

64 4

JOINT/SELECT COMMITTEE REPORTS OF LEGISLATIVE ASSEMBLY -1931

The Indian Press Bill

3624 (4)
30-3 17

Act & Bills section

FB-60, PLB

List of Reports of Select or Joint Committees
Presented in the Legislative Assembly in 1931.

Serial No.	Short title of the Bill.	Date of presentation.	Remarks.
1.	The Indian Merchant Shipping (Amendment) Bill.	11.2.31.	
2.	The Gold Thread Industry (Protection) Bill.	11.2.31.	
3.	The Steel Industry (Protection) Bill.	11.2.31.	
4.	The Indian Press Bill.	21.9.31.	

LEGISLATIVE ASSEMBLY.

WE, the undersigned, Members of the Select Committee to which the Bill to provide for the better control of the press 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. *Long title, preamble and clause 1 (1).*—We have recast the long title and preamble and amended the short title in order to emphasise the special and emergent character of this measure.

Clause 1 (3).—We are of opinion that it is unnecessary to give the Governor General power to prolong the life of this measure for a longer period than two years from its commencement. Thereafter the question of its extension should be decided by the Legislature.

Clause 3.—We have made many important changes in this clause, with the intention of preserving its efficacy against the offending elements of the press and at the same time relaxing its provisions in favour of those elements which are not likely to offend.

(a) By sub-clause (1) in the original Bill the Magistrate was required to take security in all cases except where "for special reasons to be recorded by him" he thought fit to dispense with the security. The sub-clause as amended by us gives the District Magistrate or Presidency Magistrate the power to demand security, but requires him to give reasons for so doing. We do not propose that his order should be open to a judicial appeal, as it must necessarily be based on grounds specially within the cognisance of executive authorities—and they may be of a nature which should not be produced in open Court; but the fact that he has to record an order, which will be subject to scrutiny by superior executive authority, will act as a restraint on arbitrary action.

(b) We have reduced the security which may be taken under sub-section (1) to one thousand rupees, with no minimum, and we have reduced the maximum security which may be taken under sub-section (3) to three thousand rupees. We consider that these amounts should be sufficient to secure the good behaviour of the type of press which is likely to print or publish matter which encourages murder but are not excessive.

(c) Under both sub-clause (1) and sub-clause (3) we have allowed the keeper of the press a period of ten days within which to find the money required to cover the security demanded from him; and in both cases we have added words which make it quite clear that the option to deposit cash or government securities lies with the keeper of the press and not with the Magistrate.

(d) We have already mentioned in (a) above that we have been unable to make provision for an application to the High Court against an order under sub-clause (1) requiring security, but instead we propose that in all cases where security

has been given by a new press and that press publishes no objectionable matter for a period of three months, the deposit will be returned. Such a press will then be on the same footing as a press now in existence, and will not be open to any demand for security unless it prints or publishes objectionable matter and action is taken against it under sub-clause (3).

(e) We have also decided that an application to the High Court should lie against all orders whereunder presses are required to furnish security under sub-clause (3), and we have incorporated amendments which will secure that the High Court will have materials on which to decide the application; that is to say, the Local Government will now be required to state or describe the offending matter on which it bases its demand for security.

Clause 4.—We have recast that portion of sub-clause (1) which describes the matter which is to be treated as offending matter throughout the Bill. This portion of the clause has been severely criticised on the ground that it is much too wide and might cover matter conceived and written in a spirit of reasonable criticism or comment. We have, therefore, deleted all mention of "allusion, metaphor" and so forth, and have stated in precise terms the nature of the matter which is to be deemed objectionable; and we leave it to the High Court, in the last resort, to decide if any particular matter, however expressed, does in fact fall within the scope of the clause.

We have also added an explanation which safeguards *bona fide* literary and historical writings.

Inasmuch as in clause 3 we have provided for a period of ten days within which the keeper of the press is allowed to find his security, it is necessary to make provision for the case where the press is used to publish offending matter before the security is deposited. The latter portion of sub-clause (1), therefore, provides for the case where security has been deposited, and also for the case where security has not been deposited. In the latter case, as there is no other means of making the order effective, we have provided that the press itself may be forfeited. An application to the High Court will lie against this forfeiture.

