

THE



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## 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 19th December, 1884, and was referred to a Select Committee:—

#### Bill No. 18 of 1884.

*A Bill to repeal part of section 6 of the Indian Tariff Act, 1882, and to amend the Excise Act, 1881, and the Bengal Excise Act, 1878.*

WHEREAS it is expedient to repeal part of section 6 of the Indian Tariff Act, 1882, and to amend section 7 of the Excise Act, 1881, and section 18 of the Bengal Excise Act, 1878; It is hereby enacted as follows:—

1. The part of section 6 of the Indian Tariff Act, 1882, beginning with the words "And whereas," down to and including the words "been paid," is repealed.
2. For clause (a) of section 7 of the Excise Act, 1881, the following clause shall be substituted:—

"(a) such duty as the Local Government may from time to time fix in respect of such spirit has been paid."

3. In section 18 of the Bengal Excise Act, 1878, for the words "at the rate leviable under any Tariff Act for the time being in force" the words "at such rate as the Local Government may from time to time fix in respect of such spirituous liquor" shall be substituted; but nothing in this section shall affect any Act passed after this Act comes into force by the Lieutenant-Governor of Bengal in Council.

4. The duty now fixed by the Local Government under section 6 of the Indian Tariff Act, 1882, as leviable on spirit manufactured in all or any of the distilleries situate in the territories under its administration, or in any part of such territories, shall, in places in which the Excise Act, 1881, or the Bengal Excise Act, 1878, is in force, be deemed to be the duty fixed by the Local Government under sections 7 and 18 of those Acts, as amended by this Act, respectively.

#### STATEMENT OF OBJECTS AND REASONS.

The Government of Madras recently submitted a draft Bill to consolidate and amend the Abkari law of the Presidency of Madras, for sanction to its introduction in the local Legislative Council, and, on examination of its provisions, it was found that two clauses of one of its sections, imposing a duty on liquor, were, as applied to spirit, *ultra vires* of the local legislature, as the mode of fixing the excise



duty on spirit is determined by section 6 of the Indian Tariff Act, 1882. It was also feared that the penultimate clause of the latter section, by keeping in force, under the authority of the Governor General's Legislative Council, an unexplored mass of law existing on the 10th March, 1882, might render other provisions of that Bill *ultra vires*.

This in itself would make it necessary that legislation should be resorted to in the Council of the Governor General in order to prevent the Madras Bill from being declared invalid; and as, moreover, section 6 of the Tariff Act must seriously hamper any local legislature contemplating legislation like that proposed by the Madras Government, it is proposed to repeal that section, leaving it to the Local Governments to deal with the mode of fixing the duties of excise on spirit, under the other enactments locally in force, subject, so far as any discretion is allowed to them by those enactments, to the general executive control of the Government of India.

The present Bill has accordingly been prepared. It first repeals section 6 of the Tariff Act except the last clause amending section 1 of Act XVI of 1863, which Act is still in force. It then amends section 7 of the Excise Act, 1881, and section 18 of the Bengal Excise Act, 1878, which at present contain references to the provisions of section 6 of the Tariff Act, by omitting these references and conferring on the Local Governments concerned power to fix the duty payable in respect of country spirit. Lastly, in order to prevent any question being raised as to the effect of the repeal of section 6 of the Tariff Act, the Bill declares that duties already fixed by the Local Government under section 6 of the Tariff Act shall be deemed to be duties fixed by the Local Government under sections 7 and 18 of the Excise Act, 1881, and the Bengal Excise Act, 1878, as amended by this Act, respectively.

*The 13th December 1884.*

(Signed) A. COLVIN.

D. FITZPATRICK,  
Secretary to 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 19th December 1884, and was referred to a Select Committee:—

Bill No. 19 of 1884.

*A Bill to amend the law relating to the carriage of passengers by sea.*

WHEREAS by section 99 of an Act of the Imperial Parliament called "the Passengers Act, 1855," it is enacted that "it shall be lawful for the Governor General of India in Council, from time to time, by any Act or Acts to be passed for that purpose, to declare that this Act or any part thereof shall apply to the carriage of passengers upon any voyage, from any ports or places within the territories of British India, to be specified in such Act or Acts, to any other places whatsoever, to be also specified in such Act or Acts;" and it is thereby also enacted that "on the passing of such Indian Act or Acts, and whilst the same shall remain in force, all such parts of this Act as shall be adopted therein shall apply to and extend to the carriage of passengers upon such voyages as in the said Indian Act or Acts shall be specified. The provisions of such Indian Act shall be enforced in all Her Majesty's possessions in like manner as the provisions of this Act may be enforced."

And whereas certain parts of the said Act of Parliament were by Act II of 1860 (*to amend the law relating to the carriage of passengers by sea*) made applicable to the carriage of passengers upon certain specified voyages;

And whereas by an Act of the Imperial Parliament called "the Passengers Act Amendment Act, 1863," certain parts of the Passengers Act, 1855, which were so made applicable have been amended, and it is provided that the said Acts of the Imperial Parliament shall be construed together as one Act;

And whereas it is expedient that the amendments so made in the Passengers Act, 1855, should also be made in the parts of that Act so made applicable, and it is also expedient to apply those parts so amended to the carriage of passengers upon certain voyages not specified in Act II of 1860;

It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Sea Passengers Act, 1885: and

(2) It shall come into force on the first day of March 1885.

2. On and from the day on which this Act comes into force, Act II of 1860 (*to amend the law relating to the carriage of passengers by sea*) shall be repealed.

