

VACCINATION ACT, 1880

13 of 1880

[9th July, 1880]

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STATEMENT OF OBJECTS AND REASONS "Owing to the vast number of death caused every year by small-pox in India, it has been found necessary to enact special measures for checking the growth and spread of the disease and preventing the ravages caused by it. This Bill has been drafted with the object of providing the required law. Its provisions are intended to extend to the

municipalities and military cantonments of all those provinces which do not possess local legislatures. But it has been left to the power of the Local Governments to extend the provisions of the proposed law to any municipality and, with the previous sanction of the Governor-General of India in Council, to any military cantonment of British forces situate in British India and to the power of the Govern- nor-General in Council to extend them to any cantonment situate within the territories of Native States. Most of the provisions of this Bill have been taken from the Bengal Inoculation Act of 1865 and the Bombay Vaccination Act of 1877, with such modifications as are deemed neces- sary in consideration of the circumstances of the provinces in which the proposed law is intended to be promulgated. In preparing the draft, it has been especially kept in view that the proposed law should find popularity among the people, and not interfere with their customs and ways of life. Provision is made to enable municipalities to establish vaccination quarters and stations which would facilitate the vaccination of children and render the operation of the proposed law free from practical difficulties. In order to secure the success of the proposed legislation, it has been provided that children may be vaccinated at their own residences, whilst the cooperation of Municipal Commissioners most of whom usually are Native gentlemen of respectability and local influence, required by the Bill i s calculated to secure its popularity. For similar reasons, the provisions of section 16 and section 17 have been framed to restrict as far as possible the interference of the police; and, by entrusting Municipal Commissioners and the Superinten- dent of Vaccinators with the duty of keeping registers of the names of unprotected children and making investigations, it is expected that all unnecessary inconvenience will be avoided which would arise from enforcing the attendance of children and their guardians before Magistrates. Considering the physical constitution and the notions of the natives of India, the minimum age for vaccination has been fixed at one year and the maximum at fourteen years. In consideration of the prejudices (whether well-founded or not) of the Native gentry against the extraction of virus from the arms of their children, the Bill expressly prohibits such a practice; and provision is made for securing the virus under special circumstances with the consent of the parents or guardians of children, bypayment of compensation. Special care has been taken in providing punishments for the contravention of the pro- posed law, and they have been restricted for the most part to pecuniary fines.

As the circumstances of different parts of the country are not alike it has been left to the discretion of the Local Governments, and in case of military cantonments of British forces in Native States to the Governor-General of India in Council, to frame rules, not inconsistent with the proposed law. for facilitating its practical working. At the same time. the essential principles which should be kept in mind in framing such rules have been expressly specified in section 21 of the Bill".-Gazette of India, 1880, Part V, p. 80.

1. Short title. Application :-

This Act may be called THE VACCINATION ACT, 1880; and it shall apply only to such municipalities and cantonments situate in ¹[Uttar Pradesh, ² [Punjab as it existed immediately before the 1st November, 1956], the Central Provinces, Assam, Delhi, Ajmer] and Coorg as it may be extended to in manner hereinafter provided.

1. Original words have been successively amended by A.O. 1937; A.C.A.O., 1948 and A.L.O. 1950 as above.
2. Substituted for the word "Punjab" by 2 A.L.O. 1956.

2. Interpretation-clause :-

In, this Act , unless there is something, repugnant in the subject or context,- "Municipal Commissioners."

(1) the expression "Municipal Commissioner" means a body of Municipal Commissioners or a Municipal Committee constituted under the provisions of any enactment for the time being in force "parent."

(2) "parent" means the father of a legitimate child and the mother of an illegitimate child "guardian."

(3) "guardian" includes any person who has accepted or assumed the care or custody of: any child "unprotected child."

(4) "unprotected child" means a child who has not been protected from small-pox by having had that disease either naturally or by inoculation, or by having been successfully vaccinated, and who has not been certified under this Act to be insusceptible to vaccination "inoculation."

(5) "inoculation" means any operation performed with the object of producing the disease of small-pox in any person by means of variolous matter "vaccination-circle."