We have also made certain small amendments consequential on those made in clause 3.

Clauses 5 and 6.—These clauses as amended should be read together as they now provide for a possible sequence of events in which an offending press may give security, publish objectionable matter, and forfeit the security. It must then deposit fresh security, and the sequence may be repeated. We have made a very important amendment by the deletion of clause (b) of clause 6, relating to the power to forfeit the press. We now contemplate that so long as the keeper of an offending press furnishes security as required under these clauses, his press will never be subject to forfeiture.

Clauses 7, 8, 9 and 10.—These clauses relate to newspapers and are the same, *mutatis mutandis*, as clauses 3, 4, 5 and 6, relating to printing presses. We have made amendments in clauses 7 to 10 corresponding to the amendments we have made in clauses 3 to 6, and for the same reasons, which need not be repeated.

Clause 11.—The amendments made here are consequential and are intended to make the clause provide for cases where time is given to deposit security.

Clause 12.—Some amendments in sub-clause (1) are also consequential on the provision we have made whereby time is given for the furnishing of security. It will be seen that in all cases the keeper of the press is given ten days to deposit his security and will be allowed to continue to use his press during that time. In cases falling under clause 3 he is given ten days from the time when security is demanded; in cases falling under clause 5 he is allowed by sub-clause (2) of clause 4, or sub-clause (2) of clause 6, as the case may be, ten days within which he may continue to use the press and arrange to find the security which under clause 5 he will be required to deposit.

In sub-clause (2) we have deleted the reference to other printing presses found in or upon the premises where the offending press was used, as we consider that this might give rise to hardship.

We have also provided in sub-clause (3) for the case where a newspaper is required but fails to deposit security. We propose that the declaration in respect of the newspaper under section 5 of the Press and Registration of Books Act, 1867, should be annulled on the expiry of the time allowed.

Clause 23.—Sub-clause (1) has been amended so that it will cover orders requiring the deposit of security, or orders of forfeiture, which are based on specified portions of objectionable matter. We have also amended this sub-clause so that no burden of proof shall lie on either party. In addition to this, we have added a new sub-clause (2) to provide for an application to the High Court in the case of a printing press which has been forfeited under sub-clause (2) of clause 12, to set aside the order of forfeiture on the ground that the press had not been used in contravention of that clause.

Clauses 25 and 26 have been amended consequentially.

3. The Bill was published in the Gazette of India, dated the 12th September, 1931.

4. 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.

ARTHUR MOORE.

J. CRERAR.

M. SHAH NAWAZ.

*H. S. GOUR.

*B. SITARAMA RAJU.

*B. R. PURI.

*C. S. RANGA IYER.

F. X. DE SOUZA.

S. R. PANDIT.

A. SUHRAWARDY.

*A. HOON.

The 20th September, 1931.

* Subject to a minute of dissent.

MINUTE OF DISSENT.

While we acknowledge that the Select Committee have materially recast the Bill submitted to it for re-consideration, we feel constrained to have to record our considered dissent from several provisions which we think require to be further amended.

We categorise them as follows :—

Clause 1.—We think that the preamble is too wide because the word “ violence ” in the preamble though it is qualified in clause 4 (a) of the Bill is still susceptible of misconstruction and might conceivably be used to enlarge the operation of the clause dealing with such offence. We therefore suggest that certain qualifying words such as “ certain acts of violence ” be added. In this connection we invite reference to our comment under clause 4.

Clause 2 (3).—Some of us think that the power given to the Governor General in Council to extend the Act to a further period not exceeding one year is unjustified.

Clause 3.—The principle of section 3 requiring a new press to give security is we think unsound. We think that every press must be presumed to start with innocent intentions, and if it abuses its privilege it can be dealt with as provided in clause 3 (3).

Assuming that security is to be taken from a new press we think that the Magisterial order should be appealable to the High Court. In this connection we would note that the Government of India Act gives the High Court general power of superintendence, direction and control over all courts subordinate thereto, and there is no reason why that control should be withheld in a magisterial order passed under this clause.

