

**JOINT/SELECT
COMMITTEE REPORT
LEGISLATIVE
ASSEMBLY**

1929

The Public Safety Bill

List of Reports of Select or Joint Committees
presented in the Legislative Assembly in 1929.

Serial No.	Short title of the Bill.	Date of presentation.	Remarks
1.	The Public Safety Bill.	20.2.29.	
2.	The Workmen's Compensation(Amendment) Bill.	26.2.29.	
3.	The Indian Income-tax(Amendment) Bill(Sec.2,23.etc.)	26.2.29.	
4.	The Trade Disputes Bill.	16.3.29.	
5.	The Reservation of the Coastal Traffic of India Bill by Mr.S.N.Haji.	2.4.29.	
6.	The Transfer of Property(Amendment) Bill.	2.9.29.	
7.	The Transfer of Property(Amendment Supplementary Bill.	2.9.29.	
8.	The Indian Income-tax (Provident Fund Relief)Bill.	16.9.29.	
9.	The Indian Patents and Designs(Amendment) Bill.	25.9.29.	

LEGISLATIVE ASSEMBLY DEPARTMENT.

We, the undersigned, Members of the Select Committee to which the Bill to check the dissemination in British India from other countries of certain forms of propaganda 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.

Although that part of the Bill which refers to removal orders has been already carefully scrutinised by a Select Committee of the Assembly and the present Bill embodies the recommendations of that Committee practically in their entirety, we have subjected the whole Bill to a further scrutiny and have made several alterations not only in the new but also in the old provisions. To these we now proceed to refer in detail.

Clause 2.—In the first place, the words which occur in sub-clause (b) "or with any object the attainment of which is intended to conduce to that result" have been criticised as somewhat vague, and we agree that the meaning is capable of expression in a simplified form. On an analysis of this phrase, we think that in order to prove that a person has brought himself within its mischief, there must be evidence that his object, whether directly or indirectly, is the subversion of organized government. We therefore consider that the objections will be met by the omission of this phrase and the substitution for the word "direct" in the expression "with the direct object" of the words "directly or indirectly".

Secondly, it has been pointed out that sub-clause (b) would appear to apply to persons who are working for a change in the existing system of government to be brought about without violence, and, as we apprehend that communistic doctrines contemplate in all cases a final resort to force and violence, we think that a reference to "force or violence" can safely be inserted without diminishing the utility of the measure.

Finally, in clause (c) we think that objection might legitimately be taken to the words "connected with" as enabling a wider interpretation of the clause than is intended. The amendment which we propose is intended to make it clear that the society must be acting or be in the habit of acting in collaboration with a society which is definitely of the kind referred to in the first part of the sub-clause.

Clause 4.—Apart from the verbal alteration in the opening sentence of this clause, we propose the insertion of words which make it clear that monies, etc., can only be confiscated, and their application can only be restricted, when they are intended for the purpose of financing subversive

activities; and we think it follows that the conditions of a licence granted in connection with a prohibition order must be confined to conditions designed to prevent the use of the monies for the purposes now specified in the section.

Clause 6.—The only change apart from several drafting alterations which we have made here is in sub-clause (6). We consider it unnecessary to lay upon the Government an obligation to pay the expenses of removal in the case, for example, of a person in possession of a return ticket. We have accordingly framed this sub-clause to be permissive instead of mandatory.

Clause 7.—We have altered the period of limitation from seven days to ten days to provide ample time for transmission of appeals by post from distant parts of British India.

We have also made a change of considerable importance in sub-clause (5) of this clause. We think that it may well happen that some details of the case against a person who is appealing against a removal order can safely be divulged to him, and we have accordingly made provision that the Bench shall, along with a general statement of the case against such person, furnish him with such details and particulars as the Governor General in Council may allow to be communicated. The amendment involves consequential amendments in the following clause of the Bill.

