

**JOINT/SELECT
COMMITTEE REPORT
LEGISLATIVE
ASSEMBLY
1925**

The Obscene Publications Bill

List of Reports of Select or Joint Committees
presented to the Legislative Assembly in 1925.

Serial No.	Short title of the Bill.	Date of presentation.	Remarks.
1.	The Indian Soldiers (Litigation) Bill.	2.2.25.	
2.	The Obscene Publications Bill.	11.2.25.	
3.	The Code of Civil Procedure (Amendment) Bill.	13.2.25.	Copy not available
4.	The Indian Penal Code (Amendment) Bill (Age of Consent) by Dr. Hari Singh Gour.	23.2.25.	- do -
5.	The Cotton Gining and Pressing Factories Bill.	23.2.25.	
6.	The Indian Tariff (Amendment) Bill.	5.3.25.	
7.	The Indian Succession Bill.	26.8.25.	Report of the Joint Committ.
8.	The Indian Succession (Amendment) Bill (Sec. 27).	26.8.25.	- do -
9.	The Code of Criminal Procedure (Amendment) Bill (Use of firearms) by Dewan Bahadur T. Rangachariar.	26.8.25.	
10.	The Indian Trade Unions Bill.	31.8.25.	
11.	The Indian Carriage of Goods by Sea Bill.	31.8.25.	- do -
12.	The Coal grading Board Bill.	31.8.25.	
13.	The Indian Limitation (Amendment) Bill.	3.9.25.	
14.	The Court-fees (Amendment) Bill.	14.9.25.	
15.	The Contempt of Courts Bill.	16.9.25.	

LEGISLATIVE DEPARTMENT.

We, the undersigned, Members of the Select Committee to which the Bill to give effect to certain articles of the International Convention for the suppression of the circulation of, and traffic in, Obscene Publications, was referred, have considered the Bill and have now the honour to submit this our report, with the Bill as amended by us annexed thereto.

2. We have considered at length the desirability of extending the scope of the *Exception* to new section 292 of the Indian Penal Code so as to cover religious, artistic and scientific writings, etc., but we have come to the conclusion that it would be difficult to do so without including writings, etc., which are not *bona fide* of the nature stated. Further, there is a substantial body of case law which makes it clear that *bona fide* religious, artistic and scientific writings, etc., are not obscene within the meaning of the Indian Penal Code.

3. We have preferred to amend clause 3 of the Bill so as to limit the power of issuing warrants to District, Presidency and Sub-Divisional Magistrates and to add a new clause, clause 4, by which a person accused of offences under new sections 292 and 293 may claim to be tried by jury by a Court of Session. If then the accused person contends that the writings, etc., in question are not of an obscene nature and he is of opinion that the issue of fact involved will not be easy to decide, he can have the case referred to a thoroughly competent tribunal.

We do not recommend any further change in the Bill.

4. The Bill was published in the Gazette of India, dated the 6th September, 1924.

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

A. P. MUDDIMAN.*

K. C. NEOGY.

M. C. NAIDU.

GANGANAND SINHA.

NILAKANTHA DAS.

K. V. REDDI.

C. DURAISWAMI AIYANGAR.

S. D. MISRA.

The 10th February, 1925.

* Subject to Minute of dissent.

MINUTE OF DISSENT.

An offence under section 292 of the Indian Penal Code is at present punishable with three months' imprisonment and is triable by a Magistrate of the First or Second class.

The majority of the Committee in proposing new clause + suggest that at the option of the accused the trial should be by a Court of Session with a jury. The law as it stands has been in force for many years and I am unable to agree that so drastic a change in procedure is necessitated by the Bill. The only change in punishment which the Bill makes is the enhanced punishment provided for by the new section 293 which it proposes to add to the Code, enhancing the punishment to six months in the case of offences in respect of young persons. The Committee appear to be alarmed at the prospect of a large number

of additional offences under the law as amended being brought to trial and to fear that Courts would adopt an unreasonable interpretation of the word "obscene".

The law appears to have been well settled by the various High Courts and there seems no reason to suppose that Magistrates will go wrong on the law laid down by those Courts.

In the circumstances, therefore, I regret I cannot agree with the view taken by the Committee on this point. My personal view is that the apprehensions would be met by providing that the trial of these cases should be restricted to Presidency Magistrates and First Class Magistrates which, with the safeguard of an appeal, would seem to be sufficient.

