

House of Commons Debates

FOURTH SESSION—SIXTH PARLIAMENT.

SPEECHES OF HON. EDWARD BLAKE, M.P.,

ON THE

SEAMEN'S ACT.

FRIDAY, MAY 2ND, 1890.

Mr. BLAKE. I quite agree with the observations of my hon. friend. A number of years ago, I think in 1882, this class of persons was subjected to extremely stringent legislation at the hands of this Parliament; and the legislation was framed with special reference to a difficulty which existed in the port of Quebec. It was then provided that a stipendiary magistrate might convict without appeal, and without any method being given for reconsideration, in cases in which penalties of from two to five years' imprisonment in penitentiary could be inflicted. Upon that occasion I was unsuccessful in endeavoring to secure a trial by jury to persons who were subjected to so grave a penalty. It was upon the 15th of May, 1882, that the Bill to amend the Seamen's Act of 1873 was moved by the right hon. the First Minister, seconded by Sir Leonard Tilley; and upon the second reading I moved, seconded by the hon. member for Bothwell, to recommit the Bill to the Committee of the Whole House with instructions to amend the same, so as to provide for a trial by jury of any person liable to be sentenced, under the said Bill, to from two to five years' imprisonment in the penitentiary. My motion was defeated upon that occasion, as, I presume, any like effort will be upon this, the ground given for the exceptional rigor of the procedure, which deprives the parties accused of those securities that exist in ordinary cases, being the transitory nature of the occupation of the parties who would be the principal witnesses, and the fact that the offence having generally to be proved by captains and crews of ships, an appeal would mean a defeat of justice. I cannot reconcile to myself the view that the circumstance that there is a difficulty in prosecuting an appeal successfully, should leave the party accused without some protection against the possible injustice of the primary and sole tribunal analogous to that which exists in other cases. It may require some special legislation as to expedition of the trial, some special legislation as to the facility of taking and recording evidence; but I hold that that protection which the subject at large has against injus-

tice inflicted by primary magistrates, should, in some shape or other, be given to the class of subjects treated in this Bill as well as to the others; and I maintain that the simple alleviation which the Minister rightly proposes in this Bill, and which restores to the subject in this case the right to a *certiorari*, is but an imperfect and inadequate alleviation; that while other classes of subjects, convicted before magistrates, of the same class of offences, of the same description and gravity, to punishment of the same kind, have other means of redress, we ought not to limit this particular class to the inadequate, partial, incomplete, and oftentimes wholly abortive remedy of a *certiorari*.

MONDAY, 5th May.

Mr. BLAKE. I wish to say a word with reference to this proposed amendment in renewal of the discussion which took place the other day. As I understand the Act which the present Bill is proposed to amend, it has reference only to the inland waters and does not apply to ocean voyages; at any rate it does apply to the inland waters. The great bulk of vessels engaged on inland voyages are engaged on a regular course, in sailing from point to point, and the extreme voyage is, I think, two or three weeks in length, from Lake Superior downward to the port of Kingston, and return. There is, therefore, with reference to the bulk of the cases, an opportunity of reaching once again a point at which the difficulty arises within a very short time, and if I am rightly informed, the bulk of cases which come under the provisions of this Act, arise in the Welland Canal, about midway in the voyage. I make this statement because it seems to me to be not unimportant to consider whether there is, in any point of view, an absolute necessity for what I must call a denial of justice. I think there is in no case such an absolute necessity as that you should wholly deny justice, but I say that here the inconvenience which is suggested as a cause for the denial of justice, is a minor degree of inconvenience altogether, and