Clause 8.—In addition to the drafting alterations to which we have just referred and one other which is consequential on our amendment of clause 4, we have provided for an extension of the period of limitation for an appeal where good cause exists and made it clear that the period of limitation for an appeal against an order of forfeiture starts from the date on which it is first executed. We have omitted in sub-clause (2) the provision that the Governor General in Council shall not be bound to appoint a Bench unless he is satisfied that the appellant has a direct interest in the monies, etc., with which the order of forfeiture or the prohibition order deals. We have also made in this sub-clause an amendment similar to that made in sub-clause (5) of clause 7 which we have already explained.

The remaining clauses of the Bill deal with matters of detail, and we suggest no amendments therein.

2. The Bill was published in the Gazette of India, dated the 9th February, 1929.

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

J. CRERAR.

DARCY LINDSAY.

ABDUL QAIYUM.

VICTOR SASSOON.

K. C. ROY.

FAZAL IBRAHIM RAHIMTOOLA.

TARIT BHUSHAN ROY.

The 20th February, 1929.

[AS AMENDED BY THE SELECT COMMITTEE.]

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

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BILL

TO

Check the dissemination in British India from other countries of certain forms of propaganda.

WHEREAS it is expedient in the interests of public safety to check the dissemination in British India from other countries of certain forms of propaganda, and for this purpose to provide for the removal of certain persons from British India and for the seizure or control of money or other valuables in certain cases ; It is hereby enacted as follows :—

1. (1) This Act may be called the Public Safety Short title, extent Act, 192 . and duration.

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

(3) It shall be in force for a period of five years.

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

(1) "excepted person" means any person who is—

(a) an Indian British subject, or

(b) a British subject ordinarily resident in India, or

(c) the subject of a State in India ;

and a person shall be deemed to be "ordinarily resident" in India who, for a period of not less than five years immediately preceding the date on which the question of the application to him of this Act arises,—

(i) has regularly resided or maintained a residence in India, or

(ii) has carried on any trade, business or profession, or held any office or employment, in India and for the purposes thereof has resided in India at regular intervals during that period ;

(2) "order of forfeiture" means an order made under clause (i) of section 4 ;

(3) "person to whom this Act applies" means any person (not being an excepted person) who—

(a) directly or indirectly advocates the overthrow by force or violence of the government established by law in British India, or the unlawful destruction of property, or unlawful interference with the ownership of property ; or

- (b) seeks to foment or utilise industrial or agrarian disputes or other disputes of a like nature with the object, *directly or indirectly*, of subverting *by force or violence* organised government in British India; or
- (c) is a member of, or is acting in association with, any society or organisation, whether in British India or elsewhere, which advocates or encourages any such doctrine or activity as is described in sub-clause (a) or sub-clause (b) of this clause, or which is affiliated to, or *acts in connection* with, any such society or organisation;
- (4) "prohibition order" means an order made under clause (ii) of section 4; and
- (5) "removal order" means an order made under section 3.

Removal from British India.

3. (1) If the Governor General in Council is satisfied that any person is a person to whom this Act applies, he may, by order in writing, direct such person to remove himself from British India within such time and in such manner and by such route and means as may be specified in the order and not to return thereto without the permission in writing of the Governor General in Council.

(2) A removal order may further direct the person in respect of whom it is made to appear, within such time as may be specified in the order, before any Presidency or District Magistrate so specified and execute a bond, with or without sureties, containing such conditions to ensure his good behaviour pending his departure from British India as may be specified in the order.

Seizure or control of monies, etc.

4. If the Governor General in Council is satisfied that, for the purpose of the furtherance of any such doctrine or activity as is described in clause (3) of section 2,—

- (a) any monies, securities, goods or credits have been or are about to be transmitted from any place outside British India to any place in British India by or on behalf of any such person as is described in sub-clause (a), sub-clause (b) or sub-clause (c) of that clause or by or on behalf of any society or organisation such as is described in sub-clause (c) of that clause, or
- (b) any monies, securities, goods or credits, or the sale proceeds of any securities or goods, are intended to be applied in British India in accordance with any directions or instructions given from outside British India by any such person, society or organisation as aforesaid,

he may, by order in writing,—

- (i) declare any such monies, securities or goods to be forfeited to His Majesty or, if they have not been brought into British India, that they shall be so forfeited on being brought therein, or
- (ii) prohibit any person to whom any such monies, securities, goods or credits have

been or are about to be transmitted, or with whom they may have been or are about to be deposited or established, or in whose possession they may be, from paying, transferring or otherwise dealing in any manner whatsoever with the same, save under and in accordance with the conditions of a licence in writing from the Governor General in Council in that behalf.

