pilgrims of different tastes and habits so cheaply as the pilgrims themselves can provide by cooking their own food. The procedure of distribution of so many varieties of cooked food twice or thrice a day to an average of 1,500 pilgrims on each boardship is not an easy task. Even now there arise quarrels over getting drinking water which is to be had of one quality and quantity for every pilgrim and it can therefore be imagined that more quarrels are likely to arise in the process of distribution of food. Taking into consideration the very low economic condition of the Indian

pilgrims generally, it is almost certain that in about 90 per cent. cases, if not more, even a very small increase of a rupee in their existing expenses will be a heavy burden on them.

I may also consider that a large number of pilgrims suffer from sea-sickness, when they will not be able to take the advantage of cooked food for which they have already paid, there is no provision in such cases for the refund of price of unused meal and consequently I cannot be overgenerous to the shipping companies at the expense of the poor.

Many illiterate pilgrims cannot while away their time by reading newspapers and books, cooking therefore provides them with diversion and keeps them busy during the voyage. By introducing this system of cooked food, we shall be depriving such pilgrims of their only diversion during the voyage.

Another point is that the staff and crew of pilgrim ships are often non-Muslims. There will be only one kitchen on board the ship and there would be no certainty, whatever precautions are adopted to ensure that objectionable food will not be cooked in the kitchen. This objection can, however, be removed if the shipping companies give undertaking that the crew will consist of Muslims alone and that objectionable food will not be cooked.

Another factor which should be borne in mind is that quite a large number of poor pilgrims undertake the voyage after purchasing only return tickets and for their other requirements they render service to their fellow pilgrims who are in a prosperous condition and who are also in need of such services. In return for such services, food and other necessary amenities of life are provided to them by such well-to-do pilgrims. By introducing this measure we will be depriving those pilgrims of these advantages and will be forcing them to spend more money. It is possible that objections may be raised in certain quarters that such arrangement among the pilgrims should not be encouraged, but I cannot endorse this idea as I am strongly of opinion that religious susceptibilities of every sect should not be ignored and we should not create any difficulties in their way by passing such drastic measures.

Under the circumstances, I find no alternative but to oppose these clauses and suggest that reform be introduced by free-will of those concerned and no compulsion of any kind be allowed to be put upon the pilgrims. I accordingly propose that two kinds of steamer tickets should

be issued: (1) with food, (2) without food, and prices be fixed separately. Those who choose to buy tickets with food must only be provided with "cooked food" on contract basis as proposed in the Bill, but those who buy tickets without food must be allowed either to buy cooked food at fixed scheduled rates according to their requirements and taste, from the hotel, or to cook their food themselves as is the general practice at present.

Accommodation for deck passengers.—I have carefully considered the point and have come to the conclusion that a space of sixteen feet is really inadequate and I must press for increase in space from 16 to at least 18 ft. as recommended in the resolution passed on 31st July, 1932, by the Port Haj Committee of Karachi and oral evidence given before the Select Committee at Simla by the Honorary Secretary, Delhi Muslim Association, and also the oral evidence given before the Haj Inquiry Committee at Delhi by the President, Jamiat-ul-Ulema-i-Hind and others.

Return ticket system.—I also desire to record my opposition for retaining the option of return ticket system which has undoubtedly been proved in the past most disadvantageous to the pilgrims and consequently been opposed by the Special Sub-Committee appointed by the Bombay Haj Committee to consider the provisions of this Bill, *vide* Chairman's letter No. 1503, page 5, dated 9th August, 1932. In this connection I may also refer to the statement laid on the table in the Meeting of the Legislative Assembly on the 26th

September, 1932, in answer to question No. 836 asked by my Hon'ble friend, Mr. Rahimtoola M. Chinoy. The sole object of providing for return passage was to save the Government from the expenditure of repatriating destitute pilgrims which can be adequately made if "deposits" are made compulsory to the exclusion of "return ticket". When the object is thus served, and when there are admittedly several abuses and disadvantages of return tickets, why should not the return tickets be stopped? It was argued that the Government cannot deprive the shipping companies of their rights to issue return tickets, but it can be argued with much greater force that the right of the general public, especially Hedjaz pilgrims, to travel on single tickets also should not be snatched away.