(6) "vaccination-circle" means one of parts into which a municipality

or cantonment has been divided under this Act for the performance of vaccination "vaccinator."

(7) "vaccinator" means any vaccinator appointed under this Act to perform the operation of vaccination. Or any; private person authorized ¹[* * *] in any manner hereinafter provided to perform the same operation; and includes a "Superintendent of vaccination"

(8) "vaccination season" means the period from time to time fixed by the ² [State Government] for any local area under its administration by notification in the Official Gazette, during which alone vaccination may be performed under this Act.

1. The words "by the Local Government" were omitted by the Decentralization Act, 1914 (4 of 1914), S.2 and Sch. Pt. I..

2. Substituted for the words "Provincial Government" by A.L.O. 1950.

3. Extension of Act to municipalities :-

A majority in number of the persons present at a meeting of the Municipal Commissioners specially convened in this behalf may apply to the State Government to extend this Act to the whole or any part of a municipality, and thereupon the State Government may, if it thinks fit, by notification published in the Official Gazette, declare its intention to extend this Act in the manner proposed. Any inhabitant of such municipality or part thereof who objects to such extension may within six weeks from the date of such publication, send his objection in writing to the Secretary to the State Government, and the State Government shall take such objection into consideration. When six weeks from the said publication have expired the State Government, if no such objections have been sent as aforesaid, or (when such objections have been so sent) if in its opinion they are insufficient, may by like notification effect the proposed extension.

4. Extension to cantonments :-

The State Government may ¹ [* * *] by notification in the Official Gazette, extend this Act to the whole or any part of a military cantonment.

1. The words "subject to the control of the Governor General in Council" were omitted by the Devolution Act, 1920 (38 of 1920), S. 2 and Sch, I.

5. Power to withdraw local area from operation of Act :-

The State Government may, by notification in the Official Gazette

withdraw any local area in a municipality or ¹ [* * *] any local area in a cantonment, from the operation of this Act.

1. The words "subject to the control of the Governor General in Council" were omitted by the Devolution Act, 1920 (38 of 1920), S. 2 and Sch. I.

6. Prohibition of inoculation :-

In any local area to which the provisions of this Act apply, inoculation shall be prohibited; and Inoculated persons not to enter, without certificate, local area subject to Act. no person who has undergone inoculation shall enter such area before the lapse of forty days from the date of the operation, without a certificate from a medical practitioner of such class as the State Government may from time to time by written order authorize to grant such certificates, stating that such person is no longer likely to produce small-pox by contact or near approach.

7. Vaccination-circles :-

Every local area to which this Act applies shall be a vaccination-circle, or shall in manner hereinafter provided be divided into a number of such circles; Vaccinators. one or more vaccinators shall be appointed in manner hereinafter provided for each such circle; and Superintendent of vaccination. one or more Superintendents of vaccination shall be appointed in manner hereinafter provided for each such local area.

8. Private vaccinators :-

The ¹ [Commissioner] may by written licence authorize private vaccinators to perform vaccination in any vaccination-circle, and may sus- pend or cancel any such licence.

1. Substituted for the words "Local Government" by the Decentralization Act, 1914 (4 of 1914), S. 2 and Sch., Pt. I.

9. Unprotected children to be vaccinated :-

When any unprotected child, hav- ing attained the age of 6 months, has resided for a period of one month during the vaccination-season in any local area to which the provisions of this Act apply, and has not at the expiration of such period attained the age; if a boy, of fourteen years, and if a girl, of eight years, the parent or guardian of such child shall take it, or cause it to be taken, to a vaccinator to be vaccinated, or send for a vaccinator to vaccinate it. Vaccinator to vaccinate children, or deliver certificates of postponement. Such vaccinator shall vaccinate the child and

deliver to its parent or guardian a memorandum stating the date on which the vaccination has been performed and the date on which the child is to be inspected in order to ascertain the result of the operation, or shall, if he finds such child in a state unfit for vaccination, deliver to its parent or guardian a certificate under his hand to the effect that the child is in a state unfit for vaccination for the whole or part of the current vaccination-season.

