

**JOINT/SELECT COMMITTEE
REPORTS OF LEGISLATIVE
ASSEMBLY - 1932**

The Criminal Law Amendment Bill

List of Reports of Select or Joint Committees
presented in the Legislative Assembly in 1932.

Serial No.	Short title of the Bill.	Date of presentation.	Remarks.
1.	The Indian Partnership Bill.	26.1.32.	
2.	The Wire and Wire Nail Industry (Protection) Bill.	15.2.32.	
3.	The Bamboo Paper Industry (Protection) Bill.	16.2.32.	
4.	The Bengal Criminal Law Amendment (Supplementary) Bill.	22.2.32.	
5.	The Sugar Industry (Protection) Bill.	23.2.32.	
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10.	The Tea Districts Emigrant Labour Bill.	5.9.32.	
11.	The Code of Criminal Procedure (Amendment) Bill.	12.9.32.	
12.	The Children Pledging of Labour Bill.	19.9.32.	
13.	The Criminal Law Amendment Bill.	7.11.32.	
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LEGISLATIVE ASSEMBLY.

We, the undersigned, Members of the Select Committee to which the Bill to supplement the Criminal Law 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 are of opinion that the legislation contemplated should be of limited duration only. Certain of our members were in favour of limiting its duration to six months, but we have fixed the period at three years, with the intention that the enactment should be in force until after the constitutional changes now contemplated are brought into being. In consequence of our decision it at once became evident that the provisions of the Bill could not appropriately in all cases be enacted as amendments *in loco* of the Indian Penal Code or other existing Acts. This explains the altered form of many clauses of the Bill, and the change made in the preamble, and in clause 1.

3. *Clause 2.*—In recasting the Bill clause 13 has been combined with this clause. We have inserted the word “wilfully” and we have introduced additional safeguards. We desire to protect as far as possible honest criticisms made in good faith and have provided for this by our first *Exception*. We have also extended the scope of the *Exception* (now *Exception No. 2*) of the clause as drafted in order to safeguard advice given in good faith in the interests of a man's family or dependants.

Clause 3.—A minor verbal change has been made in the clause itself. In re-drafting the *Explanation* we have aimed at achieving definiteness by an exhaustive enumeration of the persons to be deemed public servants for the purposes of the clause.

Clause 4.—The many alterations made in the drafting of this clause are aimed at achieving increased clearness. We considered the word “prejudice” to be unduly wide in meaning. We have qualified by material insertions the words relating to the letting of a house or land, which we consider to be undesirably loose. We have simplified the language, retaining the expression “to deal with” as a comprehensive general description of the activities particularised in the draft clause. We have introduced a more definite expression for the words “person in whom such public servant is interested” and we have made it clear that the words “on the terms on which such things would be done in the ordinary course” qualify all the preceding phrases. We have also changed the reference to “professional or business relations” to a particular reference to the withholding of medical services, these being the professional services which it is most important to assure to public servants in the mofussil. We have reduced the term of imprisonment and have imposed a maximum limit to the fine which may be inflicted. We have further provided by the new sub-clause (2) a safeguard against abuse of this section by indiscriminate complaints in the Courts.

Clause 5.—We are impressed by the danger that persons who inadvertently repeat a passage not harmful in itself from a newspaper which has

been declared to be forfeited may be exposed to the mischief of this clause. We have accordingly introduced by sub-clause (2) a provision which we think will be sufficient safeguard against this danger.

Clause 6.—The form in which we are recasting the Bill has rendered it necessary to reproduce what was the effect of clause 6 of the Bill as drafted in a self-contained form based upon section 26 of Ordinance X of 1932. We have simplified the wording in the opening lines. We have substituted “any class of public servants” for the words “any public servant”, and we have limited the denotation of public servant to that contained in the Indian Penal Code. Since the Bill as originally drafted has the effect of superseding clause (b) of section 505 of the Indian Penal Code, as it at present stands, we have provided that this effect shall also be produced by the Bill in the form in which it has been recast by us. This is effected by our new sub-clause (2).

Clause 7.—We have substituted a more definite expression for the words “any one in whom such person is interested”. We have made clause (b) more definite by the omission of the last two lines which we replace by the words “or does any similar act” after “loiters”; and we have changed the words “in such a way or with intent” to “in such a way and with intent”. The *Explanation* was added at the suggestion of Mr. Jog; it emphasises the fact that the section is not intended to hamper lawful advocacy of *Swadeshi* or abstention from intoxicating liquor. Sub-section (2) embodies the contents of the first part of clause 11 of the Bill as introduced.

Clause 8.—We have re-drafted the clause to give clear expression to the defences available to a parent or guardian. We have added an *Explanation* of the word “guardian”; and we have embodied in sub-section (2) the provisions respecting recovery of fines contained in the Children Acts instead of those in the draft Bill thereby eliminating the provision for imprisonment in default of payment of fine.