3. The provisions contained in sections 4, 5 and 6 of this Act, and the schedule hereto annexed (being parts of the Passengers Act, 1855, as amended by the Passengers Act Amendment Act, 1863), are declared applicable to the carriage of passengers upon the following voyages, namely:—

- (a) Voyages from the ports of Calcutta, Madras and Bombay to the British Colonies of Mauritius, Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, Natal, St. Kitts, Nevis and Fiji; [New.]
- (b) Voyages from the ports of Calcutta, Madras and Bombay to the French Colonies of Réunion, Martinique, Guadeloupe and its dependencies, and Guiana; [New.]
- (c) Voyages from the ports of Calcutta, Madras and Bombay to the Netherlands colony of Dutch Guiana; [New.]
- (d) Voyages from the ports of Calcutta, Madras and Bombay to the Danish colony of St. Croix; [New.]
- (e) Voyages under the Native Passenger Ships Act, 1876, from Calcutta, Madras, Bombay, Karachi, Rangoon and other ports in British India to the Straits Settlements, to the protected Native States adjoining the Straits Settlements, to Australia and to ports in the Red Sea or Persian Gulf. VIII of 1876.

4. If the passengers upon any such voyage as is specified in the last preceding section are taken off from the ship carrying such passengers. Governors or Councils may pay expenses of passengers taken off passenger-ship. or are picked up at sea from any boat, raft or otherwise, it shall be lawful, if the port or place to which they shall be conveyed is in any of Her Majesty's colonial possessions, for the Governor of such colony, or for any person authorized by him for the purpose, or if in any foreign country for Her Majesty's Consular officer, at such port or place therein, to defray all or any part of the expenses thereby incurred.

5. If any passenger of any such passenger-ship as aforesaid, without any neglect or default of his own, finds himself within any colonial or foreign port, or place other than that for which the ship was originally bound, or at which he, or the Emigration Agent, or any public officer or other person on his behalf, has contracted that he should land, it shall be lawful for the Governor of the colony, or for any person authorized by him for the purpose or for Her Majesty's Consular officer at the foreign port or place, as the case may be, to forward the passenger to his intended destination, unless the master of the ship, within forty-eight hours of the arrival of such passenger, gives to the Governor or Consular officer, as the case may be, a written undertaking to forward or carry on within six weeks thereafter the passenger to his original destination, [Act II of 1860, s. 3. 26 & 27 Vic. c. 51. [New.]

[Act II of 1860, preamble.]

18 & 19 Vic., c. 119.

[New.]

[New.]

26 & 27 Vic., c. 51.

18 & 19 Vic., c. 119.

[New.]

18 & 19 Vic., c. 119.

[New.]

Short title and commencement.

[New.]

[New.]



and unless the master accordingly forwards or carries him on within that period.

6. (1) All expenses incurred under the last two preceding sections, or either of them, by or by the authority of a Governor or Consular officer, or other person as therein respectively mentioned, including the cost of maintaining the passengers until forwarded to their destination and of all necessary bedding, provisions and stores, shall become a debt to Her Majesty and Her successors from the owner, charterer and master of the ship, and shall be recoverable from them, or from any one or more of them, at the suit and for the use of Her Majesty, in like manner as in the case of other Crown debts.

(2) A certificate in the form given in the Schedule hereto annexed, or as near thereto as the circumstances of the case will admit, purporting to be under the hand of any such Governor or Consular officer (as the case may be), stating the total amount of the expenses, shall, in any suit or other proceeding for the recovery of the debt, be received in evidence without proof of the handwriting or of the official character of the Governor or Consular officer, and shall be deemed sufficient evidence of the amount of the expenses, and that the same were duly incurred;

nor shall it be necessary to adduce on behalf of Her Majesty any other evidence in support of the claim, but judgment shall pass for the Crown, with costs of suit, unless the defendant specially pleads and duly proves that the certificate is false or fraudulent, or specially pleads and duly proves any facts showing that the expenses were not duly incurred:

Provided, nevertheless, that in no case shall any larger sum be recovered on account of the expenses than a sum equal to twice the total amount of passage-money received or due to and recoverable by or on account of the owner, char-

terer or master of the passenger-ship or any of them from or on account of the whole number of passengers who may have embarked in the ship; which total amount of passage-money shall be proved by the defendant if he will have the advantage of this limitation of the debt: but if any such passengers are forwarded or conveyed to their intended destination under the provisions of the last preceding section, they shall not be entitled to the return of their passage-money, or to any compensation for loss of passage.

#### THE SCHEDULE.

*Form of Governor's or Council's Certificate of expenditure in the case of Passengers shipwrecked, &c.*

[26 & 27 Vic.,  
cap. 51,  
Sched.]  
[New.]

(See Section 6.)

(a) *N. B.*—1. If more passengers were rescued than forwarded, or if bedding, &c., was not supplied, alter the certificate to suit the facts of the case.

(b) *N. B.*—2. State generally the nature of the disaster and where it occurred. But if the passengers were only left behind without any default of their own, state the fact accordingly.

I hereby certify that acting under and in conformity with the provisions of the Indian Sea Passengers Act, 1885, I have defrayed the expenses incurred in rescuing, maintaining, supplying with necessary bedding, provisions and stores (a), and in forwarding to their destination passengers who were proceeding from to the passenger-ship which was wrecked at sea, &c. (b).

