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PART VI.

BILLS OF THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to provide for the better prevention of the spread of Dangerous Epidemic Disease was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 4th February 1897 :—

We, the undersigned, Members of the Select Committee to which the Bill to provide for the better prevention of the spread of Dangerous Epidemic Disease was referred, have considered the Bill and the paper noted in the margin, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

2. We have amended clause 2 by providing that the Governor General in Council must be satisfied that India is visited or threatened with epidemic disease before taking action under the Act.

We have also made it clear that the power to take measures conferred by the clause includes the power of compelling or authorising other persons to take measures. As regards the use of the term "person" in the Bill it must be read by the light of section 2 (3) of the General Clauses Act, 1868, which provides that "person" shall include any company or association or body of individuals whether incorporated or not. It is therefore clear that the term covers a local authority, whether incorporated or not.

In some cases measures might be required which would cause injury to private property and where it might be right that compensation should be given. We have therefore inserted words in the same clause to provide that the Government may determine in what cases and by whom compensation shall be given.

The amendments to sub-clause (2) are verbal and explain themselves.

3. We have added a new clause 4, giving express protection to officers and other persons who may be employed to carry out the provisions of the Act.

4. The Bill was published in the *Gazette of India* of the 30th January, 1897.

5. We do not think that the measure has been so altered as to require republication, and we recommend that it be passed as now amended.

(Signed) J. WOODBURN.
 (") J. WESTLAND.
 (") M. D. CHALMER.
 (") P. PLAYFAIR.
 (") R. M. SATANI.
 (") JOY GOBIND LAW.

The 2nd February 1897.

No. II.

A Bill to provide for the better prevention of the spread of Dangerous Epidemic Disease.

WHEREAS it is expedient to provide for the better prevention of the spread of dangerous epidemic disease; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (1) This Act may be called the Epidemic Diseases Act, 1897.

(2) It extends to the whole of British India (inclusive of Upper Burma, British Baluchistan, the Santal Parganas and the Pargana of Spiti); and

(3) It shall come into force at once.

2. (1) When at any time the Governor General in Council is satisfied

Power to take special measures and prescribe regulations as to dangerous epidemic disease.

that India or any part thereof is visited by, or threatened with, an outbreak of any dangerous epidemic disease, the Governor General in Council, if he thinks that the ordinary provisions of the law for the time being in force are insufficient for the purpose, may take or require or empower any person to take such measures and, by public notice, prescribe such temporary regulations to be observed by the public or by any person or class of persons as he shall deem necessary to prevent the outbreak of such disease or the spread thereof, and may determine in what manner and by whom any ex-

penses incurred (including compensation if any) shall be defrayed.

(2) In particular and without prejudice to the generality of the foregoing provisions, the Governor General in Council may take measures and prescribe regulations for—

(a) the inspection of any ship or vessel leaving, or arriving at, any port in British India and such detention thereof, or of any person intending to sail therein, or arriving thereby, as may be necessary; and

(b) the inspection of persons travelling by railway or otherwise and the segregation, in hospital or otherwise, of persons suspected by the inspecting officer of being infected with any such disease.

(3) The Governor General in Council may, by general or special order, direct that all or any of the powers conferred by this Act may also be exercised by any Local Government with respect to the territories administered by it.

3. Any person disobeying any regulation, or order made under this Act, shall be deemed to have committed an offence punishable under section 188 of the Indian Penal Code.

Penalty.

4. No suit or other legal proceeding shall lie against any person for anything done or in good faith intended to be done under this Act.

Protection to persons acting under Act.

XLV of 1860.

J. M. MACPHERSON,
Secretary to the Government of India.

(Printed) J. W. ...
J. W. ...
M. D. ...
M. M. ...

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 4th February 1897:—

Bill No. 2 of 1897.

THE GENERAL CLAUSES BILL, 1897.

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A Bill to consolidate and extend the General Clauses Acts, 1868 and 1887.

WHEREAS it is expedient to consolidate and extend the General Clauses Acts, 1868 and 1887; it is hereby enacted as follows:—

Preliminary.

1. (1) This Act may be called the General Clauses Act, 1897; and

(2) It shall come into force at once.

2. The Acts mentioned in the schedule are repealed to the extent specified in the fourth column thereof.

General Definitions.

3. In this Act, and in all Acts of the Governor-General in Council and Regulations made after the commencement of this Act, unless there is anything repugnant in the subject or context,—

(1) "abet," with its grammatical variations and cognate expressions, shall have the same meaning as in the Indian Penal Code: [I of 1887, s. 3 (1).]

(2) "act," used with reference to an offence or a civil wrong, shall include a series of acts, and words which refer to acts done, extend also to illegal omissions: [Cf. XLV of 1860, ss. 32 and 33, and Mad. Act I of 1891, s. 3 (36).]

(3) "affidavit" shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing: [I of 1868, s. 2 (17).]

