

Friday,
23rd February, 1883

ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor General of India,

LAWS AND REGULATIONS

Vol. XXII

Jan.-Dec., 1883

ABSTRACT OF THE PROCEEDINGS

Council of the Governor General of India,

ASSEMBLED FOR THE PURPOSE OF MAKING

LAWS AND REGULATIONS,

1883,

VOL. XXII.



Published by the Authority of the Governor General

Gazettes & Debates Section
Parliament Library Building
Room No. FB-025
Block 'G'

CALCUTTA :

OFFICE OF THE SUPERINTENDENT OF GOVERNMENT PRINTING, INDIA,
1884.



Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vict., cap. 67.

The Council met at Government House on Friday, the 23rd February, 1883.

PRESENT :

His Excellency the Viceroy and Governor General of India, K.G., G.M.S.I., G.M.I.E., *presiding*.

His Honour the Lieutenant-Governor of Bengal, C.S.I., C.I.E.

The Hon'ble J. Gibbs, C.S.I., C.I.E.

Major the Hon'ble E. Baring, R.A., C.S.I., C.I.E.

Lieutenant-General the Hon'ble T. F. Wilson, C.B., C.I.E.

The Hon'ble C. P. Ilbert, C.I.E.

The Hon'ble T. C. Hope, C.S.I., C.I.E.

The Hon'ble Rájá Siva Prasád, C.S.I.

The Hon'ble Sayyad Áhmad Khán Bahádur, C.S.I.

The Hon'ble Durgá Charan Lábá.

The Hon'ble H. J. Reynolds.

The Hon'ble H. S. Thomas.

The Hon'ble G. H. P. Evans.

The Hon'ble R. Miller.

The Hon'ble Kristodás Pál, Rai Bahádur, C.I.E.

MERCHANT SHIPPING BILL.

The Hon'ble MR. ILBERT moved that the Reports of the Select Committee on the Bill to amend the law relating to Merchant Shipping be taken into consideration. He said that he explained at the last meeting of the Council the reasons which had induced the Select Committee of this year to make a change in the form of the Bill, and that the Bill which he was now asking the Council to take into consideration was substantially the Bill which was agreed to by the Select Committee of 1881; that was to say, it was the original Bill *plus* the substantial alterations and additions which were made by the Select Committee of last year *minus* the additions which were made for the purpose of consolidation. The original Bill made two or three amendments in the existing Merchant Shipping Law. The most important of those amendments were these: First, provision was made for the appointment of an officer who was called the Port Inspector, and who, in addition to performing the duties now

performed by the Health Officer, was entrusted with the duty of inquiring into any complaints which on the arrival of a ship in port might be made by any of the crew against the master or against any others of the crew. Secondly, addition was made to the class of cases in which Marine Courts of Inquiry were to be held. Thirdly, power was given to the Local Governments to fix a scale of provisions for less than which a master was prohibited from contracting with any lascar or Native seaman; and, lastly, a provision was inserted in the Bill to the effect that, when the service of any lascar was to end at any port not in British India, the agreement between him and the master should invariably stipulate for his return to British India, and not merely for his employment on board some vessel bound to such other port as might be agreed on, possibly not in British India.

That was the Bill as originally introduced. The Select Committee of 1882 agreed on sundry amendments and additions which he would notice. The most important of the amendments were as follows:—

- (1) To meet a doubt that had arisen, it was provided, in section 5 of the Bill, that nothing in the Bill should apply to any ship belonging to or in the service of the Government of India.
- (2) Clauses (a) and (c) of section 6 were made to apply only to cases where material damage had been caused; and, at the suggestion of the Board of Trade, the application of clauses (d) and (e) of that section had been limited to British ships.
- (3) At the suggestion of the same Board, power had been given, in section 9 of the Bill, to the Court making an investigation to inquire into charges against masters, mates or engineers, whether they were certificated or not. It had also been provided that, in every case in which any charge of incompetency, misconduct or wrongful act or default arose, the Court should, before the commencement of the inquiry, furnish the master, mate or engineer concerned with a copy of the report or statement of the case upon which the investigation had been directed.
- (4) In section 13, sub-section (1), the Court had been required, on the recommendation of the Board of Trade, in cases involving any question as to the cancelling or suspension of the certificate of a master, mate or engineer, to constitute as its assessors two persons having experience in the Merchant Service.

- (5) In section 19 it had been provided that the certificate granted in lieu of a cancelled or suspended certificate should be of a grade lower than the one cancelled or suspended; and, in accordance with the opinion expressed by the Local Governments, they had been empowered to grant under that section certificates without being advised by the Court to do so.
- (6) In section 20 it had been made clear that the Local Government could not cancel or suspend, in the cases mentioned in that section, certificates granted under the Merchant Shipping (Colonial) Act, 1869.
- (7) At the request of the Bengal Government, the officer to be appointed under section 28 of the Bill as introduced (now section 31) had been called the Health-Officer, and he had been given the powers conferred on a Shipping Master by Act I of 1859, section 71. Clause (b) of that section of the Bill had also been modified so as to confine the power of medically examining persons on board to the medical examination of seamen or apprentices.

He would explain that, in the Acts relating to Merchant Shipping, "seaman" included an officer. Those were the amendments. The additions were three in number:—

- (1) In section 34 power was given to the Local Governments of fixing, with the previous sanction of the Governor General in Council, the fees payable by candidates for examination for certificates as masters or mates.
- (2) In section 35 Local Governments were given the power, conferred on the Board of Trade by section 134 of the Merchant Shipping Act, 1854, of requiring the further examination of persons reported by the examiners to be qualified for certificates.
- (3) The punishment which could be awarded under section 79 of Act I of 1859 for misconduct endangering the safety of a ship or of any person on board was imprisonment for two years. The corresponding provision (section 233) of the Imperial Merchant Shipping Act, 1854, allowed such offences to be punished with fine or imprisonment or both, and there was no reason why the punishment should be necessarily more severe under our law. Accordingly, section 36 of the Bill provided a penalty of fine

which might extend to Rs. 1,000, or imprisonment which might extend to two years, or both.

That was the Bill as settled by the Select Committee of 1882, and that was the Bill as it now stood. All he needed to add was that they had considered the provisions of an Imperial Act which had been passed in England since the beginning of last year and which was called the Merchant Shipping (Colonial Inquiries) Act, but that it did not appear to necessitate any change in the form or substance of the present Bill.

The motion was put and agreed to.

The Hon'ble MR. ILBERT also moved that the Bill, as amended, be passed.

The motion was put and agreed to.

BENGAL PILOTS BILL. .

The Hon'ble MR. ILBERT also moved that the Report of the Select Committee on the Bill to give power to arrest persons whose evidence is needed under Act XII of 1859 be taken into consideration. He said that this was a small Bill, which was merely supplementary to the Bill which had just been passed by the Council. It re-enacted in a separate measure one of the sections which was repealed by the Bill which was just passed. The only alteration made in the form of the Bill as approved by the Select Committee of last year was that, inasmuch as they had postponed the coming into operation of the other Bill to the beginning of next year, so they had postponed to the same date the commencement of this small supplementary measure.

The motion was put and agreed to.

The Hon'ble MR. ILBERT also moved that the Bill, as amended, be passed.

The motion was put and agreed to.

The Council adjourned to Friday, the 2nd March, 1883.

R. J. CROSTHWAITE,

Additional Secretary to the Government of India,

Legislative Department.

CALCUTTA ;

The 23rd February, 1883.