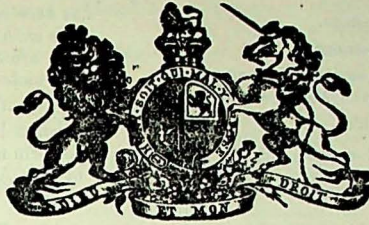


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PART VI.

BILLS OF 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 26th March 1896 :—

Bill No. 14 of 1896.

THE REFORMATORY SCHOOLS BILL.

CONTENTS.

I.—Preliminary.

SECTIONS.

1. Title, extent and commencement.
 2. Repeal of Act V of 1876.
 3. Section 399 of the Code of Criminal Procedure, 1882, repealed on issue of a notification under section 1, sub-section (3).
 4. Definitions.
- ##### II.—Reformatory Schools.
5. Power to establish and discontinue Reformatory Schools.
 6. Requisites of schools.
 7. Inspection of Reformatory Schools.
 8. Power of Courts to direct youthful offenders to be sent to Reformatory Schools.
 9. Procedure where Magistrate is not empowered to pass an order under section 2.

SECTIONS.

10. Power of Magistrates to direct boys under sixteen sentenced to imprisonment to be sent to Reformatory Schools.
“Magistrate” defined.
11. Preliminary inquiry and finding as to age of youthful offender.
12. Government to determine Reformatory School to which such offenders shall be sent.
13. Persons other than youthful offenders not to be detained in Reformatory Schools.
14. Discharge or removal by order of Government.
15. Orders under sections 8, 9 or 10 not subject to appeal or revision.
16. Provisions of Act to be applicable in case of boy under sixteen years of age liable to imprisonment on failure to give security for good behaviour.

III.—Management of Reformatory Schools.

17. Appointment of Superintendent and Committee of Visitors or Board of Management.
18. Superintendent may license youthful offenders to employers of labour.
19. Cancellation of license.
If complaint of employers just, no fresh license until expiry of twelve months.
20. Determination of license.
21. Cancellation of license in case of ill-treatment.
22. Superintendent to be deemed guardian of youthful offenders.
Power to apprentice youthful offender.

SECTIONS.

- 23. Duties of Committee of Visitors.
- 24. Powers of Board of Management.
- 25. Power to appoint Trustees or other Managers of a school to be a Board of Management.
- 26. Power of Board to make rules.

IV.—Offences in relation to Reformatory Schools.

- 27. Penalty for introduction or removal or supply of prohibited articles.
- 28. Penalty for abetting escape of youthful offender.
- 29. Arrest of escaped youthful offender.

V.—Miscellaneous.

- 30. Application of Act XV of 1869 to youthful offenders detained in Reformatory Schools.
- 31. How youthful offenders may be otherwise dealt with.
- 32. Amendment of section 397 of the Code of Criminal Procedure, 1882.

A Bill to amend the law relating to Reformatory Schools and to make further provision for dealing with youthful offenders.

WHEREAS it is expedient to amend the law relating to Reformatory Schools and to make further provision for dealing with youthful offenders; It is hereby enacted as follows:—

I.—Preliminary.

1. (1) This Act may be called the Reformatory Schools Act, 1896.

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

(3) It shall come into force in each Province of British India in which the Reformatory Schools Act, 1876, is now in force, at once, and in each other Province on such day as the Local Government may, by notification in the local official Gazette, direct in this behalf.

2. (1) The Reformatory Schools Act, 1876, is hereby repealed.

(2) But all proceedings taken, orders passed, officers appointed or authorised and rules made under the said Act shall, as far as may be, be deemed to have been respectively passed, appointed or authorised and made under this Act.

(3) Any enactment or document referring to the said Act shall, as far as may be, construed to refer to this Act, or to the corresponding portion thereof.

3. Section 399 of the Code of Criminal Procedure, 1882, is hereby repealed with effect, as regards any Province of British India in which it is now in force, from the date of the issue of a notification under section 1, sub-section (3), bringing this Act into force therein.

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

- (a) "youthful offender" means any boy who has been convicted of any offence punishable with imprisonment or transportation and who, at the time of such conviction, was under the age of sixteen years; and
- (b) "Inspector-General" includes any officer appointed by the Local Government to perform all or any of the duties imposed by this Act on the Inspector-General of Prisons.

II.—Reformatory Schools.

