

C.B. (II) No. 71

LOK SABHA

THE MERCHANT SHIPPING BILL, 1958

(Report of the Joint Committee)

PRESENTED ON THE 21ST AUGUST, 1958



LOK SABHA SECRETARIAT  
NEW DELHI

*August 1958,*  
*Price Rs. 3.75 n.P.*

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THE MERCHANT SHIPPING BILL, 1958.

Composition of the Joint Committee

*Lok Sabha*

1. Shri Upendranath Barman—*Chairman*
2. Shrimati Ila Palchoudhuri
3. Shri Liladhar Kotoki
4. Shri S. Osman Ali Khan
5. Shri Harish Chandra Mathur
6. Shri Anirudha Sinha
7. Shri Ram Dhani Das
8. Shri Ghanshyamlal Oza
9. Shri Raghunath Singh
10. Shri Nardeo Snatak
11. Shri Tekur Subrahmanyam
12. Shri K. P. Kuttikrishnan Nair
13. Shri K. Periaswami Gounder
14. Shri Dinesh Pratap Singh
15. Shri Mool Chand Jain
- \*16. Dr. Y. S. Parmar
17. Shri N. M. Wadiwa
18. Shri Radha Raman
19. Bakshi Abdul Rashid
20. Shri Shivram Rango Rane
21. Shri Raj Bahadur
22. Shri Hirendra Nath Mukerjee
23. Shri K. T. K. Tangamani
24. Shri Rajendra Singh
25. Shri Nath Pai
26. Shri Ram Sewak Yadav
27. Shri S. A. Matin

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\*Ceased to be member of the Committee with effect from the 31st July, 1958 on the dismissal by the Judicial Commissioner of appeal from the order of the Election Tribunal dated the 28th April, 1958 declaring his election to Lok Sabha void.

(ii)

28. Shri Aurobindo Ghosal
29. Shri Badakumar Pratap Ganga Deb Bamra
- †30. Shri S. K. Patil

*Rajya Sabha*

31. Shri Janardhan Rao Desai
32. Shri Akbar Ali Khan
33. Shri T. V. Kamalawamy
34. Shrimati Savitry Devi Nigam
35. Shri J. S. Bisht
36. Shri M. D. Tumpaliwar
37. Shri Jethalal Harikrishna Joshi
38. Dr. Raghbir Singh
39. Giani Zail Singh
40. Shri Vijay Singh
41. Shri R. S. Doogar
42. Shri Abdur Rezzak Khan
43. Shri V. K. Dhage
44. Shri R. P. Sinha
45. Dr. P. J. Thomas.

DRAFTSMEN

Shri S. K. Hiranandani, *Additional Draftsman, Ministry of Law.*

Shri N. Swaminathan, *Deputy Draftsman, Ministry of Law.*

SECRETARIAT

Shri N. N. Mallya—*Deputy Secretary.*

Shri A. L. Rai—*Under Secretary.*

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†Appointed on the 15th April, 1958 vice Shri Lal Bahadur Shastri resigned.

## REPORT OF THE JOINT COMMITTEE

1. The Chairman of the Joint Committee to which the Bill\* to amend and consolidate the law relating to Merchant Shipping was referred, having been authorised to submit the report on their behalf, present this their Report, with the Bill as amended by the Committee annexed thereto.

2. The Bill was introduced in the Lok Sabha on the 14th February, 1958. The motion for reference of the Bill to a Joint Committee of the Houses (*vide* Appendix I) was moved in the Lok Sabha by Shri Lal Bahadur Shastri on the 25th February, 1958 and was discussed and adopted on the same day.

3. The Rajya Sabha discussed and concurred in the said motion on the 27th February, 1958 (*Vide* Appendix II).

4. The message from Rajya Sabha was read out in the Lok Sabha on the 3rd March, 1958.

5. The Committee held 12 sittings in all.

6. The first sitting of the Committee was held on the 22nd April, 1958 to draw up a programme of work. The Committee at this sitting also decided to hear evidence of associations and individuals desirous of presenting their suggestions or views before the Committee. The Chairman was authorised to decide, after examining the memoranda submitted by them, as to which of the associations or individuals might be called to tender oral evidence before the Committee.