In conclusion, I should like to add a few lines regarding the manner in which the proceedings of the Select Committee were conducted and which practically prevented some questions of vital importance affecting the welfare of the pilgrims from being placed before the Committee. When the Select Committee postponed the discussion on this and other Bills at Simla it was quite clearly understood that all the clauses of the Bill are open to further discussion when the Committee meets next; but I much regret that I have to record my humble protest against the arbitrary ruling of the Chair in allowing to re-open the question regarding accommodation for deck passengers whilst disallowing Maulvi Mohammad Shafee Daoodi's motion on a vital question like Return Ticket system and declaring it to be closed.

WAJIHUDDIN.

The 4th November, 1932.

I object to clauses 3, 4, 5, 11 [sub-section (2) of proposed section 208B] and 16 (1) (a) involving the feeding of pilgrims by the shipping companies. The structural alterations in the vessels which would be required in the provision of additional crew quarters, bakeries, vegetable lockers, store rooms, live stock pens, etc., cannot be carried out in existing tonnage. The different foods required by the various classes of pilgrims from all parts of India, from Kabul to Eastern Bengal, present insurmountable difficulties and the imposition of one standard dietary for all pilgrims would not be acceptable and might conceivably lead

to disorder. The danger of discontent among pilgrims over food is great and might lead to disturbances which the ships' officers and crew, engaged in the navigation of the vessel, would be unable to quell and the safety of the ship might be endangered. Pilgrims prefer to cook their own food in their own way and it must relieve the monotony of the voyage. I do not accept the contention that the feeding of pilgrims will attain Government's object of reducing the encumbrance of the decks as pilgrims will still have to carry food stuffs and cooking utensils for use in the Hedjaz.

G. MORGAN.

The 5th November, 1932.

Before making any observation on the Bill and the Report as amended by the majority of the Select Committee, I want to outline the history of the pilgrim ship legislation. It will be helpful in understanding the Government policy.

Up to the year 1895, the Native Passenger-ship Act of 1887 was applicable for pilgrim ships as well. In 1895, an Act, called the Pilgrim Ship Act (No. XIV of 1895), was passed and received the assent of the Governor General on the 4th October, 1895. Section 4 of Act XIV of 1895 repealed the Native Passenger-ship Act, 1887, so far as it was applicable to the pilgrim ships. By notification No. 259, dated Simla, the 5th October, 1896, the 6th October, 1896, was appointed by the Governor General in Council as the date on which the Pilgrim Ship Act (XIV of 1895) came into operation.

In 1923, an Act, called the Indian Merchant Shipping Act, No. XXI of 1923, was passed and by notification No. 2325, dated the 28th April, 1923, published in the Gazette of India of 1923 in Part I, page 381, was brought into force from the 1st May, 1923. By this legislation all the different existing Acts regarding Merchant Shipping with modifications were brought into one Act.

There are nine parts of the Act and out of which Part IV deals with the native passenger ships and with the pilgrim ships. This part begins from section 147 and ends at section 213. "Native Passenger" means a passenger by a ship who is native of Asia or Africa and the ship carrying more than 30 native passengers is a "Native Passenger Ship" in the eyes of law. "Pilgrim" means a Muhammadan going to or returning from Hedjaz.

In 1925, sections 203, 204, 205 and 209 were amended and sections 208A and 209A were inserted while in 1927, sections 209B, 209C and 209D were inserted. In 1928, for the words "Local Government" the words "Governor General in Council" were substituted, wherever they appeared in Part IV of the Act.

The first main change in 1925 was in regard to the touching of ships at Aden. This was made compulsory by amending section 203 and the amendments in sections 204 and 205 were merely consequential. The second main change was in regard to the return tickets. Deposit for return journey ticket was made compulsory. The remaining amendments were consequential to this amendment. In 1927, notice of pilgrim ships was made compulsory and the conditions and materials for the same were mentioned. The result was that the shipping companies stopped early sale of tickets and only two or three days before the ship was due to start, they used to notify and advertise. A glance to the amendments and their effect show how far they became useful for the pilgrims.

By notification No. 2145, dated Simla, the 17th September, 1897, the Governor General in Council was pleased to order that every pilgrim ship shall contain at least 16 superficial feet and 96 cubic feet on space available for each pilgrim on the middle deck.

Since then the Government made several rules by different notifications from time to time. As the present Bill has nothing to do with this matter, I do not propose to discuss it.

Now coming to the Bill and the Report as amended by the Select Committee, I propose to explain the different clauses of the original Bill and also the amendments recommended by the Select Committee. The Bill as introduced in the Legislative Assembly contained sixteen clauses which proposed amendments in sections 149, 155, 156, 166, 167, 193, 201, 205, 206, 208A, 209A, 209B, 209C and 213 of Part IV of the Indian Merchant Shipping Act of 1923. This Part IV deals with the native passengers and pilgrims.

