

JOINT SELECT COMMITTEE  
REPORTS OF LEGISLATIVE  
ASSEMBLY - 1927

**The Indian Criminal Law  
(Amendment) Bill**

List of Reports of Select or Joint Committees  
presented in the Legislative Assembly in 1927.

Serial No.	Short title of the Bill.	Date of presentation.	Remarks.
1.	The Steel Industry (Protection) Bill.	7.2.27.	
2.	The Indian Merchant Shipping (Amendment) Bill.	26.3.27.	
3.	The Gold Standard and Reserve Bank of India Bill.	18.8.27.	Report of the Joint Committee.
4.	The Imperial Bank of India Bill.	18.8.27.	-do-
5.	The Indian Lighthouse Bill.	31.8.27.	-do-
6.	The Indian Securities (Amendment) Bill.	31.8.27.	
7.	The Indian Tariff (Amendment) Bill.	31.8.27.	
8.	The Indian Tariff (Cotton Yarn Amendment) Bill.	31.8.27.	
9.	The Bamboo Paper Industry (Protection) Bill.	31.8.27.	
10.	The Indian Forest Bill.	1.9.27.	
10.	The Indian Criminal Law (Amendment) Bill.	14.9.27.	

GOVERNMENT OF INDIA.  
LEGISLATIVE DEPARTMENT.

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We, the undersigned, Members of the Select Committee to which the Bill further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898, for a certain purpose 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 given long and careful consideration to the provisions of the Bill word by word and propose to explain our conclusions separately under each clause.

*Clause 2.*—The proposed new section 295A is by far the most important provision contained in the Bill and we have examined it in the light of such criticisms as have been expressed since the Bill was introduced whether by Members of the Legislature or of the general public and we now proceed to set forth our conclusions in detail.

In the first place, we are of opinion that the simple use of the word "intentionally" does not sufficiently bring out what we consider is the essence of the offence, namely, that the insult to religion or the outrage to religious feelings must be the sole, or primary, or at least the deliberate and conscious intention. We have accordingly decided to adopt the phraseology of section 298 which requires deliberate intention in order to constitute the offence with which it deals.

Secondly, we think that to penalise even an intentional outrage or attempted outrage upon the religious feelings of any class would be casting the net too wide for the cases with particular reference to which the Bill has been introduced. At the same time, we realize that the reference to the outraging of religious feelings was inserted to provide for the case of an insult to the founder of a religion or a person held sacred by the followers of a particular religion where such an outrage does not amount to an insult of the religion. It has in one instance been held that an insult to the founder of a religion is not necessarily an insult to the religion although it may outrage the religious feelings of the followers of that religion. We have therefore provided that the new section shall only apply in cases where a religion is insulted with the deliberate intention of outraging the religious feelings of its followers; and, to make it clear that an attack on a founder is not omitted from the scope

of the section, we have specifically made punishable an insult to the "religious beliefs" of the followers of any religion.

Further, we were impressed by an argument to the effect that an insult to a religion or to the religious beliefs of the followers of a religion might be inflicted in good faith by a writer with the object of facilitating some measure of social reform by administering such a shock to the followers of the religion as would ensure notice being taken of any criticism so made. We have therefore amplified the words "with deliberate intention" by inserting reference to malice, and we think that the section which we have now evolved will be both comprehensive and at the same time of not too wide an application.

Finally, we have limited the scope of the original section by the omission of the words "or by signs" and the words "or otherwise". Indeed, we find difficulty in imagining cases to which the latter words would be applicable, and we think the words "or by signs" are not necessary for the purpose of the particular class of offences with which it is intended to deal.

*Clause 3.*—The amendments which we have made in sub-clause (i) of this clause are consequential upon those which we have made in clause 2.

As regards sub-clause (ii), we are of opinion that a provision requiring the sanction of Government to the institution of a prosecution under this section is necessary in order to avoid factitious or vindictive proceedings which would not be likely to result in a conviction.

In sub-clause (iii), we have provided that cases under the new section shall be triable exclusively by Courts of Session, or, in Presidency-towns, by Presidency Magistrates. By so doing, we avoid the possibility of a trial followed by an appeal to the Court of Session and an application for revision to the High Court. At the same time, we think that the Court of Session should have direct cognizance of cases many of which are likely to raise difficult points of law or of fact and law combined. We desire to observe that by the reference to a Court of Session we mean a Court of Session sitting with assessors.

We have also made the offence bailable.

3. The Bill was published in the Gazette of India dated the 27th August, 1927.

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.

J. CRERAR.\*

S. SRINIVASA IYENGAR.

A. RANGASWAMI IYENGAR.\*

M. A. JINNAH.\*

MD. ISMAIL KHAN.

ABDUL HAYE.\*

ARTHUR MOORE.\*

A. H. GHUZNAVI.

N. C. KELKAR.\*

M. R. JAYAKAR.

J. COATMAN.

K. C. ROY.\*

ABDUL QAIYUM.\*

DENYS BRAY.