Execution of orders.

5. (1) A removal order or order of forfeiture, or a copy thereof, may be directed for execution to any officer of Government or may be directed to any Local Government and executed by any officer to whom it or a copy of it may be endorsed by the Local Government for execution.

(2) A removal order or prohibition order may be served on the person in respect of whom it is made in the manner provided in the Code of Criminal Procedure, 1898, for service of a summons, and upon such service such person shall be deemed to have had notice thereof. V of 1898.

(3) The Governor General in Council or any Local Government to which a removal order or an order of forfeiture has been directed, or any officer to whom such order has been directed or endorsed for execution under sub-section (1), may use *all reasonable* means necessary to enforce compliance with the order.

(4) In particular and without prejudice to the generality of the foregoing power, any officer executing an order of forfeiture may, with such assistance as he may require, enter upon, and search for any monies, securities or goods referred to in the order in any premises where they or any of them may reasonably be suspected to be, and may seize the same:

Provided that the order of forfeiture, or the copy of it, as the case may be, shall first be shown to the person whom there is reason to believe to be in possession of the monies, securities or goods, and to the owner or occupier of the premises in which search is to be made, if such person, owner or occupier so requests.

(5) Where the person to be served with any order under this section is a corporation, company, bank or association of persons, the order or requisition may be served on any secretary, director or other officer or person concerned with the management thereof by leaving it or sending it by post addressed to the corporation, company, bank or association at its registered office or, if there is no registered office, at the place where it carries on business.

(6) Any charges and expenses incidental to the removal from British India of any person in respect of whom a removal order has been made and of his dependants, if any, and to his or their conveyance to such place outside British India as the Governor General in Council may direct, may be borne by the Governor General in Council.

Applications and appeals.

6. The High Court may, on application made by or on behalf of any person in respect of whom a removal order has been made, set aside the order on the ground that such person is an exempted person, but on no other ground.

7. (1) Any person in respect of whom a removal order has been made may, within ten days from the service upon him of the order, appeal against the order to the Governor General in Council on the ground that he is not a person such as is described in sub-clause (a), sub-clause (b), or sub-clause (c) of clause (3) of section 2.

(2) On receipt of the appeal, the Governor General in Council shall appoint for the hearing of the appeal a Bench consisting of three persons, each of whom has exercised for not less than five years the powers of a Sessions Judge, and shall lay before the Bench all the material facts and circumstances in his possession or knowledge upon which the removal order is based.

(3) The Bench shall sit at such time and place and shall follow such procedure as the Governor General in Council may in each case direct, and shall consider the facts and circumstances laid before it by the Governor General in Council and report to the Governor General in Council whether or not in its opinion the appeal should be allowed on the ground specified in sub-section (1).

(4) If the Bench reports that the appeal should be allowed on the above-mentioned ground and that the order should be cancelled, the Governor General in Council shall forthwith cancel the order.

(5) The person appealing against the removal order shall be given an opportunity to attend before the Bench in person or by pleader and show cause against the making of the order, and for this purpose the Bench shall, if he so attends, furnish him with a general statement of the grounds on which the removal order was based, together with such details or particulars, if any, as the Bench, with the consent of the Governor General in Council, may include therein, but neither he nor any pleader appearing on his behalf shall be entitled to be made acquainted with any details or particulars of the facts or circumstances laid before the Bench by the Governor General in Council, and the Bench shall, save as herein otherwise provided, treat all such facts and circumstances as confidential.

(6) The Governor General in Council shall extend the time specified in the removal order by such period, if any, as may be necessary to enable the appeal to be heard and final orders to be passed thereon.