These 16 clauses may be analysed as (1) clauses 1, 3, 4, 6, 9, partly 12, 13, 14 and 16 having no direct connection with the Haj pilgrims, out of these clauses 1, 3, 4, 6, 13 are immaterial for pilgrims while clauses 9, partly 12 and 14 are beneficial for shipping companies which give certain facilities to them and exempt them from certain obligations, (2) clauses 2, 5, 7, 8, 10, 11, partly 12, 15 and 16 affect Hajis directly and are most injurious to their cause and will put unnecessary hardships in their way.

Clause 1 is about the short title and commencement.

Clause 2 proposed amendment in section 149. This was a consequential amendment on account of the explanation under section 208A in clause 11. This section read with the above-mentioned explanation intended that even if few persons of lowest class travel in a cargo ship or in any other ship to any part in the Red Sea other than the Suez Canal for any purpose, they must either purchase a return ticket or make a deposit with the Government and the ship should be treated as a pilgrim ship in this connection. This clause has rightly been omitted by the Select Committee.

Clause 3 amends section 155 and deals with the contents of certificate B for native passenger ships

and pilgrim ships. By this amendment sub-section (c) of section 155 of the present Act has been splitted into two parts mentioned as new sub-sections (f) and (i). First part of sub-section (f) has the same wordings as of present sub-section (c) but for native passengers only, while the second part is a proviso which has been added as a kind of exemption to the native passenger ships from placing certain kinds of food-stuffs under certain conditions. This proviso is in accordance with section 156 for native passengers. Sub-section (i) is intended for pilgrim ships and exempts the shipping companies from obligation of placing on board sufficient fuel for supply to the pilgrims. Original sub-section (c) of section 155 runs as follows :—

"that food, fuel and pure water over and above what is necessary for the crew, and the other things (if any) prescribed for native passengers or pilgrim ships, as the case may be, have been placed on board, of the quantity prescribed properly packed, and sufficient to supply the native passengers or pilgrims on board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the prescribed scale."

By making this amendment the native passengers will get fuel on the ship while the poor pilgrims will not get any fuel. I cannot understand why this difference is sought to be made. If cooking is bad and is injurious to health, then it should be prohibited for the native passengers as well. Apart from this, sub-section (c) of section 155 deals with the keeping of fuel. Fuel is required not only for cooking purposes but also for boiling water and preparing medicines, etc. *Joshanda* and many other Indian medicines require cooking. For the supply of fuel free of charge to pilgrims there ought not to be any discrimination between him and the native passenger. In my opinion this discrimination should be done away with and clause 3 should be omitted.

Further in this connection the majority did not accept my amendment for altering the word "native" for Asiatic or African. Though the Committee has recommended to change the word in future, but in my opinion by adding a new clause we could have altered the word "native" with some better word. The word "black men", "natives" and similar other words are used by Englishmen for the Asiatics and the Africans. The mention of these words in a Statute is a great slur on the Legislature. No doubt we are natives of Asia, but Englishmen are also natives of Europe. Calling Asiatics "black men or natives" is a great insult.

I cannot agree with the majority that as this Bill has been brought in accordance with the recommendations of the Haj Committee, so we must restrict it to pilgrim affairs only. This Bill proposes amendments in Part IV of the Act which deals with pilgrims and native passengers both. In this Bill as well there are many clauses which deal with native passengers. The word "native" has been used in Part IV mainly. This opportunity is better than any other to substitute any other suitable word for this "native". The Committee has accepted the principle, but differed about the suitability of time for this amendment.

Clause 4 is a consequential amendment to the amendment proposed in clause 3 of the Bill. Section 156 was a kind of exemption which has now been provided as a proviso to (f) in clause 3 for native passenger ships while the pilgrims have been prohibited from cooking their food while on board the ship, so the exemption was not needed for them. If clause 3 is omitted, there will remain no necessity for this clause 4. It should also be omitted.

Clause 5 again differentiates between a native passenger and a pilgrim. A native passenger will get food, fuel and water while a pilgrim will get food and water only, but not fuel. I fail to realise why anything which is considered good for a native passenger is not so considered for a pilgrim and that anything which is injurious for the pilgrims is not injurious for the native passengers. Up till now the same law was applicable to both of them. The reason for this differential treatment has neither been placed before me by the Government nor could the majority satisfy me on this point. Fuel is not only required for cooking food, but it is required for cooking diet for invalids also and for preparing Hindustani medicines, etc. In my opinion the amendment is quite unnecessary and that the clause should be omitted.

