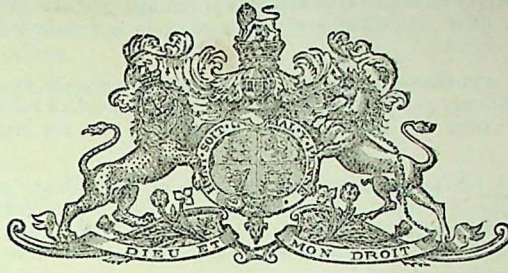


THE



Bombay Government Gazette.

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THURSDAY, 27TH JANUARY 1898.

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

PART VI.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to provide for the segregation of pauper lepers and the control of lepers following certain callings was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 21st January 1898:—

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

- segregation of pauper lepers and the control of lepers following certain callings 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.
- From High Court, Calcutta, No. 2015, dated 10th August 1896 [Paper No. 1].
 From Officiating Agent to Governor General in Baluchistan, No. 6239, dated 5th September 1896 [Paper No. 2].
 From Chief Commissioner, Coorg, No. 1425, dated 23rd September 1896 [Paper No. 3].
 From Chief Commissioner, Ajmere-Merwara, No. 1314-690, dated the 23rd October 1896, and enclosures [Papers No. 4].
 From Government, Punjab, No. 1175-S., dated 23rd October 1896, and enclosures [Papers No. 5].
 From Resident, Hyderabad, No. 311, dated 27th October 1896, and enclosures [Papers No. 6].
 From Chief Commissioner, Assam, No. 169-L. & L.-1562-J., dated 28th October 1896, and enclosures [Papers No. 7].
 Endorsement by Government of India, Home Department No. 343, dated 16th November 1896, and accompaniments, from Government, North-Western Provinces and Oudh, No. 343, dated 16th November 1896, and enclosures [Papers No. 8].
 From Chief Commissioner, Burma, No. 416-3X-2, dated 13th November 1896, and enclosures [Papers No. 9].
 From Chief Commissioner, Central Provinces, No. 8063, dated 23rd November 1896, and enclosures [Papers No. 10].
 From Government, North-Western Provinces and Oudh, No. 399, dated 8th December 1896, and enclosures [Papers No. 11].
 From Government, Madras, No. 337-M., dated 1st March 1897, and enclosures [Papers No. 12].
 From Secretary to Government, Bombay, No. 1457, dated 15th March 1897, and enclosures [Papers No. 13].
 From Government, Bengal, No. 282-F.-M., dated 3rd June 1897, and enclosures [Papers No. 14].

2. *Title.*—We have indicated in the title that the medical treatment of lepers in asylums is one of the objects of their segregation

3. *Clause 1.*—We have made it clear in clause 1 that the Act shall become operative solely in such areas, whether municipalities only or otherwise, as a Local Government may determine, and that either the whole Act or any part of it—as, for instance, the clauses relating to pauper lepers—may be applied

4. *Clause 2.*—We have retained the definition of “leper” as we believe that without actual and existing ulceration no action should be taken under this Act; and in clause (2) (a) we have amended the wording so as to cover the ordinary methods of public begging.

5. *Clause 3.*—It will be noted that the notification under this clause is distinct from the notification referred to in clause 1 (4), because the local application of the Act will necessarily be wider than the area

from which lepers will be sent to an asylum. The Act will ordinarily be extended to a whole Province or to some territorial division of it, while the areas referred to in this clause will usually be municipal or other urban areas and their environs.

Since the segregation contemplated by the Act is to be compulsory, the asylums referred to in this clause and throughout the Act are public asylums only; we have omitted all reference to private asylums, since, owing to the usual nature of their foundation and objects, they are inappropriate to compulsory confinement.

6. *Clause 6.*—We have retained in this clause the wording by which any police-officer may arrest a pauper leper, since the areas in which such power will be exercised will, in general, be municipal towns; but we have provided that every person so arrested shall at once be taken to the police-station with a view to the usual record being made and despatched to the authorities, and that no delay shall be allowed in placing such person before an Inspector of Lepers.