8. (1) Any person having a direct interest in any monies, securities, goods or credits in respect of which an order of forfeiture or a prohibition order has been made may, within fifteen days from the date on which the order is first executed or served, as the case may be, whether on him or on any other person, appeal to the Governor General in Council on the ground that there is not sufficient reason to believe that the monies, securities, goods or credits have been or are about to be transmitted or are intended to be applied for any purpose or in any manner described in clause (a) or clause (b) of section 4 :

Provided that an appeal may be admitted after the period herein prescribed if the appellant satisfies the Governor General in Council that he had sufficient cause for not preferring it within that period.

(2) On receipt of the appeal, the Governor General in Council shall appoint for the hearing thereof a Bench constituted as provided in sub-section (2)

of section 7, and the provisions of that section shall apply for the purposes of the appeal in like manner as they apply for the purposes of that section, and the appellant shall be given an opportunity of attending and, if he does so, shall, subject to the provisions of that section as regards the confidential character of the facts and circumstances laid before the Bench by the Governor General in Council, be furnished with a general statement of the grounds on which the order under appeal was based, *together with such details or particulars, if any, as the Bench, with the consent of the Governor General in Council, may include therein.*

(3) If the Bench reports that the appeal should be allowed on any ground specified in sub-section (1) and that the order should be cancelled, the Governor General in Council shall forthwith cancel the order.

Requisition of information.

9. (1) The Governor General in Council may require any bank or other person to furnish such information as the Governor General in Council may deem necessary for the furtherance of the purposes of section 4, and such bank or person shall thereupon be bound to furnish the required information if and so far as it is in its or his possession.

(2) A requisition under this section shall be served in the manner provided in this Act for the service of a prohibition order.

Penalties.

10. If any person in respect of whom a removal order or a prohibition order has been made knowingly disobeys any direction contained in such order, or if any person who has entered into a bond in pursuance of a removal order knowingly violates the conditions of any such bond, he shall be liable to be arrested without warrant, and shall be punishable with imprisonment which may extend to one year and shall also be liable to fine.

11. If any person fails to comply to the best of his ability with a requisition made upon him under section 9, he shall be punishable with imprisonment which may extend to three months, or with fine which may extend to two thousand rupees, or with both.

12. Where a person contravening or otherwise failing to comply with a prohibition order or failing to comply with a requisition made under section 9 is a corporation, company, bank or association of persons, any secretary, director or other officer or person concerned with the management thereof shall be punishable as provided in section 10 or section 11, as the case may be, unless he proves that the offence was committed without his knowledge or without his consent.

13. (1) If any person who has been directed by a removal order to appear before a Magistrate and execute a bond for his good behaviour fails within the time specified in the order to appear before such Magistrate,

or refuses to execute such bond, or fails to provide to the satisfaction of the Magistrate any sureties which he may be required by or under the order to provide, he may be committed to and kept in such custody as the Governor General in Council or the Local Government may direct pending his removal from British India.

(2) A bond taken under this Act shall be deemed to be a bond taken under the Code of Criminal Procedure, 1898, and the provisions of section 514 V of 1898, of that Code shall apply accordingly.

Miscellaneous.

14. No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act, and no Court shall take cognisance of such an offence save upon complaint made by order of, or under authority from, the Governor General in Council.

15. (1) If the fulfilment by any person of any obligation is interfered with by the execution of any order made under this Act or by the necessity on the part of himself or any other person of complying with any such order or with a requisition under section 9, that execution or that necessity, as the case may be, shall be a good defence to any action or proceedings taken against that person in respect of the non-fulfilment of the contract or other legal obligation, in so far as it is due to such interference.

(2) Save as expressly provided in this Act, no removal order, no order of forfeiture, and no prohibition order shall be called in question in any Court or by or before any other authority whatsoever, and nothing in section 491 of the Code of Criminal Procedure, 1898, shall apply V of 1898, to any person in respect of whom any such order has been made.

(3) No prosecution or other legal proceeding whatsoever shall lie against any person in respect of anything in good faith done or intended to be done under this Act.

LEGISLATIVE ASSEMBLY
DEPARTMENT.

Report of Select Committee on the Bill
to check the dissemination in British
India from other countries of certain
forms of propaganda, with the Bill as
amended.