Clause 6 increases the penalty from Rs. 20 to Rs. 50 for having excessive number of passengers on ships. There is absolutely no objection in retaining this clause, but actually breach of law in this connection does not take place. Very few cases of breach of law in this respect can be traced. Generally shipping companies do not take more passengers than they are authorised. The main cause for the rush on ships is due to the defective rule about the space which is allotted to passengers and the other cause is the defective form of calculation in this connection. I will deal fully with this defective system and insufficiency of space under clause 7.

Clause 7 deals with the same space of 16 sq. feet or 96 cubic feet which the pilgrims at present are entitled to get on board by rule No. 2145, dated Simla, the 17th September, 1897, prescribed by the Governor General in Council, to which I referred in the earlier parts of this Minute of Dissent.

Sixteen sq. feet mean a space of six feet long and 2 feet 8 inches wide. The Committee decided in Simla that at least 6 feet long and three feet wide space should be allotted to each pilgrim, but this question was reopened and this time anyhow the Government got the majority and again the space was reduced to 16 sq. feet. I cannot understand how a man can sleep in a space which is only 2 feet 8 inches wide. My suggestion to mark the accommodation and to leave a space of one foot between each seat and a space of two feet between each row was lost. This is highly objectionable. There must be some space between two rows, so that pilgrims may go to latrines and to other places for necessities without disturbing and troubling other pilgrims. For decreasing the quarrels there should be some space between two seats. I cannot realise how the Government will be consistent when in one place they prohibit cooking without any consideration for money and here by raising the financial questions they are not prepared to increase the space. I consider that the greatest trouble to the pilgrims is on account of insufficiency of space. Pilgrims are human beings and not

flock of sheep. Even animals are not transported in the manner in which the pilgrims are. In these days of depression when everything is cheap it was not unjust demand to press the companies to increase the space without increasing the fare.

The defective way of calculation further comes in the way. At the time of survey the whole area *minus* the prohibited space is taken into account and the difference is divided by 16. The quotient becomes the carrying capacity of a pilgrim ship. The wastage on account of corners curvatures and other reasons is not taken into account. The space between two seats or between two rows is not taken into account. In my opinion at least eighteen sq. feet space should be allotted to each pilgrim and a space of one foot should be left between each seat and two feet between each row.

Clause 8 is the amendment to section 201 of the Act. Sub-section (1) reiterates the existing privilege of a pilgrim to get medical aid free and sub-section (2) increases the penalty for not carrying a medical officer on board. There is no objection in keeping this clause, but such a clear breach of law of not having a medical officer has not been seen and so this increase in penalty is ornamental but immaterial. Medicines are supplied free to pilgrims even at present, but this has been reiterated in the Bill to make it somewhat attractive. In sub-clause (3), the choice for the word "charges" is not a happy one. It will be difficult to find out whether the doctor has charged anything. In my opinion it should be substituted by the words "accepts from".

Clause 9 gives facility by sub-section (1) to the shipping companies by allowing them to give a single bond for each ship for the whole season instead of the present practice of giving separate bonds for each journey. Sub-section (2) permits them to give one bond for all ships for the whole season. Sub-section (a) makes it obligatory for ships to touch Aden if required to do so and sub-section (b) makes it obligatory to comply with all rules made thereunder and sub-section (c) empowers the Governor General in Council to get any sum claimed by him under section 209A. This clause does not affect the pilgrims.

Clause 10 makes inoculation against cholera within one month of embarkation and vaccination against small-pox compulsory. Pilgrims having marks of small-pox have been exempted from vaccination. Only such certificates will be considered valid which have been supplied by the doctors who in the opinion of the inspecting officer is qualified. Leaving the question of doctor's qualification on the whim of the inspecting officer is very much unjustified.

Clause 11 amends four sections 208A, 208B, 208C, and 209. Section 208A has been left out by the Select Committee as it at present stands, but the proviso has been amended with a pious hope that the prescribed officer should be permitted in making his exemption a wider discretion. In my opinion the following proviso be added as No. 2:—

"Provided that the prohibition shall not apply in the case of any such pilgrim who has filed a declaration in such form as may be prescribed before an authority appointed by the Port Haj Committee that he does not intend to return to India by the same route or within one year."