And I further certify, for the purposes of the sixth section of the said Indian Sea Passengers Act, 1885, that the total amount of such expenses is , and that such expenses were duly incurred by me under the said Act.

Given under my hand this                      day of  
18 . . . . .

{ Governor of &c., (or, as the case  
may be) Her Britannic Majes-  
ty's Consul at

#### STATEMENT OF OBJECTS AND REASONS.

Act II of 1860 declares certain parts (namely, sections 52, 53 and 54) of the English Passengers Act, 1855 (18 & 19 Vic., cap. 119) to be applicable to the carriage of passengers upon voyages from the ports of Calcutta, Madras and Bombay to the colonies of Mauritius, Jamaica, British Guiana, Trinidad, St. Lucia and Grenada, and from ports in British India to ports in the Red Sea or Persian Gulf. The colonies mentioned were the places to which emigration was then lawful. Since 1860, emigration to the colonies of Fiji, Natal, Réunion, St. Croix, Guadeloupe, Martinique, Dutch Guiana, St. Vincent, Nevis and St. Kitts has been sanctioned. With respect, however, to voyages to places not specified in Act II of 1860, that Act gives no power to any authority to recover expenses incurred in forwarding shipwrecked passengers to their destination and in maintaining them until they are so forwarded. At present, therefore, the voyages to which the Act does not apply are more numerous than those to which it does.

2. Again, the Act, as it stands at present, is, if strictly construed, inapplicable to the conditions under which emigration from India is usually conducted. Section 3 of the Act, following section 53 of the English Passengers Act, 1855, runs as follows:—"If any passenger \* \* \* find himself within any colonial or foreign port or place other than that at which *he may have contracted to land,*" &c. But, as a rule, emigrants from India do not themselves contract with the owners or charterers of the vessels in which they emigrate. In all cases falling under the Indian Emigration Act VII of 1871 (or which may fall under the Indian Emigration Act XXI of 1883, when that Act is brought into force) the contract is made by a recruiter for the colony importing labour, under the supervision of the Protector of Emigrants. Emigrants despatched in this way are therefore technically excluded from the provisions of Act II of 1860. A similar difficulty appears to have arisen in England, and to have been met by an amendment of the law. Section 12 of the English Passengers Act Amendment Act, 1863 (26 & 27 Vic., cap. 51), repeals section 53 of the English Passengers Act, 1855, and section 15 of the former Act substitutes for the words "other than that at which he may have contracted to land" the words "other than that for which the ship was originally bound, or at which he or



the Emigration Commissioners, or any public officer, or other person on his behalf, may have contracted that he should land?'

3. These two defects in the Act came to notice in connection with the following occurrence. In the end of April last, the steamer *Laleham*, carrying emigrants from Calcutta to Dutch Guiana, grounded off Ceylon, and was compelled to land her passengers at Trincomalee. The *Laleham* returned to Calcutta, where she was examined by the Engineer-Surveyor to the port, and reported "unseaworthy and unfit to proceed to sea without serious danger to human life". The Agents of the *Laleham* at first proposed to substitute another vessel, but subsequently declined to do so, offering merely to have the *Laleham* repaired at Calcutta, and to fulfil her charter-party by re-embarking the coolies at Trincomalee and taking them on to Surinam.

The Advocate General of Bengal, on being consulted, was of opinion that no action could be taken under Act II of 1860, and that the matter would be governed by the charter-party. Surinam, he said, being in Dutch Guiana, is not a place to which Act II of 1860 applies. He thought further that the English Passengers Act Amendment Act, 1863, would be construed strictly, and according to such construction he did not think that the words of section 3 of Act II of 1860 would cover the breakdown in a voyage to which that Act applied, in any case other than that in which the passenger had himself contracted.

Under these circumstances legislation seems necessary in order to bring Act II of 1860 into conformity with the present system of emigration and the English Passengers Act Amendment Act, 1863.

The present Bill has accordingly been prepared. It repeals and re-enacts Act II of 1860 with the necessary amendments. Section 3 of the present Bill declares the subsequent provisions of the Bill (being parts of the English Passenger Act, 1855, as amended by the Passengers Act Amendment Act, 1863) to be applicable to all voyages to certain specified colonies and places, which are, in fact, the colonies and places to which under the existing law emigration is now lawful or is likely to be legalized; and in sections 5 and 6 the amendments made by the English Passengers Act Amendment Act, 1863, in sections 53 and 54 of the English Passengers Act, 1855 (which formed sections 3 and 4 of Act II of 1860) are incorporated with some slight modifications so as to adapt them to this country.

*The 5th December 1884.*

(Signed) C. P. ILBERT.

D. FITZPATRICK,  
Secretary to the Government of India.



[Published with the "Bombay Government Gazette" on the 25th December 1884.]

## 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 5th December 1884:—

#### Bill No. 17 of 1884.

*A Bill to amend the law in force in the Páñch Maháls.*

WHEREAS it is expedient that the law in force in the territory comprised in the Páñch Maháls should, on and from the first day of March, 1885, be the same as the law in force in the district of Kaira, in the Bombay Presidency, and that the said territory should, on and from that day, cease to be a scheduled district under the Scheduled Districts Act, 1874, and the Laws Local Extent Act, 1874; It is hereby enacted as follows:—

1. This Act may be called the Páñch Maháls Laws Act, 1884.

2. (1) Save and except the enactments specified in the schedule hereto annexed, all enactments which, on the first day of March, 1885, are in force in the district of Kaira and not in the Páñch Maháls shall be deemed to come into force in the Páñch Maháls on that day.