We think that the proceedings before the Magistrate, even though summary, should be of a judicial character and the accused should be given an opportunity to show cause before any order to his prejudice is passed.

In view of the mischief aimed at and small presses used for the dissemination of such news the amount of the security seems to us excessive.

We need scarcely add that three months' probation allowed under clause 3 should be omitted if appeal is allowed to the High Court.

Clause 4.—The wording of this clause is still too wide and might be construed to extend to cases not intended to be covered by it.

Particularly in clause 4 (b) the closing lines to the effect that any printing press which directly

or indirectly expresses approval or admiration “ of any person, real or fictitious, who has committed or is alleged or represented to have committed any such offence ” are too wide and might expose a person who incidentally comments upon the merits of the offender unconnected with the offence and without detracting from its gravity to the penalty of the section. We think that the clause should be made subject to the dominating purpose of clause (a).

We think that the phrase “ cognizable offence involving violence ” is apt to be misunderstood and, if so, misapplied. The criminal jurisprudence of the country knows what cognizable offence is, but the phrase “ involving violence ” is new and its application might be given an elasticity incommensurate with the real purpose of the Bill.

Clause 5.—In view of what we have stated before, namely, that the offending presses are small and inconsequential as regards their value, the maximum sum of Rs. 10,000 fixed for deposit of further security is excessive.

We have already made it clear that before forfeiture is ordered or a deposit of a sum is demanded the salutary rule of *audio alteram partem* should not be departed from.

Clause 7.—We do not think that it was the intention of the Press Act of 1910 that double security should be demanded from a person when he is both the keeper and publisher. In this case we think that the person being the same only one security should suffice.

Clause 8.—We think that the High Court should have jurisdiction to revise orders passed under this clause.

Clause 9.—We think that the High Court should have jurisdiction to go into the *quantum* of security demanded under this clause.

Clause 23.—We have already commented upon the limited powers given to the High Courts. In particular we observe that this clause does not give power to enquire whether the document in question was or was not published by the accused.

Clause 30.—We strongly feel that the forfeiture under this clause should be subject to all *bona fide* incumbrances created on the press, since forfeiture would otherwise penalise wholly innocent third parties, since forfeiture of the property by the Crown creates a paramount right and would destroy all incumbrances, charges and claims, however well founded, in favour of persons, however innocent.

H. S. GOUR.

B. R. PURI.

B. SITARAMA RAJU.

A. HOON.

C. S. RANGA IYER.

SIMLA :

The 20th September, 1931.

[AS AMENDED BY THE SELECT COMMITTEE.]

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

A

BILL

TO

Provide against the publication of matter inciting to or encouraging murder or violence.

WHEREAS it is expedient to provide *against the publication of matter inciting to or encouraging murder or violence*; It is hereby enacted as follows :—

1. (1) This Act may be called the Indian Short title, extent and duration. Press (*Emergency Powers*) Act, 1931.

(2) It extends to the whole of British India, inclusive of British Baluchistan and the Sonthal Parganas.

(3) It shall remain in force for one year only, but the Governor General in Council may, by notification in the Gazette of India, direct that it shall remain in force for a further period not exceeding one year * * * *

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

Definitions.

- (1) "book" includes every volume, part or division of a volume, pamphlet and leaflet, in any language, and every sheet of music, map, chart or plan separately printed or lithographed ;
- (2) "document" includes also any painting, drawing or photograph or other visible representation ;
- (3) "High Court" means the highest Civil Court of Appeal for any local area except in the case of the province of Coorg where it means the High Court of Judicature at Madras ;
- (4) "Magistrate" means a District Magistrate or Chief Presidency Magistrate ;
- (5) "newspaper" means any periodical work containing public news or comments on public news ;
- (6) "news-sheet" means any document other than a newspaper containing public news or comments on public news or any matter described in sub-section (1) of section 4 ;
- (7) "press" includes a printing-press and all machines, implements and plant and parts thereof and all materials used for multiplying documents ;
- (8) "printing-press" includes all engines, machinery, types, lithographic stones, implements, utensils and other plant or materials used for the purpose of printing ;

(9) "unauthorised newspaper" means--

(a) any newspaper in respect of which there are not for the time being valid declarations under section 5 of the Press and Registration of Books Act, 1867, and

XXV of 1867.