Section 208B lays down certain conditions for getting a ticket and binds the pilgrims to produce the same when demanded for inspection. Further by sub-section (2) the supply of fuel for any purpose

is omitted, and getting of cooked food and water throughout the journey is made compulsory, the price of which will be charged with the price of the ticket. The minimum food will be supplied free. In my opinion there are many objections in restricting the pilgrims to pay the cost of food, etc., with the cost of their tickets. The menu suggested by the Local Government cannot be supplied at such low price. It will increase the price of the ticket at least by rupees forty for both the journeys. Many pilgrims take dry food with them and many others on account of sea sickness cannot eat at all. Many get their food from their rich friends. Different persons have different taste. Some use more capsicum, some less. Curry cooked by Delhi cook cannot be eaten by Bengal pilgrims. India is not a European country. Time of meals in India are different. The money paid with tickets will be a waste of money only. This system is sure to decrease the number of pilgrims to a great extent. The Government Member was ready for some compromise in this connection and wanted time for further discussion, but unfortunately the majority desired to finish the matter. However, there is no denial of the fact that there is a great agitation over this matter amongst the Mussalmans.

Section 208C is on the line of section 209 (i). This amendment is about refunds. In case of passage money half of it after some deduction was up till now refundable, but the amendment makes it vague by putting in the words "as prescribed". Now this depends on the mercy of the Government. Further in sub-section (2) the word "satisfies" is not a happy one. It will be difficult to satisfy. "Satisfies" should be substituted by the words "applies to". Section 209 (new) lays that unclaimed deposit and passage money shall lapse to Government. Up till now this lapse of passage money was under rules made by the Governor General in Council. It has been said on behalf of the Government that as the rule was not followed effectively, so they want to bring it on the Statute. I agree with the soundness of the argument, but I say that the same principle should be followed in the case of all other rules which are in favour of pilgrims. This is very hard that the rule by which money lapses to Government is brought on the Statute, but other facilities to pilgrims are left out in the rules only.

Clause 12A amends section 209A. (i) exempts and relieves the shipping companies from executing a bond for Rs. 10,000 as a security for the fine imposed for the detention of pilgrims for more than 25 days. Sub-sections (ii) and (iii) are minute drafting changes and sub-section (iv) reduces the time for detention at Jeddah from 25 to 15 days in case of presenting the return ticket within six weeks following the Haj day. In my opinion "10 days" should be substituted for "15 days".

Clause 13 is a minute drafting change.

Clause 14 exempts the shipping companies from the obligation of sailing on the approximate date which will be treated as a sort of advertisement.

Clause 15 imposed a fine up to Rs. 50 for cooking food on ship or for lighting a fire. The Select Committee has rightly omitted it.

Clause 16 is the consequential amendment to section 213 of the Act which relates to the rule-

making power of the Governor General in Council. Sub-section (f) is for cooked and uncooked food which will not be supplied and cost will be recovered along with the cost of the ticket. Sub-section (ff) gives power to make rule for purchasing any food over and above the prescribed menu. Sub-section (r) empowers to make rule for persons to be nominated under section 208 (c). Sub-section (ww) relates to passports and fees for such passports. Sub-section (2) increases the power for fine from Rs. 200 for breach of any rule.

By examining the Bill, clause by clause, it appears that the Government has brought some provisions from the rules, had provided certain facilities to the shipping companies and has prohibited cooking on the ships. Every one will have to pay a sum prescribed by the Government to the shipping companies with the cost of the ticket which will not be refundable, even if the pilgrim does not take his food. Those who have seen the inconveniences at the time of distributing the water on a pilgrim ship can imagine the impossibility of distribution of food on a pilgrim ship. The shipping companies as well do not think it practicable. It is very hard that without any consideration whether a man takes his food or not, whether he is in a position to eat or not, whether he gets his food or not, he is forced by law to pay a heavy amount to the company. Many pilgrims get their food on ship from charity. Many are supplied with food from rich persons in consideration of some service performed by them. Many take flour of their own fields and ghee of their own cows and prepare their food at a cheaper rate and of a better quality. The food supplied by the shipping company will be of inferior quality and at a higher rate. There is no provision in the Bill about the religion of the cook.