Clauses 9 and 10 of the Bill as introduced have been completely recast in consequence of the change in the form of enacting the penal sections. We have made all the offences bailable except an offence under clause 7. We have made all offences triable only by a first class Magistrate. New clause 9 of the Bill gives effect to these conclusions.

Clause 11 of the Bill as introduced.—The substance of the proposed section 196AA is now contained in clause 7 of our Bill, as sub-clause (2).

Clause 12, now re-numbered as clause 10.—We have decided that the power to declare an offence non-bailable should be given only in the case of sections 188 and 506 of the Indian Penal Code. We have effected this by a re-draft of the clause.

Clause 13 of the Bill as introduced.—We have provided for the contents of this clause in clause 2 of the Bill thereby applying the safeguards already provided for the kindred offence under that clause.

Clause 14 of the Bill as introduced becomes unnecessary owing to the form in which we have recast the Bill.

Cluses 15 and 16 are retained as clauses 11 and 12, with the minor alterations necessary owing to the limited duration of the Bill.

Clause 17, now re-numbered as clause 13.—We have made extensive alterations in the amendments proposed in the Criminal Law Amendment Act, 1908, with the object of providing some sort of machinery for the hearing of appeals against an order of forfeiture. Mr. Jadhav was of opinion that the provision for forfeiture should be removed altogether. We have decided that it should be retained, but that in respect of moveables seized in a notified place forfeiture, now to be ordered by the District Magistrate or Commissioner of Police instead of by the Local Government, should only be ordered after an opportunity has been afforded to the owners of the articles to show either to the officer proposing to forfeit them or to a Judicial Officer that they are not liable to forfeiture. In the same way with respect to monies and securities we have provided that they shall be released from detention and shall not be forfeited if the owner establishes before a Judicial Officer that they are

not being used and are not intended to be used for the purposes of an unlawful association. We have also provided that information obtained in the enquiries which may be made during proceedings with a view to seizure and forfeiture shall not be disclosed. We have made minor changes in proposed sections 17C and 17F which are self-explanatory.

Clause 19 of the Bill as introduced, now re-numbered as clause 15.—The alterations are consequential upon our decision that the Bill shall remain in force for three years only.

Clause 20, now re-numbered as clause 16.—We have qualified the word "disaffection" and the expression "bring into hatred or contempt" by importing the explanations of this word and expression to be found in section 124A and section 153A of the Indian Penal Code. We have omitted the references to Indian Princes and Chiefs.

4. The Bill was published in the Gazette of India, dated the 17th September, 1932.

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.

* B. L. MITTER.

* H. G. HAIG.

* L. S. HUDSON.

MOHAMMAD YAKUB.

MOHD. YAMIN KHAN.

* LAL CHAND.

* N. N. ANKLESARIA.

* B. V. JADHAV.

* S. G. JOG.

* S. C. MITRA.

* MOHD. AZHAR ALI.

* GAYA PRASAD SINGH.

NEW DELHI ;

The 6th November, 1932.

* Subject to a minute of dissent.

MINUTES OF DISSENT.

Clause 4.—(1) In regard to clause 4, we agree generally with the amendments made. The Committee have, however, held that the expression "to deal with" is a comprehensive general description of the activities particularised in the draft clause. We think that some explanatory words are necessary for the sake of clarity and the guidance of the Courts. "Refusal to supply goods" has been the method most usually adopted for boycotting public servants, and we should therefore prefer to add the words "by supply of goods or otherwise" after the words "to deal with".

(2) The Committee have reduced the penalty to imprisonment for a term which may extend to

3 months; we consider the provision of the original Bill is preferable and that if the penalty is to be deterrent, the maximum sentence of imprisonment should be six months.

(3) The explanation of the term "public servant" as now drafted does not include soldiers or non-commissioned officers of the Army. We consider that the protection which has been granted to other public servants against boycott should be extended also to soldiers. It is not, however, necessary to make any addition to the definition in clause (3), for the offence of tampering with a public servant, if committed in respect of a soldier, is punishable under the ordinary law, but we consider that it is very necessary to amend the explanation in clause (4) so as to include soldiers.

B. L. MITTER.

H. G. HAIG.

L. S. HUDSON.

The 6th November, 1932.

I agree with paragraph (3) of the Note of Dissent by the Honourable Sir B. L. Mitter and others.

LAL CHAND.

The 6th November, 1932.

I have signed the report subject to the following observations:—

Regarding clause 5, the clause as at present worded can be used to bring within its purview a perfectly innocent person who repeats the passage adjudged to be offensive without knowing or suspecting that the same has been adjudged to be objectionable by the authorities. To guard against any possible abuse I would insert the words "knowing or having reason to believe that such copies have been so declared to be forfeited" after the words "force" and before the word "shall" in sub-clause (1).