(2) All enactments which on that day are in force in the Páñch Maháls and not in the district of Kaira shall be deemed to be repealed on and from that day in the Páñch Maháls.

3. All proceedings commenced before any authority in the Páñch Maháls before the first day of March, 1885, and still pending on that day, shall be disposed of by such authority as the

Local Government may direct, and, save as aforesaid, shall be carried on as if this Act had not been passed.

Territory to cease to be a scheduled district. 4. On and from the first day of March, 1885, the Páñch Maháls shall cease to be a scheduled district; and in Part II. of the First Schedule to the Scheduled Districts Act, 1874, and in the XIV. of 1874. same Part of the Sixth Schedule to the Laws Local Extent Act, 1874, the words "The Páñch Maháls" shall be repealed.

#### THE SCHEDULE.

ENACTMENTS EXCEPTED FROM THE OPERATION OF SECTION 2.

*Acts of the Governor General in Council.*

Number and year.	Title.	Extent of exception.
VIII. of 1870 ...	For the prevention of the murder of female infants.	The whole.
XXI. of 1881 ...	To amend the law providing for the relief of Thákurs in the districts of Broach and Kaira.	The whole.

*Act of the Governor of Bombay in Council.*

Number and year.	Title.	Extent of exception.
V. of 1879 ...	To consolidate and amend the law relating to Revenue-officers and the land-revenue in the Presidency of Bombay.	Section 85 and last fifteen words of section 58.

#### STATEMENT OF OBJECTS AND REASONS.

THE territory called the Páñch Maháls, lying in the extreme east of Gujarát, in the Bombay Presidency, is a scheduled district under the Scheduled Districts Act, 1874, and the Laws Local Extent Act, 1874, and, though for revenue-purposes part of the Kaira District, it has hitherto, from its backward state and the poverty and ignorance of the people, been treated as a non-regulation district.

The Government of Bombay are, however, of opinion that the Páñch Maháls ought now to be placed upon a regulation footing, and at their suggestion the present Bill, which has been framed on the model of the Bánkí Laws Act, 1881, has been prepared. It assimilates the law in force in the Páñch Maháls to that in the Kaira District from the 1st March, 1885, excluding the Female Infanticide Act, 1870, the Broach and Kaira Thákurs' Relief Act, 1881, and the Bombay Land-revenue Code, 1879, section 85 and the last fifteen words of section 58, which the Government of Bombay desire should not be extended to the Páñch Maháls; it saves pending proceedings; and it declares that, from the above-mentioned date, the Páñch Maháls shall cease to be a scheduled district, repealing at the same time the reference to those Maháls which occurs in Part II. of the first Schedule to the Scheduled Districts Act, 1874, and in the same Part of the Sixth Schedule to the Laws Local Extent Act, 1874.

(Signed) C. P. ILBERT.

The 23rd October 1884.

D. FITZPATRICK,  
Secretary to 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 19th December 1884, and was referred to a Select Committee:—

## Bill No. 19 of 1884.

*A Bill to amend the law relating to the carriage of passengers by sea.*

WHEREAS by section 99 of an Act of the Imperial Parliament called "the Passengers Act, 1855," it is enacted that "it shall be lawful for the Governor General of India in Council, from time to time, by any Act or Acts to be passed for that purpose, to declare that this Act or any part thereof shall apply to the carriage of passengers upon any voyage, from any ports or places within the territories of British India, to be specified in such Act or Acts, to any other places whatsoever, to be also specified in such Act or Acts;" and it is thereby also enacted that "on the passing of such Indian Act or Acts, and whilst the same shall remain in force, all such parts of this Act as shall be adopted therein shall apply to and extend to the carriage of passengers upon such voyages as in the said Indian Act or Acts shall be specified. The provisions of such Indian Act shall be enforced in all Her Majesty's possessions in like manner as the provisions of this Act may be enforced."

And whereas certain parts of the said Act of Parliament were by Act II of 1860 (*to amend the law relating to the carriage of passengers by sea*) made applicable to the carriage of passengers upon certain specified voyages;

And whereas by an Act of the Imperial Parliament called "the Passengers Act Amendment Act, 1863," certain parts of the Passengers Act, 1855, which were so made applicable have been amended, and it is provided that the said Acts of the Imperial Parliament shall be construed together as one Act;

And whereas it is expedient that the amendments so made in the Passengers Act, 1855, should also be made in the parts of that Act so made applicable, and it is also expedient to apply those parts so amended to the carriage of passengers upon certain voyages not specified in Act II of 1860;

It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Sea Passengers Act, 1885: and

(2) It shall come into force on the first day of March 1885.

2. On and from the day on which this Act comes into force, Act II of 1860 (*to amend the law relating to the carriage of passengers by sea*) shall be repealed.

3. The provisions contained in sections 4, 5 and 6 of this Act, and the schedule hereto annexed (being parts of the Passengers Act, 1855, as amended by the Passengers Act Amendment Act, 1863), are declared applicable to the carriage of passengers upon the following voyages, namely:—

- (a) Voyages from the ports of Calcutta, Madras and Bombay to the British Colonies of Mauritius, Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, Natal, St. Kitts, Nevis and Fiji; [New.]
- (b) Voyages from the ports of Calcutta, Madras and Bombay to the French Colonies of Réunion, Martinique, Guadeloupe and its dependencies, and Guiana; [New.]
- (c) Voyages from the ports of Calcutta, Madras and Bombay to the Netherlands colony of Dutch Guiana; [New.]
- (d) Voyages from the ports of Calcutta, Madras and Bombay to the Danish colony of St. Croix; [New.]
- (e) Voyages under the Native Passenger Ships Act, 1876, from Calcutta, Madras, Bombay, Karachi, Rangoon and other ports in British India to the Straits Settlements, to the protected Native States adjoining the Straits Settlements, to Australia and to ports in the Red Sea or Persian Gulf. VIII of 1876.