The increased rate of passage money with troubles and inconveniences created by this Bill will surely reduce the number of pilgrims to a very great extent. Checking of pilgrimage by making it more costly is certainly an interference with the religion. The Jamiat-ul-Ulema has opposed the Bill on religious grounds. All the opinions up till now available and put before the Select Committee were against this legislation. If Government want to give facilities to the shipping company (Turner, Morrison Company), Mussalmans will have no objection, but they cannot bear the increase in the cost of the passage money.

Passage money for children under 12 years should be half of the passage money for others.

The master, owner, captain of a ship or their agent, after each voyage should obtain a certificate from each pilgrim or from each head of a party of pilgrims on a prescribed form in a prescribed manner that the provisions of the Act or Acts were carefully followed and the pilgrim has or has not, as the case may be, any grievance of any nature against the ship authorities or against the medical officer.

In my opinion detention at Kamran should be stopped in future.

The Bill, as recommended and amended by the Select Committee, requires re-publication and circulation for eliciting opinion thereon. As this Bill cannot affect this year's Haj season, so there is no haste about it and it may be taken in February Session.

M. MASWOOD.

The 9th November, 1932.

[AS AMENDED BY THE SELECT COMMITTEE.]

[Words printed in italics indicate the amendments suggested by the Committee.]

A

BILL

Further to amend the Indian Merchant Shipping Act, 1923, for certain purposes.

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

1. (1) This Act may be called the Indian
Short title and com. Merchant Shipping
enactment. (Amendment) Act,
1932.

(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. In section 155 of the *Indian Merchant Shipping Act, 1923* (hereinafter ~~referred to as the said Act~~) ~~referred to as the said Act~~,—
Amendment of section 155, Act XXI of 1923. ~~referred to as the said Act~~,—
XXI of 1923.

(a) clause (c) shall be omitted;

(b) clauses (d), (e) and (f) shall be re-lettered as clauses (c), (d) and (e), respectively;

(c) after clause (e), as so re-lettered, the following clause shall be inserted, namely:—

“(f) in the case of a native passenger ship, that food, fuel and pure water over and above what is necessary for the crew, and the other things (if any) prescribed for native passenger ships, have been placed on board, of the quality prescribed, properly packed, and sufficient to supply the native passengers on board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the prescribed scale:

Provided that, if the officer appointed in this behalf by the Governor General in Council is satisfied that a native passenger has brought on board for his own use food of the quality and in the quantity prescribed, such native passenger shall not be included among the number of native passengers for the purpose of the supply of food under this clause;”;

(d) after clause (h) the following clause shall be inserted, namely:—

“(i) in the case of a pilgrim ship, that food and pure water over and above what is necessary for the crew,

and the other things (if any) prescribed for pilgrim ships, have been placed on board, of the quality prescribed, properly packed and sufficient to supply the pilgrims on board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the prescribed scale ;” ;

and

(e) clause (i) shall be re-lettered as clause (j)

3. Section 156 of the said Act shall be omitted.

Omission of section 156,
Act XXI of 1923.

4. In section 166 of the said Act,—

Amendment of section
166, Act XXI of 1923.

- (a) the words “or pilgrim”, where they first occur, shall be omitted ;
- (b) for the words “any passenger or pilgrim” the words “any native passenger” shall be substituted ; and
- (c) after the words “fuel and water,” the words “or, if the master of a pilgrim ship without reasonable excuse, the burden of proving which shall lie upon him, omits to supply to any pilgrim the prescribed allowances of cooked and uncooked food and of water,” shall be inserted.

5. In sub-section (1) of section 167 of the said Act, for the word

Amendment of section “twenty” the word
167, Act XXI of 1923. “fifty” shall be substituted.

6. In sub-section (1) of section 193 of the said

Amendment of section Act, for the words “the
193, Act XXI of 1923. space for the time being required for passengers under this Act”, the words “sixteen and ninety-six, respectively” shall be substituted.

7. In section 201 of the said Act,—

Amendment of section
201, Act XXI of 1923.

- (a) in sub-section (1), after the words “as may be prescribed”, the following words shall be inserted, namely :—

“and such medical officers and attendants shall give their services free to all sick pilgrims on board” ;

- (b) in sub-section (2),—

- (i) for the words “If this section is not complied with”, the words “If medical officers and attendants are not carried on a pilgrim ship in accordance with the provisions of sub-section (1)” shall be substituted ; and

- (ii) for the words “five hundred” the words “three thousand” shall be substituted ; and

- (c) after sub-section (2), the following sub-section shall be inserted, namely :—

“(3) Any medical officer or attendant on a pilgrim ship who charges any pilgrim on such ship for his services shall be liable to a fine which may extend to two hundred rupees.”

