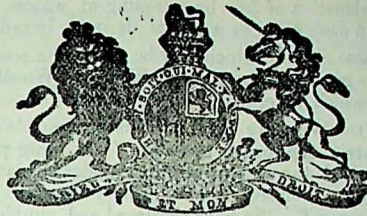


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Separate paging is given to this Part, in order that it may be filed as a separate compilation.

PART VI

BILLS OF THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to provide for certain matters relating to Fisheries in British India was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 28th January 1897 :—

We, the undersigned, Members of the Select Committee to which the Bill to provide for certain

From Agent to Governor-General, Baluchistan, No. 5897, dated 31st October 1893 [Paper No. 1].

From Mr. P. R. Desai, Pleader, District Court, Ratnagiri, dated 3rd October 1893 [Paper No. 2].

From Chief Commissioner, Coorg, No. 1860—179-93, dated 15th November 1893 [Paper No. 3].

From Chief Commissioner, Ajmere-Merwara, No. 212C., dated 21st December 1893 [Paper No. 4].

From High Court, Calcutta, No. 60, dated 8th January 1894 [Paper No. 5].

From Secretary for Borar to Resident, Hyderabad, No. 14, dated 10th January 1894 [Paper No. 6].

From Chief Commissioner, Assam, No. 3 L. L.—323-J, dated 11th January 1894 [Paper No. 7].

Tel gram from Chief Commissioner, Burma, No. 72, dated 18th January 1894 [Paper No. 8].

From Chief Commissioner, Burma, No. 407—2-F.-4, dated 22nd January 1894, and enclosures [Papers No. 9].

From Government, Punjab, No. 90, dated 25th January 1894, and enclosures [Papers No. 10].

From Government, North-Western Provinces and Oudh, No. 355, dated 9th January 1894, and enclosures [Papers No. 11].

From Chief Commissioner, Central Provinces, No. 1036, dated 16th February 1894, and enclosure [Papers No. 12].

From Government, Bombay, No. 1637, dated 2nd March 1894, and enclosures [Papers No. 13].

From Government, Madras, No. 345, dated 16th May 1894, and enclosures [Papers No. 14].

From Government, Bengal, No. 940, dated 19th February 1895, and enclosures [Papers No. 15].

Note by the Hon'ble Pandit Bishamber Nath, dated 17th December 1896 [Paper No. 16].

From Honorary Secretary, Fishing Memorial Committee, Rawalpindi, dated 11th January 1897, and enclosure [Papers No. 17].

matters relating to fisheries in British India was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

2. *Clauses 1 and 2.*—We have expressly excluded Burma from the scope of the proposed Act, as that province is already sufficiently provided for by the Burma Fisheries Act (VII of 1875), the Upper Burma Revenue Regulation and the rules thereunder.

3. *Clause 3 (3).*—We have revised the definition of "private water" so as to make it clear that it covers water over which an exclusive right of fishery has been acquired by lease or otherwise, and we have added an *explanation* to the definition to prevent water being held not to be private, because other persons may have by custom a right of fishery therein.

4. *Clause 5.*—We have omitted sub-clause (2) and the schedule appended thereto, as we think it more convenient to allow the provisions of the Forest laws and rules in question to stand for the present. We consider that there is no reason why a different law should not prevail in the forests from elsewhere. By the addition of a new sub-clause, we have conferred power on the Local Government to suspend the operation of

this clause, which prohibits the destruction of fish by poisoning of waters in any specified area, so as to enable it to relax the prohibition in such cases as it thinks desirable in order to save existing customs.

5. *Clauses 6, 7 and 8.*—These clauses, which may be styled the poaching clauses, have been omitted by us from the Bill for the reasons given by the Hon'ble Sir John Woodburn in his speech in Council on the 15th day of October 1896, in which we concur.