4. If the passengers upon any such voyage as is specified in the last preceding section are taken off from the ship carrying such passengers, or are picked up at sea from any boat, raft or otherwise, it shall be lawful, if the port or place to which they shall be conveyed is in any of Her Majesty's colonial possessions, for the Governor of such colony, or for any person authorized by him for the purpose, or if in any foreign country for Her Majesty's Consular officer, at such port or place therein, to defray all or any part of the expenses thereby incurred.

5. If any passenger of any such passenger-ship as aforesaid, without any neglect or default of his own, finds himself within any colonial or foreign port, or place other than that for which the ship was originally bound, or at which he, or the Emigration Agent, or any public officer or other person on his behalf, has contracted that he should land, it shall be lawful for the Governor of the colony, or for any person authorized by him for the purpose or for Her Majesty's Consular officer at the foreign port or place, as the case may be, to forward the passenger to his intended destination, unless the master of the ship, within forty-eight hours of the arrival of such passenger, gives to the Governor or Consular officer, as the case may be, a written undertaking to forward or carry on within six weeks thereafter the passenger to his original destination,

[Act II of 1860, preamble.]

18 & 19 Vic., c. 119.

[Now.]

[New.]

26 & 27 Vic., c. 51.

18 & 19 Vic., c. 119.

[New.]

18 & 19 Vic., c. 119.

[New.]

Short title and commencement.

[New.]

[New.]

Repeal of Act II of 1860.

[Act II of 1860, s. 1, Act VII of 1871, ss. 23 and 24.] [New.] 18 & 19 Vic., c. 119. 26 & 27 Vic., c. 51.

[New.]

[New.]

[New.]

[New.]

VIII of 1876.

[Act II of 1860, s. 2.]

[Act II of 1860, s. 3, 26 & 27 Vic., c. 51.]

[New.]



and unless the master accordingly forwards or carries him on within that period.

[Act II of 1860, s. 4, 26 & 27 Vic., c. 51, s. 16.]

6. (1) All expenses incurred under the last two preceding sections, or either of them, by or by the authority of a Governor or Consular officer, or other person as therein respectively mentioned, including the cost of maintaining the passengers until forwarded to their destination and of all necessary bedding, provisions and stores, shall become a debt to Her Majesty and Her successors from the owner, charterer and master of the ship, and shall be recoverable from them, or from any one or more of them, at the suit and for the use of Her Majesty, in like manner as in the case of other Crown debts.

[New.]

(2) A certificate in the form given in the Schedule hereto annexed, or as near thereto as the circumstances of the case will admit, purporting to be under the hand of any such Governor or Consular officer (as the case may be), stating the total amount of the expenses, shall, in any suit or other proceeding for the recovery of the debt, be received in evidence without proof of the handwriting or of the official character of the Governor or Consular officer, and shall be deemed sufficient evidence of the amount of the expenses, and that the same were duly incurred;

[New.]

nor shall it be necessary to adduce on behalf of Her Majesty any other evidence in support of the claim, but judgment shall pass for the Crown, with costs of suit, unless the defendant specially pleads and duly proves that the certificate is false or fraudulent, or specially pleads and duly proves any facts showing that the expenses were not duly incurred:

Provided, nevertheless, that in no case shall any larger sum be recovered on account of the expenses than a sum equal to twice the total amount of passage-money received or due to and recoverable by or on account of the owner, char-

terer or master of the passenger-ship or any of them from or on account of the whole number of passengers who may have embarked in the ship; which total amount of passage-money shall be proved by the defendant if he will have the advantage of this limitation of the debt: but if any such passengers are forwarded or conveyed to their intended destination under the provisions of the last preceding section, they shall not be entitled to the return of their passage-money, or to any compensation for loss of passage.

THE SCHEDULE.

*Form of Governor's or Council's Certificate of expenditure in the case of Passengers shipwrecked, &c.* [26 & 27 Vic., cap. 51, Sched.] [New.]

(See Section 6.)

(a). *N. B.* - 1. If more passengers were rescued than forwarded, or if bedding, &c., was not supplied, alter the certificate to suit the facts of the case.  
(b). *N. B.* - 2. State generally the nature of the disaster and where it occurred. But if the passengers were only left behind without any default of their own, state the fact accordingly.

I hereby certify that acting under and in conformity with the provisions of the Indian Sea Passengers Act, 1855, I have defrayed the expenses incurred in rescuing, maintaining, supplying with necessary bedding, provisions and stores (a), and in forwarding to their destination passengers who were proceeding from to in the passenger-ship which was wrecked at sea, &c. (b).  
And I further certify, for the purposes of the sixth section of the said Indian Sea Passengers Act, 1855, that the total amount of such expenses is , and that such expenses were duly incurred by me under the said Act.

Given under my hand this 18 . day of

{ Governor of &c., (or, as the case may be) Her Britannic Majesty's Consul at

STATEMENT OF OBJECTS AND REASONS.