(b) any newspaper in respect of which security has been required under this Act, but has not been furnished ;

(10) "unauthorised news-sheet" means any news-sheet other than a news-sheet published by a person authorised under section 15 to publish it ; and

(11) "undeclared press" means any press other than a press in respect of which there is for the time being a valid declaration under section 4 of the Press and Registration of Books Act, 1867.

XXV of 1867.

Control of printing-presses and newspapers.

3. (1) Any person keeping a printing-press who is required to make a declaration under section 4 of the Press and Registration of Books Act, 1867, may be required by the Magistrate before whom the declaration is made, for reasons to be recorded in writing, to deposit with the Magistrate within ten days from the day on which the declaration is made, security to such an amount, not being * * * more than one thousand rupees, as the Magistrate may in each case think fit to require, in money or the equivalent thereof in securities of the Government of India as the person making the deposit may choose :

Deposit of security by keepers of printing-presses.

XXV of 1867.

Registration of Books Act, 1867, may be required by the Magistrate before whom the declaration is made, for reasons to be recorded in writing, to deposit with the Magistrate within ten days from the day on which the declaration is made, security to such an amount, not being * * * more than one thousand rupees, as the Magistrate may in each case think fit to require, in money or the equivalent thereof in securities of the Government of India as the person making the deposit may choose :

* * * * *

Provided * that if a deposit has been required under sub-section (3) from any previous keeper of the printing-press, the security which may be required under this sub-section may amount to three thousand rupees.

(2) Where security required under sub-section (1) has been deposited in respect of any printing-press, and for a period of three months from the date of the declaration mentioned in sub-section (1) no order is made by the Local Government under section 4 in respect of such press, the security shall, on application by the keeper of the press, be refunded.

(3) Whenever it appears to the Local Government that any printing-press kept in any place in the territories under its administration, in respect of which security under the provisions of this Act has not been required, or having been required has been refunded under sub-section (2), is used for the purpose of printing or publishing any newspaper, book or other document containing any words, signs or visible representations of the nature described in section 4, sub-section (1), the Local Government may, by notice in writing to the keeper of the press stating or describing such words, signs or visible representations, order the keeper * * to deposit with the Magistrate within whose jurisdiction the press is situated security to such an amount, not being less than five hundred or more than three thousand rupees as the Local Government may think fit to require, in money or the equivalent thereof in securities of the Government of India as the person making the deposit may choose.

(4) *Such notice shall appoint a date, not being sooner than the tenth day after the date of the issue of the notice, on or before which the deposit shall be made.*

4. (1) Whenever it appears to the Local Government that any printing-press in respect of which any security has been ordered to be deposited under section 3 is used for the purpose of printing or publishing any newspaper, book or other document containing any words, signs or visible representations which---

- (a) *incite to or encourage, or tend to incite to or to encourage, the commission of any offence of murder or any cognizable offence involving violence, or*
- (b) *directly or indirectly express approval or admiration of any such offence, or of any person, real or fictitious, who has committed or is alleged or represented to have committed any such offence*

the Local Government may, by notice in writing to the keeper of such printing-press, stating or describing the words, signs or visible representations which in its opinion are of the nature described above---

- (i) *where security has been deposited, declare such security or any portion thereof, to be forfeited to His Majesty, or*
- (ii) *where security has not been deposited, declare the press to be forfeited to His Majesty,*

and may also declare all copies of such newspaper, book or other document wherever found in British India to be forfeited to His Majesty.

Explanation.—No expression of approval or admiration made in a historical or literary work shall be deemed to be of the nature described in this sub-section unless it has the tendency described in clause (a).

(2) After the expiry of ten days from the date of the issue of a notice under sub-section (1) declaring a security or any portion thereof to be forfeited, the declaration made in respect of such press under section 4 of the Press and Registration of Books Act, 1867, shall be deemed to be **XXV of 1867** annulled.