ZULFIQAR ALI KHAN.\*

M. M. MALAVIYA.

N. C. CHUNDER.\*

Sd/LA ;

The 14th September, 1927.

## MINUTES OF DISSENT.

In so far as the purpose of the Bill is to deter people from scurrilous attacks upon religion or vulgar calumnies upon sacred characters we have every sympathy with it, but we do not think that it will achieve this purpose. We think that the Bill as revised by the Select Committee is much less objectionable than the original draft, but even in its present form we consider it a regrettable concession to intolerance. As we understand it, the inculcation of peace is an essential principle of all the great religions practised in India, and all departures from this principle are only manifestations of religious fanaticism. If this be so—and obviously any other form of religion would be anti-social and dangerous—then it follows that what the original Bill described as religious feeling are really irreligious feelings. This measure may tend to increase fanaticism because it creates a new offence. Pressure may also conceivably be put upon the authorities to use it against social reformers or those who wish to assist the evolution of the popular understanding of religions so as to bring this understanding into closer conformity with the spirit of the original teachings.

We consider that the existing law is adequate to deal with all writings calculated to lead to a breach of the peace or resulting in such a breach, or in interference with personal or religious liberty, or personal or ecclesiastical property. The recent judgment in the *Risala-Vartman* case confirms us in this view.

A. RANGASWAMI IYENGAR.

ARTHUR MOORE.

K. C. ROY.

N. C. CHUNDER.

N. C. KELKAR.

I think the offence ought to be made non-bailable.

M. A. JINNAH.

I agree with Mr. Jinnah that the offence ought to be made non-bailable.

ABDUL HAYE.

I endorse what is written above.

ZULFIQAR ALI KHAN.

I agree with Mr. Jinnah on this point.

J. CRERAR.

Apart from what I have said in the Joint Dissenting Minute, I have to offer the following observations about one or two provisions in the Bill as passed by the Select Committee.

The words "with deliberate and malicious intention" indeed provide a fair amount of protection to a person accused under this section, as burden of proof is thereby put on the prosecution in this respect. But I think it would be still better, if an exception were added to section 2, indicating that it would not be an offence under this section to criticise the principles, doctrines or tenets or observances of any religion, with a view to investigate truth, or improve the condition of human society, or to promote social and religious reform. Such an exception may seem superfluous, but would make things quite clear, and be a good guide to the Judge.

I do not agree that the right to initiate prosecution for this particular offence should be given exclusively to Government. Even supposing that the creation of a new offence, as in this Bill, was necessary, it is likely to cause mischief, if Government alone were made the Judges of when action may be taken or not taken. Besides being a thankless task to Government, their spirit of impartiality will be put to a severe test which it sometimes cannot stand in a matter like this. More over some sections of society who are less clamorous and turbulent are likely to be denied the use of the remedy under this Bill, and their virtue may be penalised, though they would be equally entitled to judicial relief with any other section of the Society.

N. C. KELKAR.

13th September, 1927.

[AS AMENDED BY THE SELECT COMMITTEE.]

(Words printed in italics indicate the amendments suggested by the Committee.)

BILL

Further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898, for a certain purpose.

WHEREAS it is expedient further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Criminal Law Amendment Act, 1927.

2. After section 295 of the Indian Penal Code, the following section shall be inserted, namely:—

“ 295A. Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of His Majesty's subjects, by words, either spoken or written, or by visible representations, insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.”

3. In the Code of Criminal Procedure, 1898, the following amendments shall be made, namely:—

(i) in sub-section (1) of section 99A, after the words “ His Majesty's subjects ” the words “ or which is deliberately and maliciously intended to outrage the religious feelings of any such class by insulting the religion or the religious beliefs of that class ” shall be inserted, and after the figures and letter “ 153A ” the words, figures and letter “ or section 295A ” shall be inserted ;

(ii) in section 196, after the word, figures and letter “ section 294A ” the words, figures and letter “ or section 295A ” shall be inserted ;

(iii) in the Second Schedule, after the entry relating to section 295 of the Indian Penal Code, the following entry shall be inserted, namely:—

“ 295A	Meliciously insulting the religion or the religious beliefs of any class.	Shall not arrest without warrant.	Warrant	Bailable	Not compoundable.	Imprisonment of either description for 2 years, or fine, or both.	Court of Session or Presidency Magistrate ;
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and

(iv) in the same Schedule, for the entries in the third, fourth, fifth, sixth and eighth columns relating to section 296 of the Indian Penal Code, the following entries shall be substituted, respectively, namely:—

XLV of 1860.

“ May arrest without warrant	Summons	Bailable	Not compoundable.	Presidency Magistrate or Magistrate of the first or second class.”
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GOVERNMENT OF INDIA.  
LEGISLATIVE DEPARTMENT.

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Report of the Select Committee on the Bill further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898, for a certain purpose, with the Bill as amended.