7. *Clause 8.*—In consonance with several opinions we have modified clause 8 in the direction of greater distinctness and elasticity. The class of Magistrate who should ordinarily deal with these cases has been specified, and the right of every alleged leper to examine the Inspector of Lepers upon his certificate in Form B, and to require that the allegation of leprosy shall, if not admitted, be fully proved, has been made clear. We have, on the analogy of section 4 of the Lunatic Asylums Act, 1858, given power to the Magistrate to make over a pauper leper to friends, on proper conditions, in lieu of sending him to an asylum; and we have authorised a District or Chief Presidency Magistrate to order the release of any pauper leper from an asylum upon due cause, as, for instance, the cessation of his pauper status or the coming forward of friends. These modifications provide a safeguard against the improper or unnecessary confinement of persons in asylums.

8. *Clause 9.*—From clause 9, sub clause (a), we have excluded, as imperfect and undesirable, the detailed list of trades and callings therein entered, and have substituted for sub-clauses (a) and (b) a new sub-clause (a) in terms which, while more general, at the same time more fully cover the object of the original sub-clauses. We have modified the stringency of sub-clause (c) by new sub-clause (b), by which we have placed upon the local authorities of a notified area the duty of safeguarding the public water-supply through bye-laws which shall confine lepers to particular sources of supply. In sub-clause (c) we have provided that the public within a notified area shall be protected from lepers, not merely as passengers in, but as drivers or conductors of, public vehicles; we have, however, narrowed the restrictions by substituting "carriages" for "conveyances," and by excluding railway trains from the operation of the sub-clause, since the Railways Act enables the authorities to make rules for the safety of passengers in such matters. In sub-clause (a) we have given power to Local Governments to notify any trades or callings prohibited to lepers; on the other hand, by sub-section (2), Local Governments are enabled to bring into operation only such of the restrictions contained in this clause as may be desirable. Finally, we have reduced the maximum fine to Rs. 20, since first offences will ordinarily call for slight penalties.

9. *Clause 10.* This clause, as amended, gives further powers, but only to Magistrates of the first class, to restrain lepers from persistently disobeying the provisions of clause 9. The use of these further powers is wholly permissive, but their existence will protect the public of notified areas, usually urban, against recalcitrant lepers. We have therefore retained sub-clause (a) [sub-section (1)], for the removal and exclusion from notified areas, e.g., municipalities, of habitual offenders who have been convicted at least twice under clause 9. But we have modified sub-clause (b) [new sub-section (2)] so that the Magistrate can send an offender to any asylum only in default of execution of bond under sub-clause (a).

10. *Clause 11.*—This clause has been newly introduced to prevent employers from using leper labour in the trades or callings mentioned in clause 9; the fine is made heavier than in clause 10, since the offence is more culpable.

11. *Clause 13.*—We have modified this clause so as to ensure that every newly admitted leper within three months after admission, and every leper as often as possible, shall be personally examined by the medical officer on the Board and another member visiting together. Under the safeguards newly introduced into clauses 8 and 10, the power of appeal given in clause 15, and the power of the Local Government to make rules under clause 16, we do not deem it needful to make more frequent visits compulsory by the Act.

12. *Clause 14.*—We have followed the Bengal Act in giving power to two members of the Board, instead of three, to order the discharge of a leper from an asylum.

13. *Clause 15.*—We have made it clear that clause 15 provides an appeal solely against the refusal or issue, respectively, of certificates in Form A or B under clauses 9, 10 and 11. We do not deem it necessary to provide an appeal for pauper lepers under clauses 7 and 8, since only Magistrates of the first class, or those specially selected, may take action under those sections, while the power of discharge from asylums, given not merely to the Board but, as now provided, to the District or Chief Presidency Magistrate, and the new provisions for relegating lepers to the care of friends, are sufficient safeguards against unnecessary confinement.

14. *Clause 17.*—We have followed clause 4 of the Bengal Act in giving power to local authorities to expend funds upon, and appropriate property to, asylums.

15. *Clause 18.*—We have, by clause 18, made provision for the protection of persons acting in good faith under this Act, following a similar provision in the Epidemic Diseases Act, 1897.

16. *Clause 19.*—We have entered an enabling clause to give power to the Lieutenant-Governor of Bengal to substitute the present Act or any part thereof for Bengal Act V of 1895 in any part of the territories administered by him.

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

In English.