5. (1) Where the security given in respect of any press, or any portion thereof, has been declared forfeited under section 4 or section 6, every person making a fresh declaration in respect of such press under section 4 of the Press and Registration of Books Act, 1867, shall deposit with the Magistrate before whom such declaration is made security to such an amount, not being less than one thousand or more than ten thousand rupees, as the Magistrate may think fit to require, in money or the equivalent thereof in securities of the Government of India as the person making the deposit may choose. **XXV of 1867.**

(2) Where a portion only of the security given in respect of such press has been declared forfeited under section 4 or section 6, any unforfeited balance still in deposit shall be taken as part of the amount of security required under sub-section (1).

6. (1) If, after * * security has been deposited under section 5, the printing-press is again used for the purpose of printing or publishing any newspaper, book or other document containing any words, signs or visible representations which, in the opinion of the Local Government, are of the nature described in section 4, sub-section (1), the Local Government may, by notice in writing to the keeper of such printing-press, stating or describing such words, signs or visible representations, declare—

(a) the further security so deposited, or any portion thereof, and

* * * * *

(b) all copies of such newspaper, book or other document wherever found in British India

to be forfeited to His Majesty.

(2) After the expiry of ten days from the issue of a notice under sub-section (1), the declaration made in respect of such press under section 4 of the Press and Registration of Books Act, 1867, shall be deemed to be annulled.

7. (1) Any publisher of a newspaper who is required to make a declaration under section 5 of the Press and Registration of Books Act, 1867, may be required by the Magistrate before whom the declaration is made, for reasons to be recorded in writing, to deposit with the Magistrate within ten days from the day on which the declaration is made, security to such an amount, not being * * more than one thousand rupees, as the Magistrate may in each case think fit to require, in money or the equivalent thereof in securities of the Government of India as the person making the deposit may choose:

* * * * *

Provided * that if a deposit has been required under sub-section (3) from any previous publisher of the newspaper, the security which may be required under this sub-section may amount to three thousand rupees.

(2) Where security required under sub-section (1) has been deposited in respect of any newspaper, and for a period of three months from the date of the declaration mentioned in sub-section (1) no order is made by the Local Government under section 8 in respect of such newspaper, the security shall, on application by the publisher of the newspaper, be refunded.

(3) Whenever it appears to the Local Government that a newspaper published within its territories, in respect of which security under the provisions of this Act has not been required, or having been required has been refunded under sub-section (2), contains any words, signs or visible representations of the nature described in section 4, sub-section (1), the Local Government may, by notice

in writing to the publisher of such newspaper, stating or describing such words, signs or visible representations, require the publisher to deposit with the Magistrate, within whose jurisdiction the newspaper is published, security to such an amount, not being less than five hundred or more than three thousand rupees, as the Local Government may think fit to require, in money or the equivalent thereof in securities of the Government of India.

(4) Such notice shall appoint a date, not being sooner than the tenth day after the date of the issue of the notice, on or before which the deposit shall be made.

8. (1) If any newspaper in respect of which any security has been deposited as required by section 7 contains any words, signs or visible representations which, in the opinion of the Local Government, are of the nature described in section 4, sub-section (1), the Local Government may, by notice in writing to the publisher of such newspaper, stating or describing such words, signs or visible representations—

(a) where the security has been deposited, declare such security, or any portion thereof, to be forfeited to His Majesty, or

(b) where the security has not been deposited, annul the declaration made by the publisher of such newspaper under section 5 of the Press and Registration of Books Act, XXV of 1867, 1867,

and may also declare all copies of such newspaper, wherever found in British India, to be forfeited to His Majesty.

(2) After the expiry of ten days from the date of the issue of a notice under sub-section (1) declaring a security or any portion thereof to be forfeited, the declaration made by the publisher of such newspaper under section 5 of the Press and Registration of Books Act, 1867, shall be deemed XXV of 1867. to be annulled.

9. (1) Where the security given in respect of any newspaper, or any portion thereof, is declared forfeited under section 8 or section 10, any person making a fresh declaration under section 5 of the Press and Registration of Books Act, 1867, as publisher of such newspaper, XXV of 1867. or any other newspaper which is the same in substance as the said newspaper, shall deposit with the Magistrate before whom the declaration is made security to such an amount, not being less than one thousand or more than ten thousand rupees, as the Magistrate may think fit to require, in money or the equivalent thereof in securities of the Government of India.