(4) "barrister" shall mean a barrister of England or Ireland, or a member of the Faculty of Advocates in Scotland: [I of 1868, s. 2 (14).]

(5) "Bengal Act" shall mean an Act made by the Lieutenant-Governor of Bengal in Council under the Indian Councils Acts, 1861 and 1892: [I of 1868, s. 2 (14).]

(6) "Bombay Act" shall mean an Act made by the Governor of Bombay in Council under the Indian Councils Acts, 1861 and 1892: [24 & 25 Vict., c. 67; 55 & 56 Vict., c. 14.]

[52 & 53
Vict., c. 63,
s. 18 (4); cf.
I of 1865,
s. 2 (3).]

(7) "British India" shall mean all territories and places within Her Majesty's dominions which are for the time being governed by Her Majesty through the Governor General of India or through any Governor or other officer subordinate to the Governor General of India:

[52 & 53
Vict., c. 63,
s. 18 (2).]

(8) "British possession" shall mean any part of Her Majesty's dominions, exclusive of the United Kingdom, and, where parts of those dominions are under both a central and a local legislature, all parts under the central legislature shall, for the purposes of this definition, be deemed to be one British possession:

[I of 1887,
s. 3 (2).]

(9) "Chapter" shall mean a Chapter of the Act or Regulation in which the word occurs:

[Cf. Bo. Act
III of 1886,
s. 3 (12), and
N.-W. P. & O.
Act I of 1887,
s. 2 (14).]

(10) "Collector" shall mean, in a Presidency-town, the Collector of Calcutta, Madras or Bombay, as the case may be, and, elsewhere, the chief officer in charge of the revenue administration of a district:

[52 & 53
Vict., c. 63,
s. 18 (3).]

(11) "Colony" shall mean any part of Her Majesty's dominions, exclusive of the British Islands and of British India, and where parts of those dominions are under both a central and a local legislature, all parts under the central legislature shall, for the purposes of this definition, be deemed to be one colony:

[I of 1887,
s. 3 (4).]

(12) "commencement," used with reference to an Act or Regulation, shall mean the day on which the Act or Regulation comes into force:

[N.-W. P.
& O. Act I
of 1887,
s. 2 (11).]

(13) "Commissioner" shall mean the chief officer in charge of the revenue administration of a division:

[54 & 55
Vict., c. 36,
s. 3.]

(14) "consular officer" shall include consular general, consul, vice-consul, consular agent, pro-consul and any person for the time being authorized to perform the duties of consular general, consul, vice-consul or consular agent:

[I of 1868,
s. 2 (12).]

(15) "District Judge" shall mean the Judge of a principal Civil Court of original jurisdiction, but shall not include a High Court in the exercise of its ordinary or extraordinary original civil jurisdiction:

[I of 1872,
s. 3.]

(16) "document" shall include any matter expressed or described upon any substance by means of letters,

figures or marks, or by more than one of those means, which is intended to be used, or which may be used, for the purpose of recording that matter:

(17) "enactment" shall include a Regulation (as hereinafter defined) and any Regulation of the Bengal, Madras or Bombay Code, and shall also include any provision contained in any Act or in any such Regulation as aforesaid:

(18) "father," in the case of any one whose personal law s. 2 (19). [Cf. I of 1865,
"Father," permits adoption, shall include an adoptive father:

(19) "financial year" shall mean the year commencing on the first day of April: [I of 1887,
s. 3 (7).]

(20) "Gazette," used with reference to any notification by the Government of India, shall mean the Gazette of India; and, used with reference to any notification by a Local Government, a High Court, a local authority or an officer subordinate to a Local Government, it shall mean the local official Gazette (if any) published for the province by, or under the authority of, the Local Government, or, if there is no local official Gazette so published, the Gazette of India:

(21) a thing shall be deemed to be done in "good faith," where it is in fact done honestly, whether it is done negligently or not: [45 & 46
Vict., c. 61,
s. 90; 56 & 57
Vict., c. 71,
s. 62.]

(22) "Government" or "the Government" shall include the Local Government as well as the Government of India: [Cf. XIV of
1882, s. 2.]

(23) "Government of India" shall mean the Governor General in Council or, during the absence of the Governor General from his Council, the President in Council, or the Governor General alone, as regards the powers which may be lawfully exercised by them or him respectively: [I of 1868,
s. 2 (9).]

(24) "Her Majesty" or "the Queen" shall include Her successors: [Cf. I of 1868,
s. 2 (7).]

(25) "High Court,"

(i) used with reference to civil proceedings, shall mean the highest Civil Court of appeal in the part of British India in which the Act or Regulation containing the expression operates; [I of 1868,
s. 2 (11), and
X of 1882,
s. 4 (1).]