A. P. MUDDIMAN.

The 9th February, 1925.

[Words printed in italics indicate amendments made by the Select Committee.]

A
BILL

TO

Give effect to certain articles of the International Convention for the Suppression of the Circulation of, and Traffic in, Obscene Publications.

WHEREAS it is expedient to amend certain provisions of the Indian Penal Code and of the Code of Criminal Procedure, 1898, for the purpose of giving effect to the International Convention for the Suppression of the Circulation of, and Traffic in, Obscene Publications signed at Geneva on behalf of the Governor General in Council on the 12th day of September, 1923; It is hereby enacted as follows:—

1. This Act may be called the Obscene Publications Act, 1925.
Short title.

2. For sections 292 and 293 of the Indian Penal Code the following sections shall be substituted, namely:—
Substitution of new sections for sections 292 and 293, Act XLV of 1860.

“292. Whoever—

Sale, etc., of obscene books, etc.

- (a) sells, lets to hire, distributes, publicly exhibits or in any manner puts into circulation, or for purposes of sale, hire, distribution, public exhibition or circulation makes, produces or has in his possession any obscene book, pamphlet, paper, drawing, painting, representation or figure or any other obscene object whatsoever, or
- (b) imports, exports or conveys any obscene object for any of the purposes aforesaid, or knowing or having reason to believe that such object will be sold, let to hire, distributed or publicly exhibited or in any manner put into circulation, or
- (c) takes part in or receives profits from any business in the course of which he knows or has reason to believe that any such obscene objects are, for any of the purposes aforesaid, made, produced, purchased, kept, imported, exported, conveyed, publicly exhibited or in any manner put into circulation, or
- (d) advertises or makes known by any means whatsoever that any person is engaged or is ready to engage in any act which is an offence under this section, or that any such obscene object can be procured from or through any person, or
- (e) offers or attempts to do any act which is an offence under this section,

shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Exception.—This section does not extend to any representation sculptured, engraved, painted or otherwise represented on or in any temple, or on any car used for the conveyance of idols, or kept or used for any religious purpose.

293. Whoever sells, lets to hire, distributes, exhibits or circulates to any person under the age of twenty years any such obscene object as is referred to in the last preceding section, or offers or attempts so to do, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both."

3. (1) In sub-section (1) of section 98 of the Code of Criminal Procedure, 1898,— V of 1898.

Amendment of section 98, Act V of 1898.

(i) after the words " kept or deposited in any place " the following paragraph shall be inserted, namely :—

" or, if a District Magistrate, Sub-Divisional Magistrate or a Presidency Magistrate, upon information and after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit, sale, manufacture or production of any obscene object such as is referred to in section 292 of the Indian Penal Code or **XLV of 1860.** that any such obscene objects are kept or deposited in any place ;"

(ii) in clause (c), after the word " materials " the words " or of any such obscene objects " shall be inserted ;

(iii) in clause (d), after the word " materials " the words " or such obscene objects " shall be inserted ; and

(iv) in clause (e), after the words " or materials," where they first occur, the words " or such obscene objects " shall be inserted, and after the words " or for forging " the following words shall be added, namely :—

" or the said obscene objects to have been or to be intended to be sold, let to hire, distributed, publicly exhibited, circulated, imported or exported."

(2) In the Second Schedule to the same Code,—

(i) for the entries in column 8 against sections 292 and 293 the words " Court of Session, Presidency Magistrate, or Magistrate of the first or second class," shall be substituted ;

(ii) for the entry in column 2 against section 293 the words " Sale, etc., of obscene objects to young persons " shall be substituted ; and

(iii) for the entry in column 7 against the same section the words " Imprisonment of either description for 6 months, or fine, or both " shall be substituted.

(3) In the Fifth Schedule to the same Code, in Form IX, after the words "or seals, or coins" the words "or obscene objects" shall be inserted.

4. *If any person under trial before a Magistrate for an offence under section 292 or section 293 of the Indian Penal Code, at any time before he is asked if he has any cause to show why he should not be convicted, claims to be tried by the Court of Session, the Magistrate shall, if he does not acquit the accused, commit the case for trial by that Court and the trial before that Court shall be by jury.* XLV of 1860

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

Report of Select Committee on the Bill to
give effect to certain articles of the
International Convention for the
Suppression of the Circulation of, and
Traffic in, Obscene Publications.

(With Bill as amended.)