5. With the previous sanction of the Government to establish and nor General in Council, discontinue Reformatory the Local Government Schools, may—

- (a) establish Reformatory Schools at such places as it may think fit;
- (b) use as Reformatory Schools schools kept by persons willing to act in conformity with such rules, consistent with this Act, as the Local Government may prescribe in this behalf;
- (c) direct that any school so established or used shall cease to exist as a Reformatory School or to be used as such.

6. Every school so established or used must provide—

- (a) sufficient means of separating the inmates at night;
- (b) proper sanitary arrangements, water-supply, food, clothing and bedding for the youthful offenders detained therein;
- (c) the means of giving such youthful offenders industrial training;
- (d) an infirmary or proper place for the reception of such youthful offenders when sick.

7. (1) Every school intended to be established or used as a Reformatory School shall, before being used as such, be inspected by the Inspector-General, and if he finds that the requirements of section 6 have been complied with, and that, in his opinion, such school is fitted for the reception of such youthful offenders as may be sent there under this Act, he shall certify to that effect, and such certificate shall be published in the local official Gazette, together with an order of the Local Government establishing the school as a Reformatory School or directing that it shall be used as such, and the school shall thereupon be deemed to be a Reformatory School.

(2) Every such school shall from time to time, and at least once in every year, be visited by the said Inspector-General, who shall send to the Local Government a report on the condition of the school in such form as the Local Government may prescribe.

8. (1) Whenever any youthful offender is sentenced to transportation or imprisonment, and is, in the judgment of the Court by which he is sentenced, a proper person to be an inmate of a Reformatory School, the Court may direct that,

(2) Whenever any youthful offender is sentenced to transportation or imprisonment, and is, in the judgment of the Court by which he is sentenced, a proper person to be an inmate of a Reformatory School, the Court may direct that,

[Sec. 1.]

V of 1876.

[New.]
V of 1876.

[Sec. 2.]
X of 1882.

[Sec. 3.]

[Sec. 4.]

[Sec. 5.]

[Sec. 6.]

[Sec. 7.]

instead of undergoing his sentence, he shall be sent to such a school, and be there detained for a period which shall be,—

- (a) in no case, less than two or more than seven years;
- (b) if the offender is at the date of his conviction under the age of ten years, seven years;
- (c) if he has then attained the age of ten years, not less than five years, unless he would, in the opinion of the Court, sooner, attain the age of eighteen years; and,
- (d) in such last mentioned case, until he shall attain the age of eighteen years.

(2) The powers so conferred on the Court by this section shall be exercised only by (a) the High Court, (b) a Court of Session, (c) a District or Sub-divisional Magistrate, (d) a Magistrate of the first class specially empowered by the Local Government in this behalf, and (e) a Presidency Magistrate in the towns of Calcutta, Madras and Bombay.

[New.]

9. (1) When any Magistrate not empowered to pass an order under the last foregoing section is of opinion that a youthful offender sentenced to imprisonment by him is a proper person to be an inmate of a Reformatory School, he may record such opinion and submit his proceedings and forward the youthful offender to the District or Sub-divisional Magistrate to whom he is subordinate.

(2) The Magistrate to whom the proceedings are so submitted, may make such further inquiry (if any) as he may think fit and pass such order for the detention in a Reformatory School of the youthful offender, or otherwise, as he might have made if such youthful offender had been originally tried and sentenced by him.

10. (1) Whenever any youthful offender under the age of sixteen years has been, or shall be, sentenced to imprisonment, the officer in charge of the prison in which such youthful offender is confined, may bring him before the District or Sub-divisional Magistrate within whose jurisdiction such prison is situate; and such Magistrate may, if such youthful offender appears to be a proper person to be an inmate of a Reformatory School, direct him to be sent to a Reformatory School, and to be there detained for a period which shall be subject to the same limitations as are mentioned in section 8, sub-section (1), with reference to the period of detention thereby authorised.

(2) In the towns of Calcutta, Madras and Bombay a Presidency Magistrate shall be deemed to be a District or Sub-divisional Magistrate within whose jurisdiction the prison is situate for the purposes of this section.

[New.]

11. (1) Before directing any youthful offender to be sent to a Reformatory School under section 8, section 9 or section 10, the Court or Magistrate shall inquire into the question of his age and, after

taking such evidence (if any) as may be deemed necessary, shall record a finding thereon.

(2) In passing an order under section 8 or section 10, the Court shall, in determining the period for which the youthful offender is to be detained, have regard to the finding as to his age recorded under sub-section (1) of this section, and shall frame such order accordingly.