(ii) used with reference to criminal proceedings against European British subjects or persons jointly charged with European British subjects, shall mean the High Court of judicature at Fort

William, Madras or Bombay, the High Court of Judicature for the North-Western Provinces, the Chief Court of the Punjab or the Recorder of Rangoon, as the case may be; and,

(iii) used with reference to criminal proceedings against persons not being European British subjects or jointly charged with European British subjects, shall mean the highest Court of criminal appeal or revision in the part of British India in which the Act or Regulation containing the expression operates, or, where no such Court as aforesaid is established under any law for the time being in force, such officer as the Governor General in Council may appoint in that behalf:

[I of 1865, s. 2 (7).]

(25) "immoveable property" shall include land, "Immoveable property." benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth:

[I of 1868, s. 2 (18).]

(27) "imprisonment" shall mean imprisonment of either description as defined in the Indian Penal Code:

XIV of 1860.

[Cf. 52 & 53 Vict., c. 63, s. 18 (7).]

(28) "India" shall mean British India, together with any territories of any Native Prince or Chief under the suzerainty of Her Majesty exercised through the Governor General of India or through any Governor or other officer subordinate to the Governor General of India:

[I of 1887, s. 3 (5).]

(29) "local authority" shall mean a municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund:

[I of 1868, s. 2 (10).]

(30) "Local Government" shall mean the "Local Government." person authorized by law to administer executive government in the part of British India in which the Act or Regulation containing the expression operates, and shall include a Chief Commissioner:

24 & 25 Vict., c. 67; 55 & 56 Vict., c. 14.

[I of 1868, s. 2 (17).]

(31) "Madras Act" shall mean an Act made by the Governor of the Governor of Fort St. George in Council under the Indian Councils Acts, 1861 and 1892:

X of 1882.

(32) "Magistrate" shall include every person exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure for the time being in force:

I of 1887, s. 3 (9).]

(33) "master," used with reference to a ship, "Master" (of a ship). shall mean any person (except a pilot or harbour-master) having for the time being control or charge of the ship:

(34) "month" shall mean a month reckoned [I of 1868, according to s. 2 (4).] the British calendar:

(35) "moveable property" shall mean property [I of 1868, of every descrip- s. 2 (6).] tion, except im- moveable property:

(36) "North-Western Provinces and Oudh Act" shall mean an Act made by the Lieutenant-Governor of the North-Western Provinces and Oudh in Council under the Indian Councils Acts, 1861 and 1892:

24 & 25 Vict., c. 67; 55 & 56 Vict., c. 14.

(37) "notice," used with reference to legal proceedings, shall mean notice in writing:

(38) "oath" shall include affirmation and declaration in the [I of 1868, s. 2 (77).] case of persons by law allowed to affirm or declare instead of swearing:

(39) "offence" shall mean any act or omission [I of 1887, made punishable s. 3 (9).] by any law for the time being in force:

(40) "Part" shall mean a Part of the Act or Regulation in [I of 1887, s. 3 (2).] which the word occurs:

(41) "person" shall include any company or association or [I of 1868, s. 2 (3).] body of individuals, whether incorporated or not:

(42) "Political Agent" shall mean the principal officer representing the Govern- [Cf. XXI of 1879, s. 3, and X of 1882, s. 190.]

ment in any territory or place beyond the limits of British India, and shall include any officer of the Government of India or of any Local Government appointed by the Government of India or the Local Government to exercise all or any of the powers of a Political Agent for any place not forming part of British India under the law for the time being in force relating to foreign jurisdiction and extradition:

(43) "Presidency-town" shall mean the local [X of 1882, s. 4 (A); cf. Mad. Act I of 1891, s. 3] limits for the time being of the ordinary original civil judicature of the High Court of Judicature at Fort William, Madras or Bombay, as the case may be:

(44) "Privy Council" shall mean the Lords [52 & 53 Vict., c. 63, s. 12 (5).] and others for the time being of Her Majesty's Most Honourable Privy Council:

(45) "province" shall mean the territories for [X of 1882, s. 4 (g).] the time being administered by any Local Government:

- [I of 1887, s. 3 (10).]
 XLV of 1860.
 [I of 1887, s. 3 (11); cf. Mad. Act I of 1891, s. 3 (28).]
 33 Vict., c. 3.
 [I of 1887, s. 3 (2).]
 [Vide XIV of 1874, s. 1, para. 3.]
 XIV of 1874.
 [I of 1868, s. 2 (15).]
 [I of 1887, s. 3 (7).]
 [I of 1887, s. 3 (12).]
 [Cf. I of 1868, s. 2 (19).]
 [I of 1887, s. 3 (5).]
 [Cf. I of 1868, s. 2 (17).]
 [Cf. I of 1887, s. 3 (13).]
- (46) "public nuisance" shall mean a public nuisance as defined in the Indian Penal Code:
 "Public nuisance."
- (47) "registered," used with reference to a document, shall mean registered in British India under the law for the time being in force for the registration of documents:
 "Registered."
- (48) "Regulation" shall mean a Regulation made under the Government of India Act, 1870:
 "Regulation."
- (49) "rule" shall mean a rule made in exercise of a power conferred by any enactment, and shall include a regulation made as a rule under any enactment:
 "Rule."
- (50) "schedule" shall mean a schedule to the Act or Regulation in which the word occurs:
 "Schedule."
- (51) "Scheduled District" shall mean a "Scheduled District" as defined in the Scheduled Districts Act, 1874:
 "Scheduled District."
- (52) "section" shall mean a section of the Act or Regulation in which the word occurs:
 "Section."
- (53) "ship" shall include every description of vessel used in navigation not exclusively propelled by oars:
 "Ship."
- (54) "sign," with its grammatical variations and cognate expressions, shall, with reference to a person who is unable to write his name, include "mark," with its grammatical variations and cognate expressions:
 "Sign."
- (55) "son" shall include an adopted son in the case of any one whose personal law permits adoption:
 "Son."
- (56) "sub-section" shall mean a sub-section of the section in which the word occurs:
 "Sub-section."
- (57) "swear," with its grammatical variations and cognate expressions, shall include affirming and declaring in the case of persons by law allowed to affirm or declare instead of swearing:
 "Swear."
- (58) "value," used with reference to a suit, shall mean the amount or value of the subject-matter of the suit as computed under the law for the time being in force in relation to the valuation of suits:
 "Value."
- (59) "vessel" shall include any ship or boat or any other description of vessel used in navigation:
 "Vessel."
- (60) "will" shall include a codicil and every writing making a voluntary posthumous disposition of property:
 "Will."
- (61) expressions referring to "writing" shall be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form: and
 "Writing."
- (62) "year" shall mean a year reckoned according to the British calendar:
 "Year."
4. (1) The definitions in section 3 of the following words and expressions, that is to say, "affidavit," "barrister," "British India," "District Judge," "father," "Government of India," "Her Majesty" or "the Queen," "High Court" (used with reference to civil proceedings), "immoveable property," "imprisonment," "Local Government," "Magistrate," "month," "moveable property," "oath," "person," "section," "son," "swear," "will," and "year," apply also, unless there is anything repugnant in the subject or context, to all Acts of the Governor General in Council made after the third day of January, 1868, and to all Regulations made on or after the fourteenth day of January, 1887.
- (2) The definitions in the said section of the following words and expressions, that is to say, "abet," "Chapter," "commencement," "financial year," "local authority," "master," "offence," "Part," "public nuisance," "registered," "schedule," "ship," "sign," "sub-section," "value," and "writing," apply also, unless there is anything repugnant in the subject or context, to all Acts of the Governor General in Council and Regulations made on or after the fourteenth day of January, 1887.
- General Rules of Construction.*
5. (1) Where any Act of the Governor General in Council is not expressed to come into operation on a particular day, then it shall come into operation on the day on which it receives the assent of the Governor General. [Cf. Bo. Act III of 1886, s. 10.]
- (2) Where any Act of the Governor General in Council is reserved under the Indian Councils Act, 1861, section 20, for the signification of Her Majesty's pleasure thereon, then, if no later date is expressed, it shall come into operation, if assented to by Her Majesty, on the day on which the assent of Her Majesty is duly proclaimed. [Cf. 24 & 25 Vict., c. 67.]
- (3) Unless the contrary is expressed, an Act of the Governor General in Council or Regulation shall be construed as coming into operation immediately on the expiration of the day preceding its commencement. [Cf. 52 & 53 Vict., c. 63, s. 36.]

[52 & 53
Vict., c. 63,
s. 38; cf.
Mad. Act I of
1891, s. 8.]

6. (1) Where this Act, or any Act of the Governor General in Council or Regulation made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless the contrary is expressed, the repeal shall not—

- (i) revive anything not in force or existing at the time at which the repeal takes effect; or
- (ii) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder; or
- (iii) affect any right, privilege, obligation or liability acquired, accrued, or incurred under any enactment so repealed; or
- (iv) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or
- (v) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the repealing Act or Regulation had not been passed.

(2) Sub-section (1) applies also to any Act of the Governor General in Council or Regulation which, having been originally limited to endure only for a specified period by a distinct provision, has expired, and to any Ordinance, made and promulgated under the Indian Councils Act, 1861, section 23, which has under that section expired, as if the Act, Regulation or Ordinance had been repealed.

24 & 25 Vict.,
c. 67.

[1 of 1868,
s. 3 (1).]

7. (1) In any Act of the Governor General in Council or Regulation made after the commencement of this Act, it shall be necessary, for the purpose of reviving, either wholly or partially, any enactment wholly or partially repealed, expressly to state that purpose.

(2) This section applies also to all Acts of the Governor General in Council made after the third day of January, 1868, and to all Regulations made on or after the fourteenth day of January, 1887.

[Cf. 52 & 53
Vict., c. 63,
s. 38 (1).]

8. (1) Where this Act, or any Act of the Governor General in Council or Regulation made after the commencement of this Act, repeals and re-enacts, with or without modification, any provision of a former enactment, then references in any other enactment or in any instrument to the provision so repealed shall, unless a different intention appears, be construed as references to the provision so re-enacted.

