

**JOINT/SELECT COMMITTEE
REPORTS OF LEGISLATIVE
ASSEMBLY - 1934**

**The Hedjaz Pilgrims
(Muslims) Bill (Second Report
of the Select Committee)**

List of Reports of Select or Joint Committees
presented to the Legislative Assembly in 1934.

Serial No.	Short title of the Bill.	Date of presentation.	Remarks.
1.	The Indian Tariff(Amendment) Bill.	5. 2.34.	
2.	The Indian States(Protection) Bill.	14. 2.34.	
3.	The Negotiable Instruments(Amendment)Bill.	26. 2.34.	
4.	The Factories Bill.	27. 2.34.	
5.	The Indian Tariff(Textile Protection) Amendment Bill.	2. 4.34.	
6.	The Sugar (Excise Duty) Bill.	10. 4.34.	
7.	The Matches (Excise Duty) Bill.	14. 4.34.	
8.	The Indian Dock Labourers Bill.	16. 7.34.	
9.	The Mechanical Lighters(Excise Duty) Bill.	23. 7.34.	
10.	The Indian Carriage by Air Bill.	25. 7.34.	
11.	The Indian Aircraft Bill.	25. 7.34.	
12.	The Hedjaz Pilgrims(Muallims) Bill(<u>Second Report of the Select Committee</u>)	2. 8.34.	
13.	The Indian Army (Amendment) Bill.	7. 8.34.	
14.	The Indian Iron and Steel Duties Bill.	13. 8.34.	
15.	The Indian Petroleum Bill.	14. 8.34.	
16.	The Indian Income-tax(Amendment) Bill by Sir Hari Singh Gour.	22. 8.34.	
17.	The Indian Navy (Discipline) Bill.	25. 8.34.	

LEGISLATIVE ASSEMBLY.

We, the undersigned, members of the Select Committee to which the Bill to regulate the activities of persons in British India who offer to assist Muslim pilgrims to the Hedjaz as reported by the Select Committee was recommended have reconsidered the Bill and have now the honour to submit this our Report with the Bill as amended by us annexed thereto.

2. Khan Bahadur Haji Wajihuddin raised a preliminary objection against the reconsideration of the Bill on the ground that in paragraph 4 of the Report of the Select Committee, dated 16th November, 1932, the Committee had recommended that the Bill should not be proceeded with. It was pointed out that proceedings in the Assembly when that report was taken into consideration had imposed upon the Committee the duty of reconsidering the Bill.

3. We have found it necessary to make only two changes in the Bill.

4. We have considered it desirable to specify in the Bill itself a maximum limit for the fees which may be prescribed for licences, and have amended clause 5 accordingly.

5. In clause 12 we have omitted sub-clause (2). That sub-clause has been criticised as a possible source of ambiguity, and it serves no purpose that is not already secured by the provisions of section 190 of the Code of Criminal Procedure, 1898.

6. The Bill as reported by the Select Committee was published in the Gazette of India, dated the 11th February, 1933.

7. 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.

N. N. SIRCAR.

G. S. BAJPAI.

H. S. GOUR.

BHAI PARMA NAND.

*WAJIHUDDIN.

*A. H. GHUZNAVI.

ISMAIL ALI KHAN.

ABDUR RAHIM.

MAJOR NAWAB AHMAD NAWAZ KHAN.

*IBRAHIM ALI KHAN.

SIMLA,

The 2nd August, 1934.

* Subject to a note of dissent.

NOTES OF DISSENT.

I regret I do not see my way to agree with the majority of Honourable Members of the Select Committee to proceed with the Bill for reasons noted in paragraph 4 of the Report dated 16th November, 1932. I am perfectly satisfied that since then no change in the situation in this particular question has taken place in any part of India, so my conscience does not appeal to me to support this drastic measure at this juncture. I think it is high time to have the Bill withdrawn rather than to have it proceeded with, as was recommended by a majority of 10 out of 12 Honourable Members present in the last meeting referred to above. I may be pardoned in expressing my surprise for the change of attitude by Honourable colleagues after a lapse of only 18 months.

In clause 2 (b) the word "muallim" should be deleted as this word has already been agreed to be deleted wherever it appears in the Bill (*vide* Select Committee Report dated the 16th November, 1932).