Act II of 1860 declares certain parts (namely, sections 52, 53 and 54) of the English Passengers Act, 1855 (18 & 19 Vic., cap. 119) to be applicable to the carriage of passengers upon voyages from the ports of Calcutta, Madras and Bombay to the colonies of Mauritius, Jamaica, British Guiana, Trinidad, St. Lucia and Grenada, and from ports in British India to ports in the Red Sea or Persian Gulf. The colonies mentioned were the places to which emigration was then lawful. Since 1860, emigration to the colonies of Fiji, Natal, Réunion, St. Croix, Guadeloupe, Martinique, Dutch Guiana, St. Vincent, Nevis and St. Kitts has been sanctioned. With respect, however, to voyages to places not specified in Act II of 1860, that Act gives no power to any authority to recover expenses incurred in forwarding shipwrecked passengers to their destination and in maintaining them until they are so forwarded. At present, therefore, the voyages to which the Act does not apply are more numerous than those to which it does.

2. Again, the Act, as it stands at present, is, if strictly construed, inapplicable to the conditions under which emigration from India is usually conducted. Section 3 of the Act, following section 53 of the English Passengers Act, 1855, runs as follows:—"If any passenger \* \* \* find himself within any colonial or foreign port or place other than that at which *he may have contracted to land,*" &c. But, as a rule, emigrants from India do not themselves contract with the owners or charterers of the vessels in which they emigrate. In all cases falling under the Indian Emigration Act VII of 1871 (or which may fall under the Indian Emigration Act XXI of 1883, when that Act is brought into force) the contract is made by a recruiter for the colony importing labour, under the supervision of the Protector of Emigrants. Emigrants despatched in this way are therefore technically excluded from the provisions of Act II of 1860. A similar difficulty appears to have arisen in England, and to have been met by an amendment of the law. Section 12 of the English Passengers Act Amendment Act, 1863 (26 & 27 Vic., cap. 51), repeals section 53 of the English Passengers Act, 1855, and section 15 of the former Act substitutes for the words "other than that at which he may have contracted to land" the words "other than that for which the ship was originally bound, or at which he or



the Emigration Commissioners, or any public officer, or other person on his behalf, may have contracted that he should land".

3. These two defects in the Act came to notice in connection with the following occurrence. In the end of April last, the steamer *Laleham*, carrying emigrants from Calcutta to Dutch Guiana, grounded off Ceylon, and was compelled to land her passengers at Trincomalee. The *Laleham* returned to Calcutta, where she was examined by the Engineer-Surveyor to the port, and reported "unseaworthy and unfit to proceed to sea without serious danger to human life". The Agents of the *Laleham* at first proposed to substitute another vessel, but subsequently declined to do so, offering merely to have the *Laleham* repaired at Calcutta, and to fulfil her charter-party by re-embarking the coolies at Trincomalee and taking them on to Surinam.

The Advocate General of Bengal, on being consulted, was of opinion that no action could be taken under Act II of 1860, and that the matter would be governed by the charter-party. Surinam, he said, being in Dutch Guiana, is not a place to which Act II of 1860 applies. He thought further that the English Passengers Act Amendment Act, 1863, would be construed strictly, and according to such construction he did not think that the words of section 3 of Act II of 1860 would cover the breakdown in a voyage to which that Act applied, in any case other than that in which the passenger had himself contracted.

Under these circumstances legislation seems necessary in order to bring Act II of 1860 into conformity with the present system of emigration and the English Passengers Act Amendment Act, 1863.

The present Bill has accordingly been prepared. It repeals and re-enacts Act II of 1860 with the necessary amendments. Section 3 of the present Bill declares the subsequent provisions of the Bill (being parts of the English Passenger Act, 1855, as amended by the Passengers Act Amendment Act, 1863) to be applicable to all voyages to certain specified colonies and places, which are, in fact, the colonies and places to which under the existing law emigration is now lawful or is likely to be legalized; and in sections 5 and 6 the amendments made by the English Passengers Act Amendment Act, 1863, in sections 53 and 54 of the English Passengers Act, 1855 (which formed sections 3 and 4 of Act II of 1860) are incorporated with some slight modifications so as to adapt them to this country.

The 5th December 1884.

(Signed) C. P. ILBERT.

D. FITZPATRICK,  
Secretary to the Government of India.



[Published with the "Bombay Government Gazette" on the 8th January 1885.]

## 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 19th December, 1884, and was referred to a Select Committee:—

#### Bill No. 18 of 1884.

*A Bill to repeal part of section 6 of the Indian Tariff Act, 1882, and to amend the Excise Act, 1881, and the Bengal Excise Act, 1878.*

WHEREAS it is expedient to repeal part of section 6 of the Indian Tariff Act, 1882, and to amend section 7 of the Excise Act, 1881, and section 18 of the Bengal Excise Act, 1878; It is hereby enacted as follows:—

1. The part of section 6 of the Indian Tariff Act, 1882, beginning with the words "And whereas," down to and including the words "been paid," is repealed.

2. For clause (a) of section 7 of the Excise Act, 1881, the following clause shall be substituted:—

"(a) such duty as the Local Government may from time to time fix in respect of such spirit has been paid."

3. In section 18 of the Bengal Excise Act, Beng. Act 1878, for the words "at any Tariff Act for the time being in force" the words "at such rate as the Local Government may from time to time fix in respect of such spirituous liquor" shall be substituted; but nothing in this section shall affect any Act passed after this Act comes into force by the Lieutenant-Governor of Bengal in Council.