[1 of 1868,
s. 3 (2) and
s. 3 (3).]

9. (1) In any Act of the Governor General in Council or Regulation made after the commencement of this Act, it shall be sufficient, for the purpose of excluding the first

in a series of days or any other period of time, to use the word "from," and, for the purpose of including the last in a series of days or any other period of time, to use the word "to."

(2) This section applies also to all Acts of the Governor General in Council made after the third day of January, 1868, and to all Regulations made on or after the fourteenth day of January, 1887.

10. (1) Where, by any Act of the Governor General in Council or Regulation made after the commencement of this Act, any act or proceeding is directed or allowed to be done or taken in any Court or office on a certain day or within a prescribed period, then, if the Court or office is closed on that day or the last day of the prescribed period, the act or proceeding shall be considered as done or taken in due time, if it is done or taken on the next day afterwards on which the Court or office is open:

Provided that nothing in this section shall apply to any act or proceeding to which the Indian Limitation Act, 1877, applies.

(2) This section applies also to all Acts of the Governor General in Council and Regulations made on or after the fourteenth day of January, 1887.

11. In the measurement of any distance, for the purposes of any Act of the Governor General in Council or Regulation made after the commencement of this Act, that distance shall, unless a different intention appears, be measured in a straight line on a horizontal plane.

12. Where, by any enactment now in force or hereafter to be in force, any duty of customs or excise, or in the nature thereof, is leviable on any given quantity, by weight, measure or value of any goods or merchandise, then a like duty is leviable according to the same rate on any greater or less quantity.

13. (1) Words importing the masculine gender shall be taken to include females.

(2) Words in the singular shall include the plural, and *vice versa*.

Powers and Functionaries.

14. (1) Where, by any Act of the Governor General in Council or Regulation made after the commencement of this Act, any power is conferred on the Government, then that power may be exercised from time to time as occasion requires.

(2) This section applies also to all Acts of the Governor General in Council and Regulations made on or after the fourteenth day of January, 1887.

15. Where, by any Act of the Governor General in Council or Regulation made after the commencement of this Act, a power to appoint any person to fill any office or execute any function is con-

[Madras Act
1 of 1891,
s. 11; cf. 1 of
1887, s. 7 (1),
and s. 7 (2).]

XV of 1877.

[Cf. 52 & 53
Vict., c. 63,
s. 34, and Bo
Act III of
1888, s. 52.]

[1 of 1868,
s. 4.]

[1 of 1868,
(1) and (2).]

[1 of 1887,
s. 5.]

Power to appoint to include power to appoint *ex-officio*.

ferred, then, unless it is otherwise expressly provided, any such appointment may be made either by name or by virtue of office.

16. Where, by any Act of the Governor General in Council or Regulation, a power to make any appointment is conferred, then, unless a different intention appears, the authority having power to make the appointment shall also have power to suspend or dismiss any person appointed by it in exercise of that power.

17. (1) In any Act of the Governor General in Council or Regulation made after the commencement of this Act, it shall be sufficient, for the purpose of indicating the application of a law to every person or number of persons for the time being executing the functions of an office, to mention the official title of the officer at present executing the functions, or that of the officer by whom the functions are commonly executed.

(2) This section applies also to all Acts of the Governor General in Council made after the third day of January, 1868, and to all Regulations made on or after the fourteenth day of January, 1887.

18. (1) In any Act of the Governor General in Council or Regulation made after the commencement of this Act, it shall be sufficient, for the purpose of indicating the relation of a law to the successors of any functionaries or of corporations having perpetual succession, to express its relation to the functionaries or corporations.

(2) This section applies also to all Acts of the Governor General in Council made after the third day of January, 1868, and to all Regulations made on or after the fourteenth day of January, 1887.

19. (1) In any Act of the Governor General in Council or Regulation made after the commencement of this Act, it shall be sufficient, for the purpose of expressing that a law relative to the chief or superior of an office shall apply to the deputies or subordinates lawfully performing the duties of that office in the place of their superior, to prescribe the duty of the superior.

(2) This section applies also to all Acts of the Governor General in Council made after the third day of January, 1868, and to all Regulations made on or after the fourteenth day of January, 1887.

Provisions as to Orders, Rules, &c., made under Enactments.

20. Where, by any Act of the Governor General in Council or Regulation, a power to issue any instrument, that is to say, any order, warrant, scheme, rule or bye-law, is conferred, then expressions used in the instrument, if it is made after the commencement of this Act, shall, unless there is anything repugnant in the subject or context, have

the same respective meanings in the Act or Regulation conferring the power.

21. Where, by any Act of the Governor General in Council or Regulation, a power to make orders, rules or bye-laws is conferred, then that power includes a power, exercisable in the like manner and subject to the like sanction and conditions (if any), to add to, amend, vary or rescind any orders, rules or bye-laws so made.