<i>Gazette.</i>	<i>Date.</i>
Gazette of India	1st August 1896.
Fort Saint George Gazette	18th August 1896.
Bombay Government Gazette	6th August 1896.
Calcutta Gazette	12th August 1896.
North-Western Provinces and Oudh Government Gazette... ..	8th August 1896.
Punjab Government Gazette	6th August 1896.
Burma Gazette	22nd August 1896.
Central Provinces Gazette	8th August 1896.
Assam Gazette	22nd August 1896.
Coorg District Gazette	1st September 1896.
Sind Official Gazette	24th September 1896.

In the Vernaculars.

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Madras	Hindustani	29th September 1896.
	Tamil	6th October 1896.
	Telgu	6th October 1896.
	Kanarese	6th October 1896.
	Malayalam	6th October 1896.
Bombay	Marathi	25th September 1896.
	Gujarathi	25th September 1896.
	Kanarese	25th September 1896.
North-Western Provinces and		
Oudh	Urdu	26th September 1896.
Punjab	Urdu	24th September 1896.
Burma	Burmese	29th August 1896.
Central Provinces	Hindi	14th September 1896.
Coorg	Kanarese	2nd November 1896.
Sindh	Sindhi	24th September 1896.

18. 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) C. M. RIVAZ.
 (") M. D. CHALMERS.
 (") R. M. SAYANI.
 (") F. A. NICHOLSON.
 (") P. SURAJ KAUL.

The 18th January 1898.

No. II.

A Bill to provide for the segregation and medical treatment of pauper lepers and the control of lepers following certain callings.

WHEREAS it is expedient to provide for the segregation and medical treatment of pauper lepers and the control of lepers following certain callings; It is hereby enacted as follows:—

1. (1) This Act may be called the Lepers Act, 1898.

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

(3) It shall not come into force in any part thereof until the Local Government, as hereinafter provided, has declared it applicable thereto.

(4) The Local Government may, by notification in the official Gazette, apply this Act or any part thereof to the whole or any portion of the territories for the time being under its administration, and may in like manner amend or cancel any such notification.

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

Definitions.

(1) "leper" means any person suffering from any variety of leprosy in whom the process of ulceration has commenced;

(2) "pauper leper" means a leper—

(a) who publicly solicits alms or exposes or exhibits any sores, wounds, bodily ailment or deformity with the object of exciting charity or of obtaining alms, or

(b) who is at large without any ostensible means of subsistence;

(3) "leper asylum" means a leper asylum appointed under section 3;

(4) "Board" means a Board constituted under section 5; and

(5) "District Magistrate" includes a Chief Presidency Magistrate.

3. The Local Government may, by notification

in the official Gazette, appoint any place to be a leper asylum for the purposes of this Act and specify the local areas from which lepers may be sent to such asylum, and may, in like manner, alter or cancel any such notification.

4 Subject to any rules which may be made under section 16, the Local Government may appoint any Medical Officer

of the Government or other qualified Medical man to be an Inspector of

Lepers and any person to be a Superintendent of a Leper Asylum, with such establishment as may, in its opinion, be necessary, and every Inspector or Superintendent so appointed shall be deemed to be a public servant.

5. The Local Government shall constitute for every leper asylum appointed under section 3 a

Constitution of Board.

Board consisting of not less than three members, one of whom at least shall be a Medical Officer of the Government.

6. (1) Within any local area which has been specified under section 3

Arrest of pauper lepers.

any police-officer may arrest without a warrant any person who appears to him to be a pauper leper.

(2) Such police officer shall forthwith take or send the person so arrested to the nearest convenient police station.

7. Every person brought to a police-station under the last foregoing section shall, without unnecessary delay, be taken

before an Inspector of Lepers, who,—

(a) if he finds that such person is not a leper within the meaning of section 2, shall give him a certificate in Form A set forth in the schedule, whereupon such person shall be forthwith released from arrest;

(b) if he finds that such person is a leper within the meaning of section 2, shall give to the police-officer, in whose custody the leper is, a certificate in Form B set forth in the schedule, whereupon the leper shall, without unnecessary delay, be taken before a Magistrate having jurisdiction under this Act.