12. Every youthful offender directed by a Court or Magistrate to be sent to a Reformatory School shall be sent to such Reformatory School as the Local Government may appoint for the reception of youthful offenders so dealt with by such Court or Magistrate:

Government to determine Reformatory School to which such offenders shall be sent.

Court or Magistrate to be sent to a Reformatory School shall be sent to such Reformatory School as the Local Government

may appoint for the reception of youthful offenders so dealt with by such Court or Magistrate:

Provided that, if accommodation in a Reformatory School is not immediately available for such youthful offender, he may be confined in the juvenile ward or such other suitable part of a prison as the Local Government may direct pending his removal to a Reformatory School, and the period of imprisonment so undergone shall be treated as detention in a Reformatory School.

13. Nothing contained in section 8, section 10 or section 12 shall be deemed to authorize the detention in a Reformatory School of any person after he is found to be above the age of eighteen years.

Persons other than youthful offenders not to be detained in Reformatory Schools.

or section 12 shall be deemed to authorize the detention in a Reformatory School of any person after he is found to be above the age of eighteen years.

14. The Local Government may at any time order any youthful offender—

- (a) to be discharged from a Reformatory School;
- (b) if so discharged before the expiration of his original sentence, to be confined in such place as the Local Government may appoint until such sentence would have expired by effluxion of time, or for such shorter period as the Local Government may direct; or
- (c) to be removed from one Reformatory School to another such school situate within the territories subject to such Government: Provided that the whole period of his detention in a Reformatory School shall not be increased by such removal.

15. Nothing contained in the Code of Criminal Procedure, 1882, shall be construed to authorise any Court or Magistrate to alter or reverse any order passed under section 8, section 9 or section 10 for the detention of a youthful offender in a Reformatory School: Provided that, if the sentence of imprisonment in substitution for which detention in a Reformatory School was directed by any such order, is set aside on appeal or revision, such order for detention shall forthwith become inoperative and cease to have effect.

Orders under sections 8, 9 or 10 not subject to appeal or revision.

16. When a boy under the age of sixteen years is liable to be committed to prison under section 123 of the Code of Criminal Procedure, 1882, on failure to give security for his good behaviour,

Provisions of Act to be applicable in case of boy under sixteen years of age liable to imprisonment on failure to give security for good behaviour.

years is liable to be committed to prison under section 123 of the Code of Criminal Procedure, 1882, on failure to give security for his good

behaviour, the provisions of this Act shall be applicable to him as if he were a youthful offender within the meaning of section 4, clause (a).

III.—Management of Reformatory Schools.

[Sec. 12.]

17. (1) For the control and management of every Reformatory School, the Local Government shall appoint either (a) a Superintendent and a Committee of Visitors, or (b) a Board of Management.

(2) Every Committee and every Board so appointed must consist of not less than five persons, of whom two at least shall be Natives of India.

(3) The Local Government may suspend or remove any Superintendent or any Member of a Committee or Board so appointed.

[Sec. 13.]

18. (1) Every Superintendent so appointed may by license under his hand

Superintendent may license youthful offenders to employers of labour.

permit any youthful offender sent to a Reformatory School who has attained the age of fourteen years, to live under the charge of any trustworthy and respectable person named in the license, or any officer of Government or of a Municipality, being an employer of labour and willing to receive and take charge of him, on the condition that the employer shall keep such youthful offender employed at some trade, occupation or calling.

(2) The license shall be in force for three months and no longer, but may, at any time and from time to time until the expiration of the period for which the youthful offender has been directed to be detained, be renewed for three months at a time.

[Sec. 14.]

19. The license shall be cancelled at the desire of the employer named in the license;

and, should it be cancelled in consequence of any complaint made by the employer of misconduct on the part of the youthful offender,

If complaint of employers just, no fresh license until expiry of twelve months.

and should the Superintendent be of opinion that such complaint was well-founded and afforded just grounds for such cancellation, no other license in respect of the same youthful offender shall be given until twelve months after the expiration of the former license.

[Sec. 15.]

20. If during the term of the license the employer named therein dies, or ceases from business, or the period for which the youthful offender has been directed to be detained in the Reformatory School expires, the license shall thereupon cease and determine.

[Sec. 16.]

21. If it appears to the Superintendent that the employer has ill-treated the youthful offender, or has not adequately provided for his lodging and maintenance, the Superintendent may cancel the license.

22. (1) The Superintendent of a Reformatory School shall be deemed to be the guardian of every youthful offender detained in such school, within the meaning of Act No. XIX of 1850 (concerning the binding of apprentices).