10. Inspection after vaccination :-

The parent or guardian of every child which has been vaccinated under section 9 shall, on the date of inspection stated in the memorandum, take the child, or cause it to be taken, to a vaccinator for inspection, or get it inspected at his own house by a vaccinator; and such vaccinator shall then append to the memorandum a certificate stating that the child has been inspected and the result of such inspection.

11. Procedure when vaccination is successful :-

When it is ascertained at the time of inspecting a child under section 10 that the vaccination has been successful, a certificate shall be delivered by the vaccinator to the parent or guardian of such child to that effect, and such child shall thereafter be deemed to be protected.

12. Procedure when vaccination is unsuccessful :-

When it is ascertained as aforesaid that the vaccination has been unsuccessful the parent or guardian shall, if the vaccinator so direct, cause the child to be forthwith again vaccinated and subsequently inspected in manner hereinbefore provided.

13. Procedure when child is unfit for vaccination :-

A certificate granted under section 9 showing the unfitness of a child for vaccination shall remain in force for the period stated therein, and on the termination of that period, or, if that period terminates after the vaccination-season is over, when the next vaccination, season begins, the parent or guardian of such child shall take the child, or; cause it to be taken, to a vaccinator to be vaccinated, or procure its vaccination at his own house by a vaccinator: Renewal of postponement certificates. Provided that, if the child is still found to be in a state unfit for vaccination, the certificate granted under section 9 shall be renewed.

14. Certificates of insusceptibility of successful vaccination :-

If the Superintendent of vaccination is of opinion that a child which has been three times unsuccessfully vaccinated is insusceptible of successful vaccination, he shall deliver to the parent or guardian of such child a certificate under his hand to that effect; and the parent or guardian shall thenceforth not be required to cause the child to be vaccinated.

15. What lymph to be used :-

The vaccination of a child shall ordinarily be performed with such lymph as may be prescribed by the rules to be made under this Act: Provided that, 1st, if animal-lymph is so prescribed and the parent or guardian of any child desires that such child shall be vaccinated with human lymph, it shall be so vaccinated; and . 2nd, if in any local area in which animal lymph is procurable human lymph is so prescribed, and the parent or guardian of any child desires that such child should be vaccinated, with animal-lymph, and tenders to the vaccinator the amount of such fee, not exceeding one rupee, as may be fixed by such rules in this behalf, such child shall be so vaccinated.

16. No fee to be charged except by private vaccinator :-

No fee shall be charged by any vaccinator except a private vaccinator to the parent or guardian of any child for any of the duties imposed on such vaccinator by or under the provisions of this Act;

Provided that it shall be lawful for a vaccinator to accept a fee for vaccinating a child by request of the parent or guardian elsewhere than in the circle for which such vaccinator is appointed.

17. Duties of Superintendent of vaccination. Notice to parent or guardian neglecting to comply with Act :-

The superintendent of vaccination, in addition to the other duties imposed on him by or under the provisions of this Act, shall ascertain whether all unprotected children, under the age of fourteen years if boys, and under the age of eight years if girls, within the local area under his superintendence have been vaccinated; and if he has reason to believe that the parent or guardian of any such child is bound by the provisions hereinbefore contained to procure the vaccination of such child or to present it for inspection, and has omitted so to do, he shall personally go to the house of such parent or guardian, and there make enquiry, and shall, if the fact is proved, forthwith deliver to such parent or guardian, or cause to be affixed to his house, a notice requiring

that the child be vaccinated, or (as the case may be) that it be presented for inspection, at a time and place to be specified in such notice.

18. Order by Magistrate when notice not complied with :-

If such notice is not complied with, the Superintendent of vaccination shall report the matter to the Magistrate of the District, or such Magistrate as the State Government or the Magistrate of the District may from time to time appoint in this behalf; and the Magistrate receiving such report shall summon the parent or guardian of the child and demand his explanation, and shall, if such explanation is not satisfactory, make an order in writing directing such parent or guardian to comply with the notice before a date specified in the order. Procedure when order not obeyed. If on such date the order has not been obeyed, the Magistrate shall summon the parent or guardian before him, and unless just cause or excuse is shown, shall deal with the disobedience as an offence punishable under section 22 . Magistrates to be non-officials. The Magistrates appointed under this section shall, as far as is conveniently practicable, ¹ [not be paid servants of Government].