8. For section 205 of the said Act the following Substitution of new sec- section shall be substi- tion for section 205, Act tuted, namely :— XXI of 1923.

"205. (1) Port-clearance shall not be Bond where pilgrim ship granted from proceeds on outward any port in voyage. British India to any pilgrim ship unless the master, owner or agent and two sureties resident in British India have executed, in favour of the Secretary of State for India in Council, a joint and several bond for the sum of ten thousand rupees covering all voyages which may be made by the ship in the current pilgrim season, conditioned that—

- (a) where any voyage does not begin at Aden, the ship shall, if so required by an order under section 203, touch at Aden on the outward voyage and there obtain the certificate required under that section,
 - (b) the master and medical officer or officers, if any, shall comply with the provisions of this Part and the rules made thereunder, and
 - (c) the master, owner or agent (as the case may be) shall pay any sum claimed by the Governor General in Council under section 209A.
- (2) A bond may be given under this section covering any or all of the pilgrim ships owned by one owner, and in such cases the amount of the bond shall be ten thousand rupees for each ship covered."

9. In section 206 of the said Act, after sub- section (1), the following Amendment of section sub-section shall be in- 206, Act XXI of 1923. serted, namely :—

"(1A) No pilgrim shall be received on board any pilgrim ship unless he produces medical certificates signed by persons who, in the opinion of the officer making an inspection under this section, are duly qualified to grant such certificates, showing that such pilgrim—

- (a) has been inoculated against cholera, within one month, or such period not being less than one month as may be prescribed, before the inspection if the inoculation has been single, or within three months before the inspection if the inoculation has been double, and
- (b) has been vaccinated against small-pox within three years before the inspection :

Provided that the officer making the inspection may dispense with the certificate of vaccination, if in his opinion the pilgrim has marks showing that he has had small-pox."

10. For the proviso to section 208A of the said Act the following proviso Substitution of new shall be substituted, name- proviso to section 208A, ly :— Act XXI of 1932.

"Provided that the prescribed person may exempt any pilgrim from any or all of the above requirements, if he is satisfied that it is inexpedient, in the special circumstances of the case, to enforce them."

* * * * *

11. For section 209 of the said Act the following Substitution of new sections shall be substituted, namely :—
XXI of 1923.

"208B. (1) Every pilgrim travelling on a pilgrim ship shall be entitled, on payment of his passage-money and fulfilment of other prescribed conditions, if any, to receive a ticket in the prescribed form, and shall be bound to produce it to such officers and on such occasions as may be prescribed and otherwise to deal with it in the prescribed manner :

Provided that no pilgrim, who has not been exempted under the proviso to section 208A, shall be given a ticket other than a return ticket unless he has made the deposit required by that section.

(2) Any ticket issued to a pilgrim for a voyage on a pilgrim ship shall entitle him to receive food and water, on the scale and of the quality prescribed, free of further charge, throughout the voyage.

208C. (1) Every pilgrim prevented from embarking under section 206, or removed from the ship under section 207, or otherwise prevented from proceeding shall be entitled to the refund of any passage-money which he may have paid, and of any deposit which he may have made under section 208A.

(2) Any pilgrim who, within eighteen months of his sailing from British India, satisfies *His Majesty's Representative* at Jeddah that he intends to remain in the Hedjaz or to return to India by a route other than the route by which he came from India, shall be entitled to a refund of any deposit made by him under section 208A, or, if he is in possession of a return ticket, to a refund of *half the passage-money paid by him*.

(3) Where any pilgrim dies in the Hedjaz or on the voyage thereto, any person nominated by him in this behalf in writing in the prescribed manner, or, if no person has been so nominated, his legal representative, shall be entitled to a refund of any deposit made by such pilgrim under section 208A, or, if such pilgrim was in possession of a return ticket, to a refund of *half the passage-money paid by such pilgrim*.

* * * * *

(4) Where any pilgrim fails to return to British India from the Hedjaz within eighteen months of his sailing from India, or returns to India by a route other than the route by which he came from India, he or any person nominated by him in this behalf in writing in the prescribed manner shall be entitled to a refund of any deposit made by such pilgrim under section 208A, or, if such pilgrim was in possession of a return ticket, to a refund of *half the*

passage-money paid by such pilgrim, except where such deposit or passage-money has already been refunded under this section.

