

[Published with the "Bombay Government Gazette" on the 14th October 1875.]

PART VI.

BILLS OF THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 29th September 1875, and was referred to a Select Committee with instructions to make their report thereon in three months :—

Bill No. 11 of 1875.

A Bill to amend the law relating to Merchant Seamen.

Whereas it is expedient to amend the law relating to Merchant Seamen in manner hereinafter appearing; It is hereby enacted as follows :—

Preamble.

Preliminary.

1. This Act may be called "The Indian Merchant Seamen's Act, 1875." Short title.
It extends to the whole of British India; Local extent.

And it shall come into force at once. Commencement.

2. In this Act—"owner" includes also "agent," and "seaman" includes every person (except Masters, pilots, and apprentices duly indentured and registered) employed or engaged in any capacity on board any ship. Interpretation-clause.

Distressed Seamen.

3. A certificate signed by a Secretary to the Local Government, or by such other officer as it appoints in this behalf, to the effect that any seaman named therein is distressed, shall, in all proceedings under sections 211, 212, and 213 of the Merchant Shipping Act, 1854, be conclusive evidence that such seaman is distressed within the meaning of the same sections; and any Master of a British ship refusing to accept such seaman as a distressed seaman under the provisions of the said sections shall, for each seaman with respect to whom he so refuses, be liable to a fine which may extend to one thousand rupees. Evidence of distress of seamen.

Discharge of Seamen.

4. No owner or Master of a ship shall discharge any seaman or apprentice not shipped in British India without the previous sanction in writing of such officer as the Local Government appoints in this behalf, and such sanction shall be given or withheld at the discretion of the officer so appointed. Discharge of seamen.

Any Master wilfully disobeying the prohibition contained in this section shall be liable to imprisonment for a term which may extend to three months, or to fine not exceeding one thousand rupees, or to both.

Engagement of Seamen.

5. The Local Government, or such officer as it appoints in this behalf, may, by order in writing signed by its Secretary or by such officer, prohibit the owner or Master of any ship from engaging any Native of India to serve as a seaman on board such ship. Engagement of Native seamen.

Whoever wilfully disobeys the prohibition contained in this section shall be liable to imprisonment for a term which may extend to three months, or to fine not exceeding one thousand rupees, or to both.

Deserters.

6. Whenever any seaman or apprentice not shipped in British India deserts or otherwise absents himself without leave from any ship in which he is engaged to serve, the Master or owner of the ship shall, within forty-eight hours of discovering such desertion or absence, report the same to such officer as the Local Government appoints in this behalf, unless in the meantime the deserter or absentee returns. Deserters.

Any Master or owner wilfully neglecting to comply with the provisions of this section may be punished with fine not exceeding one hundred rupees, or imprisonment for a term which may extend to one month, or with both.

Imprisoned Seamen.

7. If any seaman or apprentice not shipped in British India is imprisoned for any offence for which he has been sentenced to imprisonment for a term not exceeding one month, any Magistrate may deal with him in the same way as he may deal with a seaman or apprentice imprisoned on any of the grounds mentioned in section 88 of Act No. I. of 1859 (for the amendment of the law relating to Merchant Seamen). Power to deal with imprisoned seamen in accordance with section 88, Act I. of 1859.

8. If any seaman or apprentice not shipped in British India is imprisoned on a complaint made by or on behalf of the Master or owner of the ship in which he is engaged to serve, on any of the grounds mentioned in the said Act No. I. of 1859, section 88, or for any offence for which he has been sentenced to imprisonment Rules as to imprisoned seamen.

for a term not exceeding one month, the following rules shall be observed :—

(a) Such Master or owner shall not, without the previous sanction in writing of the Local Government or of such officer as it appoints in this behalf, engage any Native of India to serve as a seaman on board his ship;

(b) The Local Government, or such officer as it appoints in this behalf, may tender such seaman or apprentice to the Master or owner of the ship in which he is engaged to serve, and if such Master or owner refuse to receive him on board, may require such Master or owner to deposit in the local Shipping Office (1) the wages due to such seaman or apprentice, and his money, clothes, and other effects, and (2) such sum as may in the opinion of the Local Government or of such officer as aforesaid be sufficient to defray the cost of—

the passage of the said seaman or apprentice to the port at which he was shipped, and of his subsistence during such passage;

his lodging and subsistence during his detention (if any) at the place at which he is so imprisoned until he embarks.

And if the Master or owner fail to deposit such wages, money, clothes, and other effects, or refuse or neglect to comply with such requisition, he may be punished with fine not exceeding five hundred rupees, and in default of payment of such fine, to imprisonment for a term which may extend to three months.

Accommodation of Seamen.

9. And whereas it is expedient to increase the space required by the said Act No. I. of 1859, section 70, to be allowed for European seamen and apprentices, and for lascars or native seamen; It is hereby further enacted as follows:—

Such section shall be read as if for the expressions “nine superficial feet,” “fifty-four cubic feet,” and “four superficial feet,” the expressions “ten superficial feet,” “sixty cubic feet,” and “six superficial feet” were respectively substituted, and as if in the third paragraph of the same section after the word “superficial” the words “and thirty-six cubic” were inserted.

Meaning of ‘established par value.’

10. And whereas doubts have been raised as to the meaning of the expression “established par value” in the said Act No. I of 1859, section 54, for the purpose of removing such doubts; It is hereby declared as follows :—

In the said section 54, the expression “established par value” means the rate of exchange for the time being fixed by the Secretary of State for India in Council to regulate transactions between himself and the Government of India.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to make a number of small but important changes in the law relating to Merchant Seamen, which cannot conveniently be postponed until that law is consolidated and amended.

The Bill first provides for determining disputes whether or not a seaman is “distressed” within the meaning of the sections of the Merchant Shipping Act, 1854, relating to distressed seamen, and imposes an Indian penalty on Masters of British ships who refuse to receive on board distressed seamen in accordance with those sections.

The Bill then provides against the discharge in India of European seamen without the previous sanction of an officer appointed by the Local Government, and removes a doubt which has been felt as to the corresponding provision (section 207) of the Merchant Shipping Act, 1854, by expressly declaring that such officer has a discretion as to giving or withholding his sanction.

Power is given to the Local Government to prohibit the owner or Master of a ship from engaging Natives of India as seamen. This power is intended to be exercised in case it is found that the Master is wantonly discharging European seamen for the mere purpose of replacing them by Natives.

Provision is then made that where a European seaman deserts, the Master or owner shall report the desertion to the Local Government.

Sections 7 and 8 extend the provisions of Section 88 of Act I. of 1859, and contain certain rules as to European seamen imprisoned for breaches of discipline or other petty offences on the complaint of the Master. The previous sanction of the Local Government is rendered necessary to the engagement of Natives of India. The Local Government is also empowered to tender an imprisoned seaman to the Master, and, if the Master refuse to receive him, the Master may be required to deposit, not only the wages, &c., due to the seaman, but also such sum as may be sufficient to defray the cost of his passage home and of his lodging and subsistence till he starts.

The Bill then contains a clause slightly increasing the space required by Act I. of 1859, section 70, for European and for Native seamen.

Lastly, a clause has been added to remove a doubt which has been raised as to the meaning, in section 54, of that Act, of the expression “established par value.”

(Signed) A. HOBHOUSE.

SIMLA,
The 25th September 1875. }

WHITLEY STOKES,

Secretary to the Government of India.