22. Where, by any Act of the Governor General in Council or Regulation which is not to come into force immediately on the passing thereof, a power is conferred to make rules or bye-laws, or to issue orders with respect to the application of the Act or Regulation, or with respect to the establishment of any Court or office or the appointment of any Judge or officer thereunder, or with respect to the person by whom, or the time when, or the place where, or the manner in which, or the fees for which, anything is to be done under the Act or Regulation, then that power may be exercised at any time after the passing of the Act or Regulation; but rules, bye-laws or orders so made or issued shall not take effect till the commencement of the Act or Regulation.

23. Where, by any Act of the Governor General in Council or Regulation, a power to make rules or bye-laws is expressed to be given subject to the condition of the rules or bye-laws being made after previous publication, then the following provisions shall apply, namely:—

- (1) the authority having power to make the rules or bye-laws shall, before making them, publish a draft of the proposed rules or bye-laws for the information of persons likely to be affected thereby;
- (2) the publication shall be made in such manner as that authority deems to be sufficient, or, if the condition with respect to previous publication so requires, in such manner as the Governor General in Council or the Local Government prescribes;
- (3) there shall be published with the draft a notice specifying a date on or after which the draft will be taken into consideration;
- (4) the authority having power to make the rules or bye-laws, and, where the rules or bye-laws are to be made with the sanction, approval or concurrence of another authority, that authority also, shall consider any objection or suggestion which may be received by the authority having power to make the rules or bye-laws from any person with respect to the draft before the date so specified;
- (5) the publication in the Gazette of a rule or bye-law purporting to have been made in

1 of 1868, 3 (6).]

1 of 1868, 3 (6).]

1 of 1868, 3 (6).]

Act 52 and 53 Act, c. 63, s. 1, and Mad. Act I of 1891, 10.]

[Cf. Mad. Act I of 1891, s. 15.]

[I of 1887, s. 4.]

[I of 1887, s. 6.]

exercise of a power to make rules or bye-laws after previous publication shall be conclusive proof that the rule or bye-law has been duly made.

[Cf. Mad. Act I of 1891, s. 18.] **24.** Where any Act of the Governor General in Council or Regulation is, after the commencement of this Act, repealed and re-enacted with or without modification, then, unless it is otherwise expressly provided, any instrument, that is to say, any order, warrant, scheme, rule or bye-law, issued under the repealed Act or Regulation, shall, so far as it is not inconsistent with the provisions re-enacted, continue in force unless and until it is superseded by any instrument as aforesaid issued under the provision so re-enacted.

Miscellaneous.

[Cf. I of 1868, s. 5.] **25.** Sections 63 to 70 of the Indian Penal Code and the provisions of the Code of Criminal Procedure for the time being in force in relation to the issue and the execution of warrants for the levy of fines shall apply to all fines imposed under any Act, Regulation, rule or bye-law, unless the Act, Regulation, rule or bye-law contains an express provision to the contrary.

[I of 1887, s. 8.] **26.** Where an act or omission constitutes an offence under two or more enactments, then the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence.

[Cf. 52 & 53 Vict., c. 63, s. 26.] **27.** Where any Act of the Governor General in Council or Regulation authorizes or requires any document to be served by post, whether the expression "serve" or either of the expressions "give" or "send" or any other expression is used, then, unless a different intention appears, the service, if made after the commencement of this Act, shall be deemed to be effected by properly addressing, prepaying and posting, by registered post, a letter containing the document, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

[Cf. 52 & 53 Vict., c. 63, s. 35.] **28.** (1) In any Act of the Governor General in Council or Regulation, and in any rule, bye-law,

instrument or document, made under, or with reference to, any such Act or Regulation, any enactment may be cited by reference to the title or short title (if any) conferred thereon or by reference to the number and year thereof, and any provision in an enactment may be cited by reference to the section or sub-section of the enactment in which the provision is contained.

(2) In this Act and in any Act of the Governor General in Council or Regulation made after the commencement of this Act, a description or citation of a portion of another enactment shall, unless a different intention appears, be construed as including the word, section or other part mentioned or referred to as forming the beginning and as forming the end of the portion comprised in the description or citation.

29. The provisions of this Act respecting the construction of Acts, Regulations, rules or bye-laws made after the commencement of this Act, shall not affect the construction of any Act, Regulation, rule or bye-law made before the commencement of this Act, although the Act, Regulation, rule or bye-law is continued or amended by an Act, Regulation, rule or bye-law made after the commencement of this Act.

THE SCHEDULE.

ENACTMENTS REPEALED.

(See section 2.)

Year.	No.	Title or subject.	Extent of repeal.
1868	I	The General Clauses Act, 1868.	The whole.
1872	I	The Indian Evidence Act, 1872.	So much as relates to Act I of 1868.
1887	I	The General Clauses Act, 1887.	The whole.
1891	XII	The Repealing and Amending Act, 1891.	So much as relates to Act I of 1868.

STATEMENT OF OBJECTS AND REASONS.