7. At their first and the second sittings held on the 22nd April, and the 7th July, 1958, respectively, the Committee decided to visit marine establishments at Bombay, Calcutta and Madras for an on-the-spot study, subject to the necessary permission being given by the Speaker.

8. The Committee, however, visited the marine establishments at Bombay and Calcutta only since they felt that the establishments which existed in Madras were of the same type which they would visit in Bombay and Calcutta. The Committee, were accordingly in Bombay from the 13th to the 15th July, 1958 and in Calcutta from the 17th to the 19th July, 1958.

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\*Published in Part II, Section 2 of the Gazette of India, Extraordinary, dated the 14th February, 1958.

9. During their study tour at Bombay and Calcutta, the Committee particularly visited the Mercantile Marine Department Offices, Seamen's Employment Offices, training colleges and ships intended for imparting training to engineers, navigators and seamen, shipping offices, seamen's welfare centres and seamen's hostels. The Committee studied the working of these establishments and also questioned in detail the authorities concerned and seamen whom they met for eliciting first-hand information on the provisions of the Bill.

10. At their second, third, fourth, fifth and sixth sittings, held on 7th, 8th, 9th, 10th and 21st July, 1958 respectively, the Committee heard the evidence tendered by 8 associations and 2 individuals specified in Appendix III.

11. The Committee have decided to lay the evidence tendered before them on the Table of the House *in extenso*.

12. The Committee considered the Bill clause by clause at their sittings held from the 22nd to 26th July, 1958.

13. 63 Memoranda/representations on the Bill were received by the Committee from different associations/individuals as mentioned in Appendix IV.

14. The Report of the Committee was to be presented by the 11th August, 1958. The Committee were granted extension of time by Lok Sabha on the 11th August, 1958 upto the 21st August, 1958.

15. The Committee considered and adopted the Report on the 18th August, 1958.

16. The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in the succeeding paragraphs.

17. *Long Title*.—The Committee consider that the Long Title of the Bill should be enlarged to specify the main purposes of this legislation which in course of their deliberations have been widened to cover developmental aspects of Indian Shipping.

The Long Title has, therefore, been recast accordingly.

18. *Clause 3*.—

(1) *Items* (2), (13), (18), (42), (51) and (56) [*Original Items* (2), (12), (17), (40), (49) and (54)].

The amendment made in item (13) enlarges the definition of a foreign-going ship so as to include ships which are employed in trading between ports or places outside India.

(v)

The other amendments are either clarificatory or consequential.

(2) *Item (16)*—[*Original Item (15)*].

The Committee feel that the definition of "home-trade ship" should also include a ship trading between India and Burma and Maldivé Islands.

The Item has been amended accordingly.

(3) *Items (7) and (31)*—(*New Items*).—

In view of incorporation of new clauses in the Bill making special provisions for the protection of seamen in respect of litigation (New clauses 178—183), it was felt necessary to define "Court" and "proceeding" in relation to these new clauses. The same have now been defined in the new items.

19. *Clauses 4, 5 and 6 (New Clauses)*.—The Committee consider that provision should be made for the constitution of a National Shipping Board to advise the Central Government on matters relating to Indian Shipping including the development thereof and on such other matters arising out of the Bill when enacted which the Central Government may refer to it for advice.

The new clauses have been inserted accordingly.

20. *Clause 13 (Original Clause 10)*.—The changes made in the clause are clarificatory in nature.

21. *Clauses 14—19 (New Clauses)*.—The Minister of Transport brought to the notice of the Committee that a non-lapsable Shipping Development Fund as a proforma account was intended to be created. The Committee feel that this opportunity should be taken to give this Fund a statutory basis which might be entrusted for administration to a Corporate Body to be called the Shipping Development Fund Committee. The Fund will be utilised for giving loans and financial assistance in any other form to Shipping Companies for the acquisition and maintenance of ships.

The new clauses have been inserted accordingly.

22. *Clause 21 (Original Clause 12)*.—This being the most controversial clause in the Bill as it related to the question of foreign participation in Indian Shipping, the Committee have given careful thought to it and after hearing the varying viewpoints of

Shipowners and others who appeared before the Committee and also that of the Transport Minister, the Committee feel that:—

- (i) where a ship is owned by an individual the entire ownership shall vest in Indian hands, and
- (ii) where a ship is owned by a company, it should satisfy the following requirements:—
  - (a) the principal place of business of the company should be in India;
  - (b) at least seventy-five per cent. of the share capital of the company is held by citizens of India;
  - (c) not less than three-fourths of the total number of Directors of the company are citizens of India;
  - (d) the Chairman of the Board of Directors and the Managing Director, if any, are citizens of India;
  - (e) the Managing Agents, if any, of the company are citizens of India or in any case where a company is the Managing Agent, the company satisfies the requirements specified in sub-paras (a), (b), (c) and (d).