1. Substituted for the words "be Native of India, and not paid servants of the Crown" by A.L.O., 1950.

19. Power to make rules for municipalities :-

When this Act has been applied to any municipality or any part thereof, the Municipal Commissioners may, from time to time, make rules consistent with this Act for the proper enforcement of this. Act within the limits to which it applies. Such rules shall be made in the manner in which, under the law for the time being in force, the ¹[Municipal] Commissioners make rules or bye-laws for the regulation of other matters within the limits of the municipality, and shall, when confirmed by the ²[Commissioner] and published in the Official Gazette, have the force of law:

Provided that the ² [Commissioner] may at any time rescind or modify any such rule.

1. Inserted by the Decentralization Act, 1914 (4 of 1914), S. 2 and Schedule, Pt. I.

2. Substituted for the words "Local Government", Inserted by the Decentralization Act, 1914 (4 of 1914), S. 2 and Schedule, Pt. I.

20. Power to make rules for cantonments :-

When this Act has been applied to any cantonment or any part

thereof, the State Government may, from time to time, ¹ [* * *] make such rules.

1. The words "subject to the control of the Governor-General in Council" repealed by the Devolution Act, 1920 (38 of 1920). S. 2 and Schedule I.

21. What rules under sections 19 and 20 may provide for :-

The rules to be made for any local area under section 19 , or section 20 may. among other matters, provide for-

(a) the division of such local area into circles for the performance of vaccination;

(b) the appointment of a place in each vaccination-circle as public vaccine-station, and the posting of some distinguishing mark in a conspicuous place near such station:

(c) the qualifications to be required of public vaccinators and Superintendents of vaccination;

(d) the authority with which their appointment, suspension and dismissal shall rest:

(e) the time of attendance of public vaccinators at the vaccine-stations, and their residence within the limits of the vaccination-circles,

(f) the distinguishing mark or badge to be worn by them;

(g) the amount of fee chargeable by private vaccinators, and their guidance generally in the performance of their duties:

(h) the facilities to be afforded to people for procuring the vaccination of their children at their own houses;

(i) the grant and form of certificates of successful vaccination, of unfitness for vaccination or of insusceptibility of vaccination:

(j) the nature of the lymph to be used and the supply of a sufficient quantity of such lymph:

(k) the fee to be paid for vaccination with animal-lymph under section 15 :

(l) the fee to be paid to a public vaccinator for vaccinating a child beyond the vaccination circle at the request of the parent or guardian of the said child;

(m) the preparation and keeping of registers showing- the names of children born in such local area on or after the date of the applica- tion of this Act: the names of unprotected children born in such local area previous to the ap- plication of this Act, and who are, at the time this Act is applied, under the age of fourteen years if boys, and of eight years if girls: the names of unprotected boys and girls respectively under those ages brought within such local area at any time after the application of this Act and who have resided there for a month; the result of each vaccination or its postponement, and the delivery of certifi- cates, if any;

(n) the assistance to be given by the Municipal Commissioners and municipal ser- vants in the preparation of these registers, and in other matters; and

(o) the preparation of vaccination-reports and returns.

22. Punishment of offences :-

Whoever commits any of the undermentioned offences (that is to say) :-

(a) violates the provisions of section 6 ,

(b) neglects without just excuse to obey an order made under section 18 ,

(c) breaks any of the rules made under section 19 or section 20 , or

(d) neglects without just cause to obey an order made under section 18 after having been previously convicted of so neglecting to obey a similar order made in respect of the same child, shall be punished as follows (that is to say):- in the case of the offence mentioned in clause (a), with simple imprisonment for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both; in the case of the offences mentioned in clauses (b) and (c), with fine which may extend to fifty rupees; and in the case of the offence mentioned in clause (d), with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

23. Municipal funds to receive fees and meet expenditure :-

The amount of all fees ¹ [* *] realized, and the amount of all expenditure incurred, under this Act in any municipality shall respectively be credited to and paid from the Municipal Fund.

1. The words "and tines" omitted by A.O. 1937.