Superintendent to be deemed guardian of youthful offenders.

[Sec. 17.]
[Here the words in italics are not new.]

(2) If it appears to the Superintendent that any youthful offender licensed under section 18 has behaved well during one or more periods of his license, the Superintendent may apprentice such youthful offender in a Reformatory School shall cease and the unexpired term (if any) of his sentence shall be cancelled.

23. (1) Every Committee of Visitors appointed under section 17 for a Reformatory School shall, at least once in every month,—

Duties of Committee of Visitors.

(a) visit the school, to hear complaints and see that the requirements of section 6 have been complied with, and that the management of the school is proper in all respects;

(b) examine the punishment-book;

(c) bring any special cases to the notice of the Inspector-General; and

(d) see that no person is illegally detained in the school.

(2) If any member of a Committee of Visitors so appointed fails or neglects, during a period of six consecutive months, to visit the school and assist in the discharge of the duties aforesaid, he shall cease to be a member of such Committee.

24. If, in exercise of the power conferred by section 17, the Local Government appoints a Board of Management for any Reformatory School, such Board shall have the powers and perform the functions of Superintendent under sections 18 to 22, both inclusive; and the license mentioned in section 18 may be under the hand of their chairman; and they shall be deemed to be the guardians of the youthful offenders detained in such school.

Powers of Board of Management.

[Sec. 19.]

25. The Local Government may declare any body of Trustees or Managers of a school, who are willing to act in conformity with the rules referred to in section 5, clause (b), to be a Board of Management under this Act, and thereupon such body or Managers shall have all the powers and perform all the functions of such Board of Management.

Power to appoint Trustees or other Managers of a school to a Board of Management.

[Sec. 20.]

26. (1) With the previous sanction of the Local Government, every Board of Management of a Reformatory School may from time to time make rules consistent with this Act—

Power of Board to make rules.

[Sec. 21.]

(i) to prescribe the articles which are to be deemed to be "prohibited articles"; and

(ii) to regulate—

- (a) the conduct of business of the Board ;
- (b) the management of the school ;
- (c) the education and industrial training of youthful offenders ;
- (d) visits to, and communication with youthful offenders ;
- (e) the terms and conditions under which any articles declared by the Board to be "prohibited articles" may be introduced into the school ;
- (f) the manner in which such articles are to be removed when introduced without due authority ;
- (g) the conditions and limitations under which such articles may be supplied outside the school to any youthful offender under order of detention therein ;
- (h) the conditions on which the possession by any such youthful offender of such articles may be sanctioned ;
- (i) the penalties to be imposed for the supply or possession of such articles when supplied or possessed without due authority ;
- (j) the punishment of offences committed by youthful offenders ; and
- (k) the granting of licenses for the employment of youthful offenders.

(2) In the absence of a Board of Management, the Local Government may make rules consistent with this Act to regulate for any Reformatory School the matters mentioned in any clause of subsection (1), other than clause (ii) (a), and also the mode in which the Committee of Visitors shall conduct their business.

IV.—Offences in relation to Reformatory Schools.

[New.]

27. Whoever, contrary to any rule made under section 26, introduces or attempts by any means whatever to introduce into any Reformatory School, or supplies or attempts to supply outside the limits of any Reformatory School to any youthful offender under order of detention therein, any prohibited article,

and every officer or person in charge of a Reformatory School who, contrary to any such rule, knowingly suffers any such article to be introduced into any Reformatory School, to be possessed by any youthful offender detained therein, or to be supplied to any such youthful offender outside its limits,

and whoever abets any offence made punishable under this section,

shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding six months, or to fine not exceeding two hundred rupees, or to both.

28. Whoever abets an escape, or an attempt [Sec. 23.]

to escape, on the part of a youthful offender from a Reformatory School, or from the employer of such youthful offender, shall be punishable with imprisonment for a term which may extend to six months, or with fine not exceeding one hundred rupees, or with both.

29. A Police-officer may, without orders from [Sec. 24.]

Arrest of escaped youthful offender. a Magistrate and without a warrant, arrest any youthful offender sent to a Reformatory School under this Act, who has escaped from such school or from his employer, and take him back to such school or to his employer.

V.—Miscellaneous.

30. The provisions of the Prisoners' Testimony [New.] Act, 1869, shall be ap- XV of 1869.

Application of Act XV of 1869 to youthful offenders detained in Reformatory Schools.

plied, so far as they can be made applicable, to youthful offenders detained in Reformatory Schools as if they were persons confined in jail within the meaning of that Act.