The clause has been amended accordingly.

23. *Clause 22 (Original Clause 13).*—The Committee feel that the provisions in the original clause 447(3) (f) that a ship already registered under a previous enactment which is being repealed by this Bill should be deemed to have been registered under the present Bill, should be transferred to this Clause.

A proviso has accordingly been added to sub-clause (2).

24. *Clause 25 (Original Clause 16).*—For the sake of administrative convenience and in view of the introduction of the decimal system in our country it was felt that “property in a ship” should be divided into ten shares instead of sixty-four shares as provided originally in the Bill.

The clause has been amended accordingly.

25. *Clause 45 (Original Clause 36).*—*Sub-clause (2).*—Consequential amendments have been made in this sub-clause.

26. *Clause 89 (Original Clause 80).*—The Committee feel that the duty imposed on a shipping master under clause 132 to enquire into and decide disputes arising out of the agreement between the master, owner or agent and any of the crew should be included in this clause.

New Item (d) has been inserted accordingly.



(vii)

27. *Clauses 99 and 100 (Original Clauses 90 and 91).*—The amendments made in the clause are of a drafting nature.

28. *Clause 101 (Original Clause 92).*—*Sub-clause (3).*—The Committee feel that the decision of the Indian Consular Officer should be binding on the parties until the ship returns to a port in India at which the seaman concerned in the dispute is to be discharged.

The sub-clause has been amended accordingly.

The other amendment is clarificatory in nature.

29. *Clause 109 (Original Clause 100).*—The amendment made in item (c) is of a drafting nature.

30. *Clause 114 (Original Clause 105).*—*Sub-clause (3).*—The proviso to this sub-clause has been recast to make the intention clear.

31. *Clause 128 (Original Clause 119).*—The amendment made in the clause is of a drafting nature.

32. *Clause 129 (Original Clause 120).*—In order to help seamen, the Committee are of the view that wages should be paid to them within four days after discharge instead of five days.

The clause has been amended accordingly.

33. *Clause 132 (Original Clause 123).*—*Sub-clause (1).*—The Committee are of the view that minor disputes between the master, owner or agent of a ship and any of the crew where the amount of the dispute is less than three hundred rupees should be submitted to the Shipping Master for decision at the instance of either of the parties, and in other cases consent of both the parties should be necessary.

Sub-clause (1) has been amended accordingly.

34. *Clause 134 (Original Clause 125).*—The amendment made in the clause is of a drafting nature.

35. *Clause 141 (Original Clause 132).*—To bring it in line with the actual practice in this respect followed by the Shipping Industry in India, the Committee are of the view that the compensation for the loss of effects in the case of a seaman employed on a foreign-going ship should be equivalent to three months' wages.

Item (ii) of sub-clause 1 (a) has been amended accordingly.

36. *Original Clause 134.*—The Committee feel that it would entail undue hardship and will also involve double penalty, if the

seaman were to bear the cost of proceedings where he is convicted of an offence.

The clause has therefore been omitted.

37. *Clause 168 (Original Clause 160).—Sub-clause (5).*—The amendment made in the sub-clause follows the language used in the analogous provisions of section 250 of the Code of Criminal Procedure, 1898.

38. *Clause 173 (Original Clause 165).*—The Committee feel that the number of persons on board a ship which would make the appointment of a Medical Officer compulsory should be left to be prescribed by the Rules framed by the Central Government instead of being laid down in the Bill.

The clause has been amended accordingly.

39. *Clause 174 (Original Clause 166).—Sub-clause (4).*—The Committee are of the view that expenses incurred by an owner on the burial or cremation of a seaman etc. should not be deducted from the wages due to him.

The sub-clause has been amended accordingly.

40. *Clauses 178—183 (New Clauses).*—The new clauses regarding special provisions for the protection of seamen in respect of litigation are based on the provisions of the Merchant Seamen (Litigation) Act, 1946 (Act No. XXI of 1946) which is being repealed.