THIS Bill does not propose to effect any change in the law. Its object, like that of the Acts it consolidates, is to shorten the language of statutory enactments and to provide for uniformity of expression in cases where there is identity of subject-matter.

2. The first enactment of the kind was Lord Brougham's Act (13 & 14 Vict., c. 21). The provisions of that Statute were adapted to India, and somewhat amplified, by the General Clauses Act (I of 1868), and the General Clauses Act (I of 1887) was a further extension of the same principle. It is obviously expedient that the legislative dictionary, as it may be called, should be contained in a single enactment, and that the two Acts above referred to should be consolidated, and it seems desirable to take the opportunity of making any additions that later experience may have suggested, and in particular to incorporate such provisions of the Interpretation Act, 1889 (52 & 53 Vict., c. 63), as are applicable to India. That Statute, like the Indian Act of 1887, was drafted by Sir C. Ilbert, and is in effect a careful revise and extension of the latter. For example, the definition of "British India" in the English Act of 1889 is merely an ex-

pansion of the definition given by the Indian Act of 1868. Its legal effect is the same, but it is more intelligible, and it avoids a reference to another Statute. The proposed measure will have this further advantage that it will tend to secure uniformity of language and construction in Indian and English legislation, in so far as both have to deal with the same subject-matter.

3. The references on the margin of the Bill indicate the origin of each provision contained therein, and the annexed Notes on Clauses furnish such further explanatory details as seem to be called for.

(Signed) M. D. CHALMERS.

The 2nd February 1897.

Notes on Clauses.

Clause 3.—This clause brings together and defines sixty-two words and phrases of more or less frequent occurrence in the Indian Statute-book. The arrangement is in alphabetical order, and in accordance with that order, as also with a view to obviating the risk of oversight, the definitions of "father" and "son" and of the cognate expressions "affidavit," "oath" and "swear" have been separated and inserted each in its proper place.

Clause 3 (7).—The definition of "British India" is, as mentioned in the Statement of Objects and Reasons above, taken from the Interpretation Act, 1889 [52 & 53 Vict., c. 63, s. 18 (4)].

Clause 3 (17).—The definition of "enactment" suggested by this clause is intended to remove certain doubts which have from time to time been raised as to the meaning of the word.

Clause 3 (20).—The expression "Gazette" is here defined in accordance with the prevailing usage. The definition will be useful as tending to shorten and simplify the language of the provisions of very many enactments.

Clause 3 (21).—It will be observed that this definition differs materially from that contained in the Indian Penal Code, but it is believed that it is a better, being a more equitable and reasonable, definition of the expression "good faith." It is now well established in England; for, as Lord Denman, C. J., remarked as far back as in 1836 in *Goodman against Harvey* (4 A. & E., at page 876), "gross negligence may be evidence of malafides, but is not the same thing. We have shaken off the last remnant of the contrary doctrine." (See also *Jones v. Gordon*, L. R. 2 App. Cas. 629, and *Derry v. Peek*, L. R. 14 App. Cas. 337.) Where it is intended to afford protection only in the case of a person who acts in good faith and without negligence, it seems better to say so in terms.

Clause 3 (22).—Experience has suggested the desirability of providing a definition of the expression "Government." The present practice is to refer specifically to the "Governor General in Council" when the Government of India only is meant and to the "Local Government" when a subordinate Administration alone is in view; but it is frequently useful to refer in general terms to "the Government," as, for example, in legislation affecting public property, and the question has more than once arisen whether such phraseology includes the Local Government concerned as well as the Supreme Government. It is proposed, by introducing here the definition which is already to be found in the Code of Civil Procedure, to make it clear for the future that, unless a different intention appear from the context, it does.

Clause 3 (25).—The definition of the expression "High Court" in the General Clauses Act (I of 1868), section 2 (11), has reference only to civil proceedings. A definition in its relation to criminal proceedings, which has been taken from the Code of Criminal Procedure, 1882, section 4 (i), has been added.

Clause 3 (28).—This definition of "India" is taken *verbatim* from the Interpretation Act, 1889, s. 18 (5).

Clause 3 (47).—The phrase "used with reference to a document," and also the words "in British India," have been inserted in the existing definition of "registered" contained in section 3 (11) of the General Clauses Act (I of 1887), and the new definition is, by clause 4 (2) of the Bill, declared to govern all enactments passed since the 14th January, 1887. The additions, however, really do no more than indicate with greater precision the proper construction to be placed upon the definition of 1887, and it cannot be said that any change in the law will be effected thereby.

Clause 3 (57).—The words "with its grammatical variations and cognate expressions" have been interpolated in the definition of the word "swear" to be found in section 2 (17) of the General Clauses Act (I of 1868), but the law has no doubt always been so interpreted.

Clause 3 (58).—In this case also the definition contained in section 3 (13) of the existing Act (I of 1887) has been slightly amplified, but not, it is thought, so as to affect the substance.