In clauses 3, 4 and 5 after the word "may" the words "in consultation with the Port Haj Committee" be inserted as recommended by the Bombay Haj Committee.

Clause 7 as a whole should be deleted, as it is clearly against the spirit of justice to convict a person on mere presumption and it is likely to be misused. It is an admitted fact that benefit of doubt is given to the accused but this clause clearly says that "if no consideration is proved the court may presume that the accused has acted in the hope of reward". I hold that onus of proof should be on the prosecution and the accused should on no account be convicted on mere presumption of the court.

In clause 11 provision should be made to have the licences issued by various provinces to be valid for the whole of India and should not be restricted for a particular province as this will put the guides to unnecessary expense, inconvenience and in some cases they may not be able to obtain a licence in other than his own province at any rate. If the licensing authority of any one province is satisfied and does grant a licence for his own province why should he be not authorised to grant a licence valid for any other province or the whole India if the guide intends to go round other parts of India. The District Magistrates in the whole of India are authorised to issue Arms licences to any one they like to keep fire-arms and ammunition, valid either for their own districts,

divisions or province or British India. If similar facility is denied in case of pilgrim guide it comes to no other conclusion than that this element is considered more dangerous than fire-arms and ammunition.

I find no justification in accusing the Government in introducing this drastic measure or for creating undue and unjust restrictions in the way of performing a purely religious duty but I think the whole responsibility lies on Haj Enquiry Committee alone as they clearly stated in their report "The Committee is unanimous in agreeing that the object to be aimed at should be to eliminate the Muallim, as far as his business activities are concerned, entirely from India". If this policy is in view I can say that fresh Bill for total elimination of this element sooner or later is bound to see the light of the day. If this Bill is passed as is evident from the attitude of my Honourable colleagues it will be strongly resented by the Muslim public in general and Ulemas and orthodox section in particular. I also note with greatest regret that four Honourable elected Muslim Members of the Select Committee (who had also the honour of sitting as members in the Haj Enquiry Committee some 5 years ago) could not, for one reason or the other, attend today's meeting of the Select Committee. I was consequently deprived of the advantage of hearing their strong arguments and enlightened and learned views in support of this drastic measure. I therefore felt it my duty to file this note of dissent.

WAJIHUDDIN.

The 27th July, 1934.

I agree with the dissent note filed by Haji Wajihuddin Saheb.

IBRAHIM ALI KHAN.

The 27th July, 1934.

In my opinion in clause 2 (b) of this Act, the word "muallim" should be omitted.

In clause 6, the words "or friend" should be omitted.

Under clause 11, in my opinion there should be two classes of licences, one confined in its operation to Bengal, Bihar and Orissa and Assam, and the other operating in and through other parts of India.

A. H. GHUZZAVI.

[AS AMENDED BY THE SECOND SELECT COMMITTEE.]

[Words printed in italics indicate the amendments suggested by the First Select Committee. Words underlined and asterisks indicate the amendments suggested by the Second Select Committee.]

A

BILL

TO

Regulate the activities of persons in British India who offer to assist Muslim pilgrims to the Hedjaz.

WHEREAS it is expedient to regulate the activities of persons in British India who offer to assist Muslim pilgrims to the Hedjaz ; It is hereby enacted as follows :—

1. (1) This Act may be called the Hedjaz Pilgrim Guides Act, 1934.
Short title, extent and commencement.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(3) It shall come into force in any province on such date as the Local Government may, by notification in the local official Gazette, appoint in this behalf.

2. In this Act,—

Definitions.

(a) “ pilgrim ” and “ pilgrimage ” have reference to Muslim pilgrims proceeding or intending to proceed on the pilgrimage to the Hedjaz ; and

(b) a “ pilgrim guide ” means any person who, for a consideration or in the hope of reward, advises or assists, or offers to advise or assist, any pilgrim in any matter connected with the pilgrimage other than the performance of religious rites and ceremonies relating thereto, and includes muallim, sabee, hamaldar and pilgrim-broker.