31. Notwithstanding anything contained in [New.]

this Act or in any other enactment for the time being in force, any Court may, if it shall think fit, instead of sentencing any youthful offender to transportation or imprisonment or directing him to be detained in a Reformatory School, order him to be—

(a) discharged after due admonition, or

(b) delivered to his parent or to his guardian or nearest adult relative, on such parent, guardian or relative executing a bond, with or without sureties, as the Court may require, to be responsible for the good behaviour of the youthful offender for any period not exceeding twelve months.

32. To section 397 of the Code of Criminal [New.] Procedure, 1882, the fol- X of 1882.

Amendment of section 397 of the Code of Criminal Procedure, 1882.

lowing paragraph shall be added, namely:—
"For the purposes of this section, a person detained in a Reformatory School shall be deemed to be a person undergoing a sentence of imprisonment."

STATEMENT OF OBJECTS AND REASONS.

IN 1889 it was brought to the notice of the Government of India that the law did not admit of the confinement of a youthful offender in a Reformatory School situated in a province other than that in which such youthful offender had been convicted and sentenced. A circular was accordingly issued consulting Local Governments and Administrations on the subject and at the same time asking for suggestions as to any further amendments in the law relating to Reformatory Schools which experience might have shown to be desirable. The replies to this reference, the recommendations made by the Prison Conference in 1892, certain representations made by the Chief Commissioner of Burma and papers regarding reformatories in the Colony of Victoria and the Straits Settlements have been considered by the Government of India, and, although the administrative difficulty referred to above has been removed by the passing of Act VII of 1894, which amended the Prisoners Act, 1871, it has transpired that numerous other amendments in the Reformatory Schools Act (V of 1876) are called for. Under the circumstances, it is now proposed to repeal and re-enact the latter Act so as to remove existing defects and incorporate all the emendations which have commended themselves to the Government of India, and with that object this Bill has been prepared for introduction.

2. The principal amendments in the Act of 1876 suggested by the Bill are briefly summarised below.

Clause 4 (a).—The expression “youthful offender” is defined in section 3 of the Act as meaning “any boy who, being at the time under the age of sixteen years, has been convicted of any offence punishable with imprisonment or transportation.” If this definition be, as seems probable, intended to refer to a boy who at the time of his conviction is under the age of sixteen, the words “under the age of sixteen” in section 7 are obviously redundant. The point is made clear by the definition drawn in this clause.

Clauses 8 and 10.—Sections 7 and 8 of the Act provide, *inter alia*, that the period for which a youthful offender is sent to a Reformatory School must be “in conformity with any rules made (by the Governor General in Council) under section 22.” It is thought that the discretion of the Courts in a matter of this kind ought not to be fettered by rules made by the Executive Government, and it is proposed, therefore, to remove section 22 and the reference thereto in sections 7 and 8 of the Act from the Statute-book and to incorporate in the new law the existing rules on the subject.

An alteration in the second paragraph of section 8 of the Act has at the same time been suggested with a view to confining the exercise of the powers there referred to District and Sub-divisional Magistrates and Magistrates of the first class specially empowered by the Local Government in this behalf. A consequential amendment in section 8 (2) of the Act is proposed by clause 10 (2) of the Bill.

Clause 9 is a new provision inserted with the object of enabling Magistrates who are not themselves competent to direct detention in a Reformatory School, to submit cases in which they consider that such detention is the appropriate punishment, for the orders of the District or Sub-divisional Magistrate, as the case may be, on the analogy of the procedure prescribed by section 349 of the Code of Criminal Procedure, 1882, when a subordinate Magistrate cannot himself pass a sufficiently severe sentence.

Clause 11 is another new provision expressly requiring the Court, before making an order for detention in a Reformatory School, to inquire into, and record a finding in respect of, the age of the youthful offender concerned.

Clause 12—It has been represented that it should be provided that, in the event of accommodation not being at once available for a youthful offender sentenced to be detained in a Reformatory School, such youthful offender should be liable to be confined in the juvenile ward or other suitable part of a prison until accommodation in a school can be provided for him, the period so passed in prison being taken into account as detention in a Reformatory. By clause 12 of the Bill it is proposed to add a proviso to section 9 of the Act to give effect to this recommendation.