Clause 3 (60).—In re-enacting the definition of "will" in section 2 (16) of the General Clauses Act (I of 1868) it has been thought expedient to substitute the word "disposition" for the word "distribution." The former would seem to express the intention more accurately than the latter.

Clause 3 (61).—The definition of "writing" given by the Interpretation Act, 1889 (52 & 53 Vict., c. 63, s. 20), is here proposed in substitution for that contained in section 3 (14) of the General Clauses Act (I of 1887). The English definition seems to be fuller and clearer than the Indian, but the latter has, it is believed, consistently been interpreted so as to be practically identical with the former.

Clause 4.—This clause is declaratory of the existing law. The first paragraph provides that all the definitions in the preceding clause which are reproduced from the General Clauses Act (I of 1868), apply also to all Acts of the Governor General in Council passed after the 3rd January 1868 (the date on which the Governor General's assent was given to that law), and to all Regulations (as defined in clause 3) made after the 14th January 1887 (the date on which the Governor General's assent was given to the General Clauses Act, 1887, section 10 of which should here be referred to). Paragraph 2, on the other hand, declares that the definitions in clause 3 which are at present contained in the General Clauses Act (I of 1887) apply also to all Acts of the Governor General in Council and Regulations made after the date of the coming into force of that enactment. Any alterations which have been made in the existing definitions have been referred to in the preceding notes, and the fact that the substance is in no case affected has, it is believed, been satisfactorily explained. Similar declaratory provisions have, where necessary, been added to the other clauses of the Bill.

Clause 5.—The first and second paragraphs are declaratory of the practice based upon the provisions of the existing law on the subject, while the origin of paragraph (3) is to be found in section 36 (2) of the Interpretation Act, 1889 (52 & 53 Vict., c. 63).

Clauses 6 (1) and 8.—These are borrowed from the English Act just referred to, and their utility in the direction of abbreviating the phraseology used in enactments scarcely requires demonstration. The second paragraph of clause 6 is an addition which has been suggested to meet the case of temporary Ordinances made and promulgated under section 23 of the Indian Councils Act, 1861 (24 & 25 Vict., c. 67), and of enactments, such as the Upper Burma Criminal Justice Regulation (VII of 1886), which are expressly limited to endure only for a specified period. It seems clear that the effect of the expiry of a law should be the same as that of its repeal and no more.

Clause 13.—The provisions of this clause take the form of "definitions" in the General Clauses Act (I of 1868), but they would seem to be more appropriately enacted as rules of construction.

Clause 15.—The practice hitherto observed in drafting in this country appears to have been to state explicitly in each Act that a person may be appointed "by name or by virtue of his office," if the admissibility of making *ex-officio* appointments is contemplated. This may lead to the inference that no person can be appointed by office unless express authority to that effect is conferred by the law under which the appointment is made. It will, from an administrative point of view, be most convenient to generalize the provision in the manner here indicated.

Clause 16.—A power to appoint should ordinarily include a power to remove the person appointed. It is, however, not certain that this construction would be adopted universally by the Courts, particularly in view of the fact that it has been usual in Indian Acts expressly to take both powers. The opportunity has, therefore, been sought to establish the rule once for all for the future.

Clause 20.—It has been held that, even in the absence of any such provision as this, the rule here laid down would hold good. Nevertheless it seems advisable to follow the lead of the English Statute and to reproduce, with the necessary modifications, section 31 of the Interpretation Act, 1889. This course has already been taken by the Madras Council in the latest legislation of the kind in India, *viz.*, the Madras General Clauses Act (I of 1891), section 10.

Clause 21.—It has been usual in Indian legislation expressly to take power to add to, amend, vary or rescind rules once made in exercise of a statutory power conferred. This has, no doubt, been done *ex abundanti cautela*, inasmuch as it would probably be held that the power exists without any such declaration, especially if provisions of section 5 of the General Clauses Act (I of 1887) be borne in mind. But the practice above referred to might give countenance to an argument to the contrary, and the opportunity is now taken to set the matter finally at rest, as has been done for Acts of the Madras Council by section 15 of Act I of 1891 of the local Legislature.

Clause 24.—The enactment of this clause will obviate the necessity for including in every repealing and re-enacting Bill, such, for instance, as the Bill which became the Pilgrim Ships Act (XIV of 1895), a transitory provision to keep any orders, warrants, schemes, rules or bye-laws issued under the law which it is proposed to supersede, in force until replaced by fresh instruments duly promulgated under the new law. It will be observed from the marginal reference that a similar provision has been enacted locally in section 18 of the Madras General Clauses Act, 1891.

Clauses 25 and 25.—These provisions have been taken from the General Clauses Acts, 1868 and 1887. In strictness, the provision reproduced in clause 25 should apply only to Acts passed after the 3rd January, 1868, and to Regulations made on or after the 14th January, 1887, while that contained in clause 25 ought to be confined to enactments passed on or after the last-mentioned date; but there seems to be no danger in recognizing them as of universal application.

J. M. MACPHERSON,
Secretary to the Government of India.