3. The Governor General in Council may, by notification in the Gazette of India and subject to the condition of previous publication, make rules—

(a) regulating the grant of licences to pilgrim guides,

(b) prescribing conditions which shall be inserted in such licences, and

(c) generally, to carry out the purposes of this Act.

4. The Local Government may appoint such person or body of persons as it may think fit to discharge the duties of a licensing authority under this Act.

Appointment of authority to grant licences.

5. The Local Government may, by notification in the local official Gazette and subject to the condition of previous publication, make rules not inconsistent with the rules made by the Governor General in Council under section 3—

- (a) prescribing further conditions to be entered in licences granted to *pilgrim guides*,
- (b) prescribing the form of such licences,
- (c) regulating the procedure of the licensing authority in granting such licences, and
- (d) prescribing the fees, subject to a maximum of three rupees, to be paid for such licences.

6. Whoever, not being a licensed *pilgrim guide* for a consideration or in the hope of a reward, advises or assists, or offers to advise or assist, any pilgrim other than a relative or friend, in any matter connected with the pilgrimage *other than the performance of religious rites and ceremonies relating thereto*, shall be punishable with imprisonment which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

7. Where it appears to any Court before which any person is being tried for an offence under section 6 that the accused has advised or assisted, or offered to advise or assist, any pilgrim who is not his relative or friend, and no consideration is proved, the Court may presume that the accused acted in the hope of a reward.

8. A licensed *pilgrim guide* who does any act in contravention of any of the conditions of his licence shall be punishable with fine which may extend to two hundred rupees.

9. The licensing authority may suspend the licence of any *pilgrim guide* pending any inquiry into an accusation against him for misconduct for which, if proved, he would be liable to be punished under section 8.

10. The licensing authority may cancel the licence of any *pilgrim guide* who is convicted of an offence under section 8, or of any other criminal offence involving, in the opinion of the licensing authority, moral turpitude.

11. (1) A licence granted under this Act to a *pilgrim guide* shall entitle him to act as such in the province in which the licence is granted; and it shall also entitle him to accompany, advise and assist any pilgrim on his journey through and from such province to a port of embarkation.

(2) Save to the extent provided in sub-section (1), a licence granted to a *pilgrim guide* shall not entitle him to act as a *pilgrim guide* outside the province in which the licence is granted and, in

particular, shall not entitle him to act as a *pilgrim guide* in any port unless it is granted in the province in which the port is situated.

12. * No Magistrate of the second or third class shall take cognizance of or try any offence punishable under this Act.

* * * * *

13. (1) On the date on which this Act comes into force in the province of Bombay, the enactments specified in Part I of the Schedule shall be repealed :

Provided that any licence granted to a pilgrim-broker under the said enactments and valid immediately before the said date shall continue to be valid as if it has been granted under this Act, for such period as the Local Government may, by notification in the local official Gazette, determine, and shall cease to be valid on the expiry of such period.

(2) On the date on which this Act comes into force in the province of Bengal, the enactments specified in Part II of the Schedule shall be repealed :

Provided that any licence granted to a pilgrim-broker or to a *muallim* under the said enactments and valid immediately before the said date shall continue to be valid as if it had been granted under this Act, for such period as the local Government may, by notification in the local official Gazette, determine, and shall cease to be valid on the expiry of such period.

THE SCHEDULE.

REPEALS.

(See section 13.)

PART I.—BOMBAY ACTS.

Year.	No.	Short title.	Extent of repeal.
1	2	3	4
1887	II	The Protection of Pilgrims Act, 1887.	So much as has not been repealed.
1915	V	The Bombay Protection of Pilgrims (Amendment) Act, 1915.	The whole.

PART II.—BENGAL ACTS.

Year.	No.	Short title.	Extent of repeal.
1	2	3	4
1896	I	The Protection of Muhammadan Pilgrims Act, 1896.	So much as has not been repealed.
1929	II	The Protection of Muhammadan Pilgrims (Bengal Amendment) Act, 1929.	The whole.

GOVERNMENT OF INDIA.
LEGISLATIVE ASSEMBLY
DEPARTMENT.

Report of the Second Select Committee on
the Bill to regulate the activities of persons
in British India who offer to assist Muslim
pilgrims to the Hedjaz, with the Bill as
amended.