6. *Clause 9 (new clause 6).*—We have made various changes in this clause. We have revised sub-clauses (1) and (2) so as to restrict the former to waters "not being private waters" and the latter to "private waters," and we have limited the consent required under the latter sub-clause to owners and "all persons having for the time being any exclusive right of fishery therein," instead of owners "and all other persons interested therein" as at present. We have shortened and simplified the description of the details as to which rules may be made, omitting clauses (d) and (e) of sub-clause (3) and clause (b) (iii) of sub-clause (5) entirely, because we are not satisfied as to the practical necessity for them. We have omitted the words requiring the previous sanction of the Governor General in Council to the making of rules by the Local Government, as we consider the matter is one which, now that the scope of the rules has been carefully limited and defined, may be safely left to the discretion of the Local Government.

7. *Clause 10 (new clause 7).*—We have amended this clause so as to indicate that offences against the proposed Act and rules will be strictly non-cognizable. In revising the clause we have followed the lines of section 83 of the Punjab Municipal Act, 1891, the wording and arrangement of which appear to us to be an improvement upon section 57 of the Code of Criminal Procedure.

8. The publication ordered by the Council has been made as follows:—

<i>In English.</i>			<i>Date.</i>
<i>Gazette.</i>			
Gazette of India...	...	...	14th October 1893.
Fort Saint George Gazette ...	...	...	7th November 1893.
Bombay Government Gazette	...	...	19th October 1893.
Calcutta Gazette ...	...	...	25th October 1893.
North-Western Provinces and Oudh Government Gazette	...	...	21st October 1893.
Punjab Government Gazette	...	...	19th October 1893.
Central Provinces Gazette ...	...	...	21st October 1893.
Burma Gazette ...	...	...	4th November 1893.
Assam Gazette ...	...	...	4th November 1893.
Coorg District Gazette	...	...	1st November 1893.
Sind Official Gazette	...	...	30th November 1893.

In the Vernaculars.

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Madras ...	Telugu ...	28th November 1893.
	Kanarese ...	28th November 1893.
	Tamil ...	5th December 1893.
Bombay ...	Malayalam ...	5th December 1893.
	Marathi ...	4th January 1894.
	Gujarathi ...	4th January 1894.
Bengal ...	Kanarese ...	4th January 1894.
	Uriya ...	6th November 1893.
	Bengali ...	7th November 1893.
North-Western Provinces and Oudh	Hindi ...	28th November 1893.
	Urdu ...	9th December 1893.
Punjab ...	Urdu ...	14th December 1893.
Central Provinces ...	Hindi ...	17th January 1894.
Burma ...	Burmese ...	11th November 1893.
Assam ...	Bengali ...	18th November 1893.
Coorg ...	Kanarese ...	1st March 1894.
Sindu ...	Sindhi ...	30th November 1893.

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

(Signed) J. WOODBURN.
 (") M. D. CHALMERS.
 (") H. E. M. JAMES.
 (") P. ANANDA CHARLU.
 (") BISHUMBUR NATH.

The 25th January 1897.

No. II.

A Bill to provide for certain matters relating to Fisheries in British India.

WHEREAS it is expedient to provide for certain matters relating to fisheries in British India; it is hereby enacted as follows:—

Title, extent and commencement. 1. (1) This Act may be called the Indian Fisheries Act, 1897.

(2) It extends to the whole of British India, except Burma; and

(3) It shall come into force at once.

2. Subject to the provisions of sections 8 and 10 of the General Clauses Act, 1887, this Act shall be read as supplemental to any other enactment for the time being in force relating to fisheries in any part of British India except Burma.

Act to be read as supplemental to other Fisheries Laws.

3. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

(1) "fish" includes shell-fish :

(2) "fixed engine" means any net, cage, trap or other contrivance for taking fish, fixed in the soil or made stationary in any other way : and

(3) "private water" means water which is the exclusive property of any person, or in which any person has for the time being an exclusive right of fishery whether as owner, lessee or in any other capacity.