(2) Where a portion only of the security given in respect of such newspaper has been declared forfeited under section 8 or section 10, any unforfeited balance still in deposit shall be taken as part of the amount of security required under sub-section (1).

10. (1) If, after * * * security has been

Power to declare further security and newspapers forfeited.

deposited under section 9, the newspaper again contains any words, signs or visible representations

which, in the opinion of the Local Government, are of the nature described in section 4, sub-section (1), the Local Government may, by notice in writing to the publisher of such newspaper, stating or describing such words, signs or visible representations, declare—

(a) the further security so deposited, or any portion thereof, and

(b) all copies of such newspaper wherever found in British India

to be forfeited to His Majesty.

(2) After the expiry of ten days from the date of the issue of a notice under sub-section (1), the declaration made by the publisher of such newspaper under section 5 of the Press and Registration of Books Act, 1867, shall be deemed to be annulled and no further declaration in respect of such newspaper shall be made save with the permission of the Local Government.

11. (1) Whoever keeps in his possession a press which is used for the

Penalty for keeping press or publishing newspaper without making deposit.

printing of books or papers without making a deposit under section 3 or section 5, as required

by the Local Government or the Magistrate, as the case may be, shall on conviction by a Magistrate be liable to the penalty to which he would be liable if he had failed to make the declaration prescribed by section 4 of the Press and Registration of Books Act, 1867.

XXV of 1867.

(2) Whoever publishes any newspaper without making a deposit under section 7 or section 9, as required by the Local Government or the Magistrate, as the case may be, or publishes such newspaper knowing that such security has not been deposited, shall, on conviction by a Magistrate, be liable to the penalty to which he would be liable if he had failed to make the declaration prescribed by section 5 of the Press and Registration of Books Act, 1867.

XXV of 1867.

12. (1) Where a deposit is required from the

Consequences of failure to deposit security as required.

keeper of a printing-press under * * *

section 3 * *, such press shall not be used for the printing or publishing of any newspaper, book or other document after the expiry of the time allowed to make the deposit until the deposit has been made, and where a deposit is required from the keeper of a printing-press under section 5, such press shall not be so used until the deposit has been made.

(2) Where any printing-press is used in contravention of sub-section (1), the Local Government may, by notice in writing to the keeper thereof, declare the press * * * to be forfeited to His Majesty.

(3) Where a deposit is required from the publisher of a newspaper under section 7 and the deposit is not made within the time allowed, the declaration made by the publisher under section 5 of the Press and Registration of Books Act, 1867, shall be deemed to be annulled.

XXV of 1867.

13. Where any person has deposited any security under this Act and ceases to keep the press in respect of which such security was deposited, or, being a publisher, makes a declaration under section 8 of the Press and Registration of Books Act, 1867, he may apply to the Magistrate within whose jurisdiction such press is situate for the return of the said security; and thereupon such security shall, upon proof to the satisfaction of the Magistrate and subject to the provisions hereinbefore contained, be returned to such person.

14. Where any printing-press is, or any copies of any newspaper, book or other document are, declared forfeited to His Majesty under section 4, section 6, section 8, section 10 or section 12, the Local Government may direct a Magistrate to issue a warrant empowering any police-officer, not below the rank of Sub-Inspector, to seize and detain any property ordered to be forfeited and to enter upon and search for such property in any premises—

- (i) where any such property may be or may be reasonably suspected to be, or
- (ii) where any copy of such newspaper, book or other document is kept for sale, distribution, publication or public exhibition or is reasonably suspected to be so kept.

Unauthorised news-sheets and newspapers.

15. (1) The Magistrate may, by order in writing and subject to such conditions as he may think fit to impose, authorise any person by name to publish a news-sheet, or to publish news-sheets from time to time.

(2) A copy of an order under sub-section (1) shall be furnished to the person thereby authorised.

(3) The Magistrate may at any time revoke an order made by him under sub-section (1).

16. (1) Any police officer, or any other person empowered in this behalf by the Local Government, may seize any unauthorised news-sheet or unauthorised newspaper, wherever found.