41. *Clause 184 (Original Clause 170).*—The amendment made in the clause is clarificatory in nature.

42. *Clause 196 (Original Clause 182).*—The Committee are of the view that the entry of offences to be made in the official logs should, in addition to the mate, be also signed by one of the crew.

They further feel that not only the offender should be furnished with a copy of the entry but the entry should also be read over to him.

The clause has been amended accordingly.

43. *Clause 202 (Original Clause 188).—New sub-clause (3).*—The Committee feel that proceeds of all fines received from seamen should be utilised for their welfare in such a manner as the Central Government may direct.

The new sub-clause has therefore been inserted.

44. *Clause 213 (Original Clause 199).—Sub-clause (2).*—Certain consequential amendments have been made in this sub-clause.

45. *Clause 218 (Original clause 204).*—The amendment made in the clause is clarificatory in nature.

46. *Clause 233 (Original clause 219).*—*Original item (d) of sub-clause (1).*—The Committee feel that provisions contained in original item (d) of sub-clause (1) are covered by the original item (e) of the sub-clause.

The item has therefore, been omitted.

47. *Clause 259 (Original clause 245).*—The Committee feel that the crew of the ship ought to be counted along with the passengers for the purposes of providing Medical Officer and Attendants on unberthed passenger ships.

The Clause has been amended accordingly.

48. *Clause 307 (Original clause 293).*—*Item (c) of sub-clause (2).*—This item has been amended to bring it in line with the provisions of clause 302 (Original clause 288) relating to Exemption Certificate.

49. *Clause 319 (Original clause 305).*—*Sub-clause (1).*—The amendment made in the clause is of a drafting nature.

50. *Clause 321 (Original clause 307).*—*Original sub-clause (2).*—The sub-clause has been omitted as being unnecessary in view of sub-clause (3) of clause 316.

51. *Clause 408 (Original clause 394).*—The Committee feel that from the administrative point of view it is not necessary to provide for an opportunity of making a representation in the case of a refusal of a licence.

The clause has been amended accordingly.

52. *Clause 417 (Original clause 403).*—The amendment made in Item (b) of sub-clause (4) is clarificatory in nature.

53. *Clause 420 (Original clause 406).*—*Sub-clause (1).*—The words “of the passengers” have been omitted as being unnecessarily restrictive.

54. *Clause 435 (Original clause 421).*—*Item (j) of sub-clause (2).*—The amendment made in the item is of a drafting nature.

55. *Clause 436 (Original clause 422).*—A new sub-clause has been added to provide punishment for offences for which no specific penalty is provided.

(x)

56. *Clause 456 (Original clause 442).*—The Committee feel that it would be sufficient if an exemption is granted by an order instead of by a notification. The exemption clause has been widened to empower the Central Government to grant exemption in respect of the personnel of a ship in suitable cases.

Sub-clause (1) has, therefore, been amended accordingly.

57. *Clause 458 (Original clause 444).*—The Committee consider that a more serious punishment should be imposed for breach of rules or regulations framed under clause 331 which pertains to carriage of dangerous goods in ships.

The clause has been amended accordingly.

58. *Clause 459 (Original clause 445).*—*Sub-clause (1).*—The amendment widens the scope of the clause to enable the Central Government to appoint an advisory committee for any purpose connected with the Bill.

59. *Clause 461 (Original clause 447).*—*Items (f) and (g) of sub-clause (3).*—The amendments made in the items are clarificatory or consequential.

60. *The Schedule.*—The provisions contained in the Merchant Seamen (Litigation) Act, 1946 have been incorporated in clauses 178 to 183. The Committee, therefore, feel that it is no longer necessary to keep this Act on the Statute Book.

The Lascars Act, 1823 of U. K. in so far as it was applicable to India is also being repealed as it would become redundant on the enforcement of this Bill.

The Schedule has, therefore, been amended accordingly.

61. In respect of the amendments making provision for the formation of the National Shipping Board and the Shipping Development Fund, the recommendation of the President under Article 117(3) of the Constitution has been obtained.

62. The Joint Committee recommended that the Bill as amended be passed.

NEW DELHI;  
The 21st August, 1958.

UPENDRANATH BARMAN,  
Chairman,  
Joint Committee.