EXPLANATION.—Water shall not cease to be "private water" within the meaning of this definition by reason only that other persons may have by custom a right of fishery therein.

4. (1) If any person uses any dynamite or other explosive substance in any water with intent thereby to catch or destroy any of the fish that may be therein, he shall be punishable with imprisonment for a term which may extend to two months, or with fine which may extend to two hundred rupees.

(2) In sub-section (1) the word "water" includes the sea within a distance of one marine league of the sea-coast : and an offence committed under that sub-section in such sea may be tried, punished and in all respects dealt with as if it had been committed on the land abutting on such coast.

5. (1) If any person puts any poison, lime or noxious material into any water with intent thereby to catch or destroy any fish, he shall be punishable with imprisonment for a term which may extend to two months, or with fine which may extend to two hundred rupees.

(2) The Local Government may, by notification in the official Gazette, suspend the operation of this section in any specified area, and may in like manner modify or cancel any such notification.

6. (1) The Local Government may make rules for the purposes hereinafter in this section mentioned, and may by a notification in the official

Protection of fish in selected waters by rules of Local Government.

Gazette apply all or any of such rules to such waters, not being private waters, as the Local Government may specify in the said notification.

(2) The Local Government may also, by a like notification, apply such rules or any of them to any private water with the consent in writing of the owner thereof and of all persons having for the time being any exclusive right of fishery therein.

(3) Such rules may prohibit or regulate all or any of the following matters, that is to say :—

(a) the erection and use of fixed engines ;

(b) the construction of weirs ; and

(c) the dimension and kind of the nets to be used and the modes of using them.

(4) Such rules may also prohibit all fishing in any specified water for a period not exceeding two years.

(5) In making any rule under this section the Local Government may—

(a) direct that a breach of it shall be punishable with fine which may extend to one hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to ten rupees for every day after the date of the first conviction during which the breach is proved to have been persisted in ; and

(b) provide for—

(i) the seizure, forfeiture and removal of fixed engines erected, or used, or nets used, in contravention of the rule, and

(ii) the forfeiture of any fish taken by means of any such fixed engine or net.

(6) The power to make rules under this section is subject to the condition that they shall be made after previous publication.

7. (1) Any police-officer, or other person specially empowered by the Local Government in this behalf, either by name or as holding any office, for the time being, may, without an order from a Magistrate and without warrant, arrest any person committing in his view any offence punishable under section 4 or 5 or under any rule under section 6—

(a) if the name and address of the person are unknown to him, and

(b) if the person declines to give his name and address, or if there is reason to doubt the accuracy of the name and address if given.

(2) A person arrested under this section may be detained until his name and address have been correctly ascertained :

Provided that no person so arrested shall be detained longer than may be necessary for bringing him before a Magistrate, except under the order of a Magistrate for his detention.

J. M. MACPHERSON,

Secretary to the Government of India.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to provide for the recognition in British India of Probates and Letters of Administration granted by Courts in the United Kingdom was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 28th January 1897:—

WE, the undersigned, Members of the Select Committee to which the Bill

to provide for the recognition in British India of probates and letters of administration granted by Courts in the United Kingdom was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