(2) Any Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class may by warrant authorise any police-officer not below the rank of Sub-Inspector to enter upon and search any place where any stock of unauthorised news-sheets or unauthorised newspapers may be or may be reasonably suspected to be, and such police-officer may seize any documents found in such place which, in his opinion, are unauthorised news-sheets or unauthorised newspapers.

(3) All documents seized under sub-section (1) shall be produced as soon as may be before a Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class, and all documents seized under sub-section

(2) shall be produced as soon as may be before the Court of the Magistrate who issued the warrant.

(4) If, in the opinion of such Magistrate or Court, any of such documents are unauthorised news-sheets or unauthorised newspapers, the Magistrate or Court may cause them to be destroyed. If, in the opinion of such Magistrate or Court, any of such documents are not unauthorised news-sheets or unauthorised newspapers, such Magistrate or Court shall dispose of them in the manner provided in sections 523, 524 and 525 of the Code of Criminal Procedure, 1898.

V of 1898.

17. (1) Where a Presidency Magistrate, District Magistrate or Sub-divisional Magistrate has reason to believe that an unauthorised news-sheet or unauthorised newspaper is being produced from an undeclared press within the limits of his jurisdiction, he may by warrant authorise any police-officer not below the rank of Sub-Inspector to enter upon and search any place wherein such undeclared press may be or may be reasonably suspected to be, and if, in the opinion of such police-officer, any press found in such place is an undeclared press and is used to produce an unauthorised news-sheet or unauthorised newspaper, he may seize such press and any documents found in the place which in his opinion are unauthorised news-sheets or unauthorised newspapers.

(2) The police-officer shall make a report of the search to the Court which issued the warrant and shall produce before such Court, as soon as may be, all property seized :

Provided that where any press which has been seized cannot be readily removed, the police-officer may produce before the Court only such parts thereof as he may think fit.

(3) If such Court, after such inquiry as it may deem requisite, is of opinion that a press seized under this section is an undeclared press which is used to produce an unauthorised news-sheet or unauthorised newspaper, it may, by order in writing, declare the press to be forfeited to His Majesty. If, after such inquiry, the Court is not of such opinion, it shall dispose of the press in the manner provided in sections 523, 524 and 525 of the Code of Criminal Procedure, 1898.

V of 1898.

(4) The Court shall deal with documents produced before it under this section in the manner provided in sub-section (4) of section 16.

18. (1) Whoever makes, sells, distributes, publishes or publicly exhibits or keeps for sale, distribution or publication, any unauthorised news-sheet or newspaper, shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, any offence punishable under sub-section (1), and any abetment of any such offence, shall be cognizable and non-bailable.

V of 1898.

Special provisions relating to the seizure of certain documents.

19. Where any newspaper, book or other document wherever made appears to the Local Government to contain any words, signs or visible representations of the nature described in section 4, sub-section (1), the Local Government may, by notification in the local official Gazette, stating the grounds of its opinion, declare every copy of the issue of the newspaper, and every copy of such book or other document to be forfeited to His Majesty, and thereupon any police-officer may seize the same wherever found in British India, and any Magistrate may by warrant authorise any police-officer not below the rank of Sub-Inspector to enter upon and search for the same in any premises where any copy of such issue or any such book or other document may be or may be reasonably suspected to be.

20. The Chief Customs-officer or other officer authorised by the Local Government in this behalf may detain any package brought, whether by land, sea or air, into British India which he suspects to contain any newspapers, books or other documents of the nature described in section 4, sub-section (1), and shall forthwith forward copies of any newspapers, books or other documents found therein to such officer as the Local Government may appoint in this behalf to be disposed of in such manner as the Local Government may direct.

21. No unauthorised news-sheet or unauthorised newspaper shall be transmitted by post.

22. Any officer in charge of a post-office or authorised by the Post-Master General in this behalf may detain any article other than a letter or parcel in course of transmission by post, which he suspects to contain—

(a) any newspaper, book or other document containing words, signs or visible representations of the nature described in section 4, sub-section (1), or

(b) any unauthorised news-sheet or unauthorised newspaper,

and shall deliver all such articles to such officer as the Local Government may appoint in this behalf to be disposed of in such manner as the Local Government may direct.