8. (1) If it appears to any Magistrate of the first class or to any other

Magistrate authorised in

proceedure with regard to pauper lepers. this behalf by the Local Government, upon the certificate in Form B set forth in the schedule, that any person is a leper, and if it further appears to the Magistrate that the person is a pauper leper, he may, after recording the evidence on the above-mentioned points, and his order thereon, send the pauper leper in charge of a police-officer, together with an order in Form C set forth in the Schedule, to a leper asylum, where such leper shall be detained until discharged, by order of the Board or the District Magistrate:

Provided that, if the person denies the allegation of leprosy, the Magistrate shall call and examine the Inspector of Lepers, and shall take such further evidence as may be necessary to support or to rebut the allegations that the person is a leper, and may for this purpose adjourn the enquiry from time to time, remanding the person for observation or for other reason to such place as may be convenient, or admitting him to bail.

Provided also that if any friend or relative of any person found to be a pauper leper shall undertake in writing to the satisfaction of the Magistrate that such pauper leper shall be properly taken care of, and shall be prevented from publicly begging in any area specified under section 3, the Magistrate, instead of sending the leper to an asylum, may make the leper over to the care of such friend or relative, requiring him, if he thinks fit, to enter into a bond with one or more sureties, to which provisions of section 514 of the Code of Criminal Procedure shall be applicable.

(2) If the Magistrate finds that such person is not a leper, or that, if a leper, he is not a pauper leper, he shall forthwith discharge him.

9. (1) *The Local Government may by notification in the official Gazette, order that no leper shall, within any area specified under section 3,-*

- Power to prohibit lepers from following certain trades and doing certain acts.*
- (a) personally prepare for sale or sell any article of food or drink or any drugs or clothing intended for human use; or
- (b) bathe, wash clothes or take water from any public well or tank debarred by any municipal or local bye-law from use by lepers; or
- (c) drive, conduct or ride in any public carriage plying for hire other than a railway carriage; or
- (d) exercise any trade or calling which may by such notification be prohibited to lepers.
- (2) Any such notification may comprise all or any of the above prohibitions.

(3) Whoever disobeys any order made pursuant to the powers conferred by this section shall be punishable with fine which may extend to twenty rupees:

Provided that, when any person is accused of an offence under this section, the Magistrate before whom he is accused shall cause him to be examined by an Inspector of Lepers and shall not proceed with the case unless such Inspector furnishes a certificate, in Form B set forth in the schedule, in respect of such person.

10. (1) Whenever any leper who has been convicted after previous conviction, of an offence punishable under that section, the Magistrate may, in addition to, or in lieu of, any punishment to which such leper may be liable, require him to enter into a bond, with one or more sureties, binding him to depart forthwith from the local area specified under section 3 in which he is, and not to enter that or any other local area so specified until an Inspector of Lepers shall have given him a certificate in Form A set forth in the schedule.

(2) If any such leper fails to furnish any security required under sub-section (1), the Magistrate may send him in charge of a police-officer, with an order in Form D set forth in the schedule, to a leper asylum, where such leper shall be detained until discharged by order of the Board or the District Magistrate.

(3) The powers conferred by this section shall only be exercised by a Magistrate of the first class.

11. Any person who, within any area specified under section 3, knowingly employs a leper in any trade or calling prohibited by order under section 9, shall be punishable with fine which may extend to fifty rupees:

Provided that the alleged leper shall be produced before the Magistrate and the Magistrate shall cause him to be examined by an Inspector of Lepers, and shall not proceed with the case unless such Inspector furnishes a certificate in Form B set forth in the schedule in respect of such alleged leper.

12. Whoever, having been sent to a leper asylum under an order of a Magistrate in Form C or Form D set forth in the schedule, escapes from, or leaves, the asylum without the permission in writing of the Superintendent thereof, may be arrested by any police-officer without a warrant, and upon arrest shall be forthwith taken back to the leper asylum.

13. Two or more members of the Board, one of whom shall be the medical officer, shall once at least in every three months, together inspect the leper asylum for which they are constituted, and see and examine (a) every leper therein admitted since the last inspection together with the order for his admission, and (b), as far as circumstances will permit, every other leper therein, and shall enter in a book to be kept for the purpose any remarks which they may deem proper in regard to the management and condition of the asylum and the lepers therein.

14. Any two members of the Board, one of whom shall be the Medical Officer, may at any time, by an order in writing in Form E set forth in the schedule and signed by them, direct the discharge from the leper asylum of any leper detained therein under the provisions of this Act.