4. The duty now fixed by the Local Government under section 6 of the Indian Tariff Act, XI of 1882, as leviable on spirit manufactured in all or any of the distilleries situate in the territories under its administration, or in any part of such territories, shall, in places in which the Excise Act, 1881, or the Bengal Excise Act, 1878, is in force, be deemed to be the duty fixed by the Local Government under sections 7 and 18 of those Acts, as amended by this Act, respectively.

#### STATEMENT OF OBJECTS AND REASONS.

The Government of Madras recently submitted a draft Bill to consolidate and amend the Abkari law of the Presidency of Madras, for sanction to its introduction in the local Legislative Council and, on examination of its provisions, it was found that two clauses of one of its sections, imposing a duty on liquor, were, as applied to spirit, *ultra vires* of the local legislature, as the mode of fixing the excise duty on spirit is determined by section 6 of the Indian Tariff Act, 1882. It was also feared that the penultimate clause of the latter section, by keeping in force, under the authority of the Governor General's Legislative Council, an unexplored mass of law existing on the 10th March, 1882, might render other provisions of that Bill *ultra vires*.

This in itself would make it necessary that legislation should be resorted to in the Council of the Governor General in order to prevent the Madras Bill from being declared invalid; and as, moreover, section 6 of the Tariff Act must seriously hamper any local legislature contemplating legislation like that proposed by the Madras Government, it is proposed to repeal that section, leaving it to the Local Governments to deal with the mode of fixing the duties of excise on spirit, under the other enactments locally in force, subject, so far as any discretion is allowed to them by those enactments, to the general executive control of the Government of India.

The present Bill has accordingly been prepared. It first repeals section 6 of the Tariff Act except the last clause amending section 1 of Act XVI of 1863, which Act is still in force. It then amends section 7 of the Excise Act, 1881, and section 18 of the Bengal Excise Act, 1878, which at present contain references to the provisions of section 6 of the Tariff Act, by omitting these references and transferring on the Local Governments concerned power to fix the duty payable in respect of country spirit. Lastly, in order to prevent any question being raised as to the effect of the repeal of section 6 of the Tariff Act, the Bill declares that duties already fixed by the Local Government under section 6 of the Tariff Act shall be deemed to be duties fixed by the Local Government under sections 7 and 18 of the Excise Act, 1881, and the Bengal Excise Act, 1878, as amended by this Act, respectively.

The 13th December 1884.

(Signed) A. COLVIN.

D. FITZPATRICK,  
Secretary to 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 19th December 1884, and was referred to a Select Committee:—

## Bill No. 19 of 1884.

*A Bill to amend the law relating to the carriage of passengers by sea.*

WHEREAS by section 99 of an Act of the Imperial Parliament called "the Passengers Act, 1855," it is enacted that "it shall be lawful for the Governor General of India in Council, from time to time, by any Act or Acts to be passed for that purpose, to declare that this Act or any part thereof shall apply to the carriage of passengers upon any voyage, from any ports or places within the territories of British India, to be specified in such Act or Acts, to any other places whatsoever, to be also specified in such Act or Acts;" and it is thereby also enacted that "on the passing of such Indian Act or Acts, and whilst the same shall remain in force, all such parts of this Act as shall be adopted therein shall apply to and extend to the carriage of passengers upon such voyages as in the said Indian Act or Acts shall be specified. The provisions of such Indian Act shall be enforced in all Her Majesty's possessions in like manner as the provisions of this Act may be enforced."

And whereas certain parts of the said Act of Parliament were by Act II of 1860 (*to amend the law relating to the carriage of passengers by sea*) made applicable to the carriage of passengers upon certain specified voyages;

And whereas by an Act of the Imperial Parliament called "the Passengers Act Amendment Act, 1863," certain parts of the Passengers Act, 1855, which were so made applicable have been amended, and it is provided that the said Acts of the Imperial Parliament shall be construed together as one Act;

And whereas it is expedient that the amendments so made in the Passengers Act, 1855, should also be made in the parts of that Act so made applicable, and it is also expedient to apply those parts so amended to the carriage of passengers upon certain voyages not specified in Act II of 1860;

It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Sea Passengers Act, 1885: and

(2) It shall come into force on the first day of March 1885.

2. On and from the day on which this Act comes into force, Act II of 1860 (*to amend the law relating to the carriage of passengers by sea*) shall be repealed.

3. The provisions contained in sections 4, 5 and 6 of this Act, and the schedule hereto annexed (being parts of the Passengers Act, 1855, as amended by the Passengers Act Amendment Act, 1863), are declared applicable to the carriage of passengers upon the following voyages, namely:—

- (a) Voyages from the ports of Calcutta, Madras and Bombay to the British Colonies of Mauritius, Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, Natal, St. Kitts, Nevis and Fiji; [New.]
- (b) Voyages from the ports of Calcutta, Madras and Bombay to the French Colonies of Réunion, Martinique, Guadeloupe and its dependencies, and Guiana; [New.]
- (c) Voyages from the ports of Calcutta, Madras and Bombay to the Netherlands colony of Dutch Guiana; [New.]
- (d) Voyages from the ports of Calcutta, Madras and Bombay to the Danish colony of St. Croix; [New.]
- (e) Voyages under the Native Passenger Ships Act, 1876, from Calcutta, Madras, Bombay, Karachi, Rangoon and other ports in British India to the Straits Settlements, to the protected Native States adjoining the Straits Settlements, to Australia and to ports in the Red Sea or Persian Gulf. VIII of 1876.