Powers of High Court.

23. (1) *The keeper of a printing-press who has been ordered to deposit security under sub-section (3) of section 3, or the publisher of a newspaper who has been ordered to deposit security under sub-section (3) of section 7, or any person having an interest in any property in respect of which an order of forfeiture has been made under*

Application to High Court to set aside order of forfeiture.

section 4, section 6, section 8, section 10 or section 19 may, within two months from the date of such order, apply to the High Court for the local area in which such order was made, to set aside such order, and the High Court shall decide if the newspaper, book or other document in respect of which the order was made did or did not contain any words, signs or visible representations of the nature described in section 4, sub-section (1).

(2) *The keeper of a printing-press in respect of which an order of forfeiture has been made under sub-section (2) of section 12 on the ground that it has been used in contravention of sub-section (1) of that section may apply to such High Court to set aside the order on the ground that the press was not so used.*

24. Every such application shall be heard and determined by a Special Bench of the High Court composed of three Judges, or, where the High Court consists of less than three Judges, of all the Judges.

25. (1) If it appears to the Special Bench on an application under sub-section (1) of section 23 that the words, signs or visible representations contained in the newspaper, book or other document in respect of which the order in question was made were not of the nature described in section 4, sub-section (1), the Special Bench shall set aside the order

(2) *If it appears to the Special Bench on an application under sub-section (2) of section 23 that the printing-press was not used in contravention of sub-section (1) of section 12, it shall set aside the order of forfeiture.*

(3) Where there is a difference of opinion among the Judges forming the Special Bench, the decision shall be in accordance with the opinion of the majority (if any) of those Judges.

(4) Where there is no such majority which concurs in setting aside the order in question, the order shall stand.

26. On the hearing of an application under sub-section (1) of section 23 with reference to any newspaper, any copy of such newspaper published after the commencement of this Act may be given in evidence in aid of the proof of the nature or tendency of the words, signs or visible representations contained in such newspaper, in respect of which the order was made.

27. Every High Court shall, as soon as conveniently may be, frame rules to regulate the procedure in the case of such applications, the amount of the costs thereof and the execution of orders passed thereon, and until such rules are framed the practice of such Court in proceedings other than suits and appeals shall apply, so far as may be practicable, to such applications.

Supplemental.

28. Every notice under this Act shall be sent to a Magistrate, who shall cause it to be served in the manner provided for the service of summonses under the Code of Criminal Procedure, 1898 : V of 1898.

Provided that if service in such manner cannot by the exercise of due diligence be effected, the serving officer shall, where the notice is directed to the keeper of a press, affix a copy thereof to some conspicuous part of the place where the press is situate, as described in the keeper's declaration under section 4 of the Press and Registration of Books Act, 1867, and where the notice **XXV of 1867.** is directed to the publisher of a newspaper, to some conspicuous part of the premises where the publication of such newspaper is conducted, as given in the publisher's declaration under section 5 of the said Act; and thereupon the notice shall be deemed to have been duly served.

29. Every warrant issued under this Act shall, so far as it relates to a search, be executed in the manner provided for the execution of search warrants under the Code of Criminal Procedure, 1898. V of 1898.

30. Every declaration of forfeiture purporting to be made under this Act shall, as against all persons, be conclusive evidence that the forfeiture therein referred to has taken place, and no proceeding purporting to be taken under this Act shall be called in question by any Court, except the High Court on application under section 23, and no civil or criminal proceeding, except as provided by this Act, shall be instituted against any person for anything done or in good faith intended to be done under this Act.

31. Nothing herein contained shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act.

32. So long as this Act remains in force, all declarations required to be made under section 4, section 5, section 8 and section 8A of the Press and Registration of Books Act, 1867, shall be **XXV of 1867.** made, in a Presidency-town before the Chief Presidency Magistrate, and elsewhere before the District Magistrate.

27
GOVERNMENT OF INDIA.
LEGISLATIVE ASSEMBLY
DEPARTMENT.

Report of the Select Committee on the Bill
to provide for the better control of the
Press.