15. Any person, other than a pauper leper in respect of whom an Inspector of Lepers has issued a certificate, in Form B set forth in the schedule, declaring him to be a leper, or has refused to issue a certificate in Form A set forth in the schedule, may appeal against the issue or refusal of any such certificate to such officer as may be appointed by the Local Government in this behalf, and the decision of such officer shall be final.

16. The Local Government may, by notification in the official Gazette, make rules generally for carrying out the purposes of this Act, and in particular—

- (a) for the guidance of all or any of the officers discharging any duty under this Act; and
- (b) for the management of, and the maintenance of discipline in, a leper asylum.

17. Notwithstanding anything in any enactment with respect to the purposes to which the funds or other property of a local authority may be applied, any local authority may—

- (a) establish or maintain, or establish and maintain, or contribute towards the cost of the establishment or maintenance of, a leper asylum either within or without the local limits of such local authority;
- (b) with the previous sanction of the Local Government and subject to such conditions as that Government may prescribe, appropriate any immovable property vested on or under the control of, such body, as a site for, or for use as, a leper asylum.

18. No suit, prosecution or other legal proceeding shall lie against any officer or person in respect of anything in good faith done or intended to be done under, or in pursuance of, the provisions of this Act.

19. When any part of this Act has been applied under sub-section (4) of section 1 to the whole or any portion of the territories administered by the Lieutenant-Governor of Bengal, the Lieutenant-Governor may, by notification in the official Gazette, direct that the whole or any part of the Lepers Act, 1895, shall, except as regards anything done or any offence committed or any fine or penalty incurred or any proceedings commenced, cease to have effect in the portion of the said territories to which this Act has been so applied.

SCHEDULE.

A.—CERTIFICATE.

(Section 7.)

I, THE undersigned (*here enter name and official designation*), hereby certify that I on the _____ day of _____ at _____ personally examined (*here enter name of person examined*) and that the said _____ is not a leper as defined by the Lepers Act, 1898.

Given under my hand this _____ day of 189 _____

(Signature.)

Inspector of Lepers.

B.—CERTIFICATE.

(Section 7.)

I, THE undersigned (*here enter name and official designation*), hereby certify that I on the _____ day of _____ personally examined (*here enter name of leper*) and that the said _____ is a leper as defined by the Lepers Act, 1898, and that I have formed this opinion on the following grounds, namely,—

(*Here state the grounds.*)

Given under my hand this _____ day of 189 _____

(Signature.)

Inspector of Lepers.

C.—WARRANT OF DETENTION.

(Section 8.)

To

THE SUPERINTENDENT OF THE
LEPER ASYLUM AT

WHEREAS it has been made to appear to me that *name and description* is a pauper leper as defined the Lepers Act, 1898 :

This is to authorise you, the said Superintendent, to receive the said

into your custody together with this order and ^{him} safely to keep in the said asylum until ^{he} shall be discharged by order of the Board or the District Magistrate.

Given under my hand and the seal of the Court this _____ day of 189 _____

(Signature.)

Magistrate.

D.—WARRANT OF DETENTION.

(Section 10.)

To

THE SUPERINTENDENT OF THE
LEPER ASYLUM AT

WHEREAS (*name and description*) has this day been convicted by me of an offence punishable under section 9 of the Lepers Act, 1898, and whereas it has been proved before me that the said (*name and description*) was previously convicted of an offence punishable under the same section :

This is to authorise you, the said Superintendent, to receive the said

into your custody together with this order and ^{him} safely to keep in the said asylum until ^{he} shall be discharged by order of the Board or the District Magistrate.

Given under my hand and the seal of the Court this _____ day of 189 _____

(Signature.)

Magistrate.

E.—ORDER OF DISCHARGE BY BOARD.*

(Section 14.)

To

THE SUPERINTENDENT OF THE
LEPER ASYLUM AT

WHEREAS (*name and description*) was committed to your custody under an order dated the _____ day of _____

189 _____ and there have appeared to us sufficient grounds for the opinion that ^{he} can be released without hazard or inconvenience to the community :

This is to authorise and require you forthwith to discharge the said (*name*) from your custody.

Given under our hands this _____ day of 189 _____

(Signatures.)

Members of the
Asylum Board.

* A corresponding form may be used by the District Magistrate.

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