Clause 14.—Under section 11 (b) of the Act, if the Local Government wishes to remove a youthful offender from a Reformatory School, but does not wish to discharge him absolutely from detention in custody, it must direct him to be confined elsewhere for “the residue of his sentence.” The exact meaning of the words just quoted is by no means free from doubt, and it is proposed to get rid of all ambiguity by recasting the whole provision so as to declare, *totidem verbis*, that the Local Government may in such a case order confinement in a place other than a Reformatory for any period not exceeding that within which the original sentence would have expired by effluxion of time.

Clause 15.—It is thought that the powers of an Appellate Court should be confined to dealing with the original sentence of imprisonment or transportation passed and that the order for detention in a Reformatory School should be maintained or quashed according as such sentence stands or falls. An explicit provision to that effect is proposed by this clause.

Clause 16 purports to render the provisions of the Act applicable to youths liable, under section 123 of the Code of Criminal Procedure, 1882, to be imprisoned on failure to give security for good behaviour. It seems only reasonable that, should there be any such youthful delinquents, power should be taken to deal with them in precisely the same way as with youths convicted of an “offence.”

Clause 18.—It is desirable to provide for the removal of a Visitor who is flagrantly remiss in the performance of his duty as such, and it is, therefore, proposed to add to section 18 of the Act a sub-section declaring that, if any Visitor fails during six consecutive months to visit the school for which he is appointed, or to assist in its management, he shall *ipso facto* cease to be a member of the visiting Committee.

Clauses 26 and 27.—By these clauses it is intended to amplify section 21 of the Act so as to adapt, to Reformatory Schools, which are not “prisons” within the meaning of section 3 of the Prisons Act (IX of 1894), the provisions of section 42 of that Act regulating the introduction, removal and supply of such articles as may be declared to be “prohibited.”

Clause 30.—Provisions such as those contained in the Prisoners’ Testimony Act (XV of 1869) are likely to be of use in connection with youthful offenders confined in Reformatory Schools, and it is here proposed to introduce a new section declaring that those provisions shall, *mutatis mutandis*, be deemed to apply.

Clause 31.—The substance of this clause has been taken from the Ordinance relating to Reformatories and Industrial Schools in the Straits Settlements. It provides for the discharge with a mere admonition of a youthful offender convicted of an offence, or for his being handed over to the custody of a parent, relative or guardian on the latter’s executing a bond for the culprit’s good behaviour for a limited period.

Clause 32.—To meet a difficulty brought to notice by the Chief Commissioner of Burma, this clause of the Bill aims at making it clear that, for the purposes of section 397 of the Code of Criminal Procedure, 1882, which provides for the infliction of a sentence on an offender already sentenced for another offence, a person detained in a Reformatory School shall be deemed to be a person undergoing a sentence of imprisonment.

3. The remaining amendments which it is proposed to make in the Act, are as usual shown by means of italics, and it is thought that they are not of such a character as to require explanation.

The 20th March 1896.

(Signed) J. WOODBURN.

S. HARVEY JAMES,
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 26th March 1896 :—

No. 15 of 1896.

A Bill to amend the Glanders and Farcy Act, 1879.

XX of 1879. WHEREAS it is expedient further to amend the Glanders and Farcy Act, 1879; It is hereby enacted as follows :—

1. In section 1 of the said Act, as amended by Act XXIV of 1886, the words "except the territories respectively administered by the Governor of Fort St. George in Council and the Lieutenant-Governor of Bengal" are repealed.

2. In sections 7 and 8 of the said Act for the word "Surgeon," wherever it occurs, the word "Practitioner" shall be substituted.

STATEMENT OF OBJECTS AND REASONS.

It has been decided that the Glanders and Farcy Act, 1879, should extend to the whole of British India, and clause 1 of this Bill accordingly repeals that part of section 1 of the Act, as amended by Act XXIV of 1886, which exempts from its operation the Provinces of Bengal and Madras. This will not, *per se*, cause the Act to come into operation in these Provinces, inasmuch as a further notification under section 3 by the Local Government concerned is necessary to bring its provisions into force in any part of the territories administered by such Local Government.

2. Objection has been taken on behalf of members and fellows of the Royal College of Veterinary Surgeons, who alone under the 44th and 45th Victoria, Chapter 62, would seem to be intended to be known as "Veterinary Surgeons," to the use of that style in sections 7 and 8 of the Glanders and Farcy Act, 1879, in pursuance of the provisions of which persons other than those covered by the English Statute may be appointed "Veterinary Surgeons." The opportunity has, therefore, been taken to substitute the word "Practitioner" for the word "Surgeon" in the Indian Act.

The 23rd March 1896.

(Signed) J. WOODBURN.

S. HARVEY JAMES,
Secretary to the Government of India.