4. If the passengers upon any such voyage as is specified in the last preceding section are taken off from the ship carrying such passengers, or are picked up at sea from any boat, raft or otherwise, it shall be lawful, if the port or place to which they shall be conveyed is in any of Her Majesty's colonial possessions, for the Governor of such colony, or for any person authorized by him for the purpose, or if in any foreign country for Her Majesty's Consular officer, at such port or place therein, to defray all or any part of the expenses thereby incurred.

5. If any passenger of any such passenger-ship as aforesaid, without any neglect or default of his own, finds himself within any colonial or foreign port, or place other than that for which the ship was originally bound, or at which he, or the Emigration Agent, or any public officer or other person on his behalf, has contracted that he should land, it shall be lawful for the Governor of the colony, or for any person authorized by him for the purpose or for Her Majesty's Consular officer at the foreign port or place, as the case may be, to forward the passenger to his intended destination, unless the master of the ship, within forty-eight hours of the arrival of such passenger, gives to the Governor or Consular officer, as the case may be, a written undertaking to forward or carry on within six weeks thereafter the passenger to his original destination,

[Act II of 1860, preamble.]

18 & 19 Vic., c. 119.

[New.]

[New.]

26 & 27 Vic., c. 51.

18 & 19 Vic., c. 119.

[New.]

18 & 19 Vic., c. 119.

[New.]

Short title and commencement.

[New.]

[New.]



and unless the master accordingly forwards or carries him on within that period.

6. (1) All expenses incurred under the last two preceding sections, or either of them, by or by the authority of a Governor or Consular officer, or other person as therein respectively mentioned, including the cost of maintaining the passengers until forwarded to their destination and of all necessary bedding, provisions and stores, shall become a debt to Her Majesty and Her successors from the owner, charterer and master of the ship, and shall be recoverable from them, or from any one or more of them, at the suit and for the use of Her Majesty, in like manner as in the case of other Crown debts.

(2) A certificate in the form given in the Schedule hereto annexed, or as near thereto as the circumstances of the case will admit, purporting to be under the hand of any such Governor or Consular officer (as the case may be), stating the total amount of the expenses, shall, in any suit or other proceeding for the recovery of the debt, be received in evidence without proof of the handwriting or of the official character of the Governor or Consular officer, and shall be deemed sufficient evidence of the amount of the expenses, and that the same were duly incurred;

nor shall it be necessary to adduce on behalf of Her Majesty any other evidence in support of the claim, but judgment shall pass for the Crown, with costs of suit, unless the defendant specially pleads and duly proves that the certificate is false or fraudulent, or specially pleads and duly proves any facts showing that the expenses were not duly incurred:

Provided, nevertheless, that in no case shall any larger sum be recovered on account of the expenses than a sum equal to twice the total amount of passage-money received or due to and recoverable by or on account of the owner, char-

terer or master of the passenger-ship or any of them from or on account of the whole number of passengers who may have embarked in the ship; which total amount of passage-money shall be proved by the defendant if he will have the advantage of this limitation of the debt: but if any such passengers are forwarded or conveyed to their intended destination under the provisions of the last preceding section, they shall not be entitled to the return of their passage-money, or to any compensation for loss of passage.

#### THE SCHEDULE.

*Form of Governor's or Consul's Certificate of expenditure in the case of Passengers shipwrecked, &c.* [26 & 27 Vic., cap. 51, Sched.] [New.]

(See Section 6.)

(a). *N. B.*—1. If more passengers were rescued than forwarded, or if bedding, &c., was not supplied, alter the certificate to suit the facts of the case.

(b). *N. B.*—2. State generally the nature of the disaster and where it occurred. But if the passengers were only left behind without any default of their own, state the fact accordingly.

I hereby certify that acting under and in conformity with the provisions of the Indian Sea Passengers Act, 1855, I have defrayed the expenses incurred in rescuing, maintaining, supplying with necessary bedding, provisions and stores (a), and in forwarding to their destination passengers who were proceeding from to in the passenger-ship which was wrecked at sea, &c. (b).

And I further certify, for the purposes of the sixth section of the said Indian Sea Passengers Act, 1855, that the total amount of such expenses is, and that such expenses were duly incurred by me under the said Act.

Given under my hand this day of 18 .

{ Governor of &c., (or, as the case may be) Her Britannic Majesty's Consul at

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the Emigration Commissioners, or any public officer, or other person on his behalf, may have contracted that he should land".

8. These two defects in the Act came to notice in connection with the following occurrence. In the end of April last, the steamer *Laleham*, carrying emigrants from Calcutta to Dutch Guiana, grounded off Ceylon, and was compelled to land her passengers at Trincomalee. The *Laleham* returned to Calcutta, where she was examined by the Engineer-Surveyor to the port, and reported "unseaworthy and unfit to proceed to sea without serious danger to human life". The Agents of the *Laleham* at first proposed to substitute another vessel, but subsequently declined to do so, offering merely to have the *Laleham* repaired at Calcutta, and to fulfil her charter-party by re-embarking the coolies at Trincomalee and taking them on to Surinam.

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The 5th December 1884.

(Signed) C. P. ILBERT.

D. FITZPATRICK,  
Secretary to the Government of India.



THE



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1885.

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PART VI.

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BILLS

OF THE

GOVERNMENT OF INDIA,

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