From L. P. D. Broughton, Esq., Administrator General, Bengal, dated 24th March 1896 [Paper No. 1].
 From Agent to Governor General in Beluchistan, No. 3599, dated 7th May 1896 [Paper No. 2].
 From Chief Commissioner, Coorg, No. 670, dated 2nd June 1896 [Paper No. 3].
 From Government, Bengal, No. 124 J. D., dated 17th June 1896, and enclosures [Papers No. 4].
 From Chief Commissioner, Central Provinces, No. 4155, dated 22nd June 1896 [Paper No. 5].
 From Secretary for Berar to Resident, Hyderabad, No. 186, dated 11th July 1896, and enclosures [Papers No. 6].
 From High Court, Calcutta, No. 1742, dated 11th July 1896 [Paper No. 7].
 From Chief Commissioner, Ajmere-Merwara, No. 535—690, dated 13th July 1896 [Paper No. 8].
 From Chief Commissioner, Assam, No. 137-L. & L.—2837-J., dated 13th July 1896, and enclosures [Papers No. 9].
 From Chief Commissioner, Burma, No. 462-L.15, dated 17th July 1896, and enclosures [Papers No. 10].
 From Government, Punjab, No. 884, dated 28th July 1896, and enclosures [Papers No. 11].
 From Government, Bombay, No. 5221, dated 31st July 1896, and enclosures [Papers No. 12].
 From Government, North-Western Provinces and Oudh, No. 928, dated 7th August 1896, and enclosures [Papers No. 13].
 From Government, Bombay, No. 5570, dated 12th August 1896, and enclosure [Papers No. 14].
 From Government, Madras, No. 1239 (Judicial), dated 1st August 1896, and enclosures [Papers No. 15].

2. The publication ordered by the Council has been made as follows:—

<i>Gazette.</i>	<i>In English.</i>	<i>Date.</i>
Gazette of India	14th March 1896.
Fort Saint George Gazette	24th March 1896.
Bombay Government Gazette	19th March 1896.
Calcutta Gazette	1st April 1896.
North-Western Provinces and Oudh Government Gazette	28th March 1896.
Punjab Government Gazette	16th April 1896.
Central Provinces Gazette	11th April 1896.
Burma Gazette	18th April 1896.
Assam Gazette	11th April 1896.
Coorg District Gazette	1st June 1896.
Sind Official Gazette	23rd April 1896.

3. We have come to the conclusion that there is no sufficient reason for proceeding with the Bill. Its object is to provide for reciprocity between the Indian and English Courts of Probate and to pave the way for the application of the Colonial Probates Act, 1892 (55 Vict., c. 6), to India. Such legislation is probably required in other colonies and possessions, but in the case of India no difficulty has yet been experienced, and we do not think that any is to be apprehended.

The procedure under the Indian Succession Act, 1865, works smoothly and provides for the administration of all Indian assets, whether there be an English will or not. If the will has been proved in England, section 180 of the Succession Act and section 5 of the Probate and Administration Act, 1881, provide for grant of administration (with copy of the will annexed) to the nominee of the English executor. It is more convenient that the administration of assets in India should be conducted by a person in India, who is appointed by, and directly responsible to, the Indian Court, than that it should be conducted by a person who is merely the agent of the executor in England.

4. Where probate or letters of administration have been granted in India, no practical difficulty appears to arise as regards assets situated in England, because it is the practice of the Courts there to recognise and give effect to properly authenticated copies of the Indian grants—see *Williams on Executors*, Ed. 9, page 305.

5. In some respects there are differences between the Indian and English rules of administration, and if, as the Bill proposes, the English grants were simply re-sealed in India, the English rules might supersede the well understood rules of the Indian Acts as regards Indian assets, and complications which it is difficult to provide for beforehand might arise. For these reasons we think it is better to leave the existing practice undisturbed.

(Signed) M. D. CHALMERS.
 (") J. WESTLAND.
 (") J. WOODBURN.
 (") P. ANANDA CHARLU.
 (") G. H. P. EVANS.
 (") R. M. SAYANI.

The 19th January 1897.

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

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 28th January 1897 :—

Bill No. 1 of 1897.

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) In the event of India or any part there-

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

of being at any time 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 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 any expenses incurred 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, 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 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.

XLV of 1860.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is sufficiently explained by the title thereof, and the spread of the bubonic plague from Bombay unfortunately renders it unnecessary to dwell on the reasons for its introduction in Council. It may, however, be stated that its main provisions are based upon those contained in sections 434 and 473 of the City of Bombay Municipal Act, 1858.

The 28th January 1897.

(Signed) J. WOODBURN.

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