* * * * *

(5) *Refunds under sub-sections (1), (2), (3) and (4) of deposits shall be subject to such conditions and of passage-money to such deductions and conditions as may be prescribed.*

209. (1) All deposits made under section Unclaimed deposits 208A which have and passage-money to been unclaimed lapse to Government. for the prescribed period shall become the property of Government.

(2) If any pilgrim entitled to a refund of passage-money under sub-section (1) of section 208C does not claim such refund within the prescribed period, or if any pilgrim who has purchased a return ticket does not on the basis of such ticket obtain a return passage from the Hedjaz within the prescribed period and the value of the return half of such ticket has not been refunded under sub-section (2) or sub-section (3) or sub-section (4) of section 208C, such passage-money or value shall, *subject to the exercise of the rights conferred by sub-section (4) of section 208C*, become the property of Government and shall be paid to Government by the master, owner or agent to whom it was paid."

12. In section 209A of the said Act,—

Amendment of section
209A, Act XXI of 1923.

(a) in sub-section (1),—

(i) for the words "Port-clearance shall not be granted from any port in British India to any pilgrim ship unless or until the master, owner or agent and two sureties resident in British India have executed in favour of the Secretary of State for India in Council a joint and several bond for the sum of ten thousand rupees, conditioned that, if any pilgrim who has been carried to the Hedjaz by that ship" the words "Where any pilgrim who has been carried to the Hedjaz by a pilgrim ship" shall be substituted,

(ii) for the words "British Consul", the words "His Majesty's Representative" shall be substituted,

(iii) for the words "master, owner or agent aforesaid," the words "master, owner or agent of the ship in which such pilgrim was carried to the Hedjaz" shall be substituted, and

(iv) after the proviso the following further proviso shall be inserted, namely:—

"Provided further that in the case of any pilgrim whose ticket has been deposited with His Majesty's Representative at Jeddah the said period of twenty-five days shall, during the period of six weeks following the Haj day, be reduced to fifteen days beginning on the day on

which such pilgrim notifies to His Majesty's Representative at Jeddah his desire to embark for the return passage." ;
and

- (h) in sub-section (2), for the words "*British Consul*" the words "*His Majesty's Representative*" shall be substituted.

13 In sub-section (3) of section 209B of the Amendment of section said Act, for the words 209B, Act XXI of 1923. "Within such time", the words "Before such reasonable and sufficient interval" shall be substituted.

14. To section 209C of the said Act, the following Amendment of section ing sub-section shall be 209C, Act XXI of 1923. added, namely :—

- "(6) Nothing in this section or in section 209B shall apply to any advertisement made before the interval prescribed under sub-section (3) of section 209B, and intended to give the public information of the approximate date of the sailing of a pilgrim ship, provided that such advertisement clearly states that the date so advertised is approximate only and that the correct proposed date will be advertised later."

* * * *

15. (1) In sub-section (1) of section 213 of the Amendment of section said Act,—
213, Act XXI of 1923.

- (a) in clause (f),—

- (i) for the words "food, fuel and water", in the first place where they occur, the words "cooked and uncooked food and water" shall be substituted ; and
(ii) for the words "food, fuel and water", where they occur in the second place, the words "food and water" shall be substituted ;

- (b) after clause (f), as so amended, the following clause shall be inserted, namely :—

"(ff) the kinds of food to be provided for pilgrims on payment, in addition to the food to be supplied in accordance with the rules made under clause (f), and the charges which may be made for the same ;";

- (c) in clause (j), after the words "on board" the words "free of charge to pilgrims" shall be inserted ;

- (d) after clause (m) the following clause shall be inserted, namely :—

"(mm) the period referred to in clause (a) of sub-section (1A) of section 208 ;";

- (e) for clause (r) the following clause shall be substituted, namely :—

"(r) the refund of deposits and passage-money under section 208C, and the manner in which persons shall be nominated under that section for the purpose of entitling them to a refund ;";

and

(f) after clause (w) the following clause shall be inserted, namely :—

“(ww) providing that a pilgrim shall not be received on board any pilgrim ship unless he is in possession of a passport or a pilgrim's pass, regulating the issue of pilgrims' passes, and prescribing the form of and fees which may be charged for such passes ; and ”.

(2) In sub-section (2) of the said section, for the words “two hundred ” the words “three hundred ” shall be substituted.

GOVERNMENT OF INDIA,
LEGISLATIVE ASSEMBLY
DEPARTMENT.

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