Clause 6.—The object of the Bill is to deal with certain manifestations of the Civil Disobedience Movement. So far as I know it is rare for the promoters of the movement to attack public servants as a class. The attacks are directed more frequently by far against *individual* public servants and the clause as at present worded does not extend protection to the individual public servant leaving him to his existing remedy under the Penal Code. The difficulties in the way of a public servant seeking to avail himself of this existing remedy are too well-known to be specifically pointed out here. I would therefore add the words "any public servant or" after the word "towards" in line 8 of sub-clause (1).

Clause 7.—I suggest two amendments to the clause as at present worded.

1. The clause as at present worded will apply to coercive intent which is manifestly beneficent in the interest of the person sought to be coerced.

For instance a parent seeking to obstruct his son with intent to cause him to abstain from going to a house of ill fame or to the grog shop would be within its purview and this result would appear to be the more paradoxical if the new provision imposing vicarious punishment on the parent contained in clause 8 of the Bill, is considered. I would therefore suggest the words "wrongfully or without legal authority" which are found to be in the English law on the same subject, to be inserted before the word "obstructs" in sub-clause (a).

2. Though I feel convinced that there can be no peaceful *picketing* in the sense in which the word is generally understood, I can conceive methods of persuasion or inducement perfectly peaceful and innocent used for the purpose of causing a person to abstain from doing or to do what he has a perfect right to do or abstain from doing. The clause, I take it, seeks to punish coercive intention which is followed by mischievous results. If A with coercive intention causes alarm or annoyance to B, it is perfectly plain that A should be punished. But if A has either no coercive intention, or though he has an intention to affect B's will and action, he does not adopt methods which produce mischievous results, that is alarm or annoyance to B, I fail to understand why A's act should be made liable to punishment. A's act which affects B's will and action may be perfectly innocent and even laudable. For instance an appeal by A to B's love for their common motherland or to B's sympathy for the starving poor, can in no code of public or private morality be considered improper or objectionable, provided, of

course, such an appeal does not cause any annoyance to B. I can conceive cases in which such an appeal may prove annoying. For instance, an appeal by X—an Indian—to Y, a foreign trader, not to sell foreign cloth to Indians on the ground that by such sale India's industrial development would be impeded. Or take another instance, an appeal by X, a temperance preacher—to Y, an individual, who does not believe in teetotalism. Y is more likely than not, to resent X's appeal as impertinent and annoying in the highest degree. Now, while I would make, in the present circumstances of the country, X's act penal in both cases mentioned I would hesitate to make A suffer for doing an act which may be perfectly innocent and even laudable. I would therefore suggest that a suitable proviso be added which takes away from the purview of the clause acts which have either no coercive intent and may be even meant to be and are pleasing or edifying, or though intended to affect the volition of

persons to whom they are addressed do not result in alarm or annoyance to any person. It may be pointed out that in a prosecution under the clause so amended, the onus of proving that the accused had no coercive intent or that his act did not cause annoyance or alarm to any person must be thrown on the accused for the prosecution cannot be called upon to prove a negative.

Clause 16, sub-clause (d).—The deletion from the sub-clause (d) the provision in respect of the Indian Chiefs and Princes will not tend to advance the object of the Bill which is to combat effectively the Civil Disobedience Movement. To any one who properly realises how closely the native states territory is interlaced with British Indian territory, the necessity of securing the active and whole-hearted co-operation of the Indian Princes in the present connection will be readily apparent. I would therefore keep sub-clause (d) as it stood originally in the Bill.

* N. N. ANKLESARIA.

The 7th November, 1932.

We, the undersigned Members of the Select Committee, deem it our duty to sign the Report subject to the following note of dissent.

The chief aim of the Government as it seems from the objects and reasons of the Bill is to crush the Civil Disobedience movement in all its forms in the country. We do not see eye to eye with the Government; and we would recall the following words of His Excellency the Viceroy in his speech on the floor of the House dated the 5th September, 1932:

"The no-rent campaign in the United Provinces has died away, and the Red Shirt movement in the North West Frontier Province was rapidly brought under control; over the greater part of India the mass of population is no longer concerned with Civil Disobedience movement."

It may also be noted here that since those words were uttered there has been no such material change in the situation that the ordinary criminal law of the land has not been able to meet it.

Coming now to the proceedings of the Select Committee, we should like to point out that we have had to work in a distinctly disadvantageous position from the very inception of the proceedings. The respective strength of the two parties in the Select Committee was evenly balanced, seven against seven, with the Chairman (who in this case happens to be a Member of the Government) exercising right of a double vote which we question. On every contested point the Chairman's casting vote in favour of the Government has been the determining factor. The Bill may, therefore, be regarded as if it had been referred to a conveniently small committee consisting of only one official member. We are referring to it in order that the real value of the conclusions of such a committee may be properly appraised.

It is an irony of fate that the Bill as it comes out of the Select Committee constituted as above, should be practically a one-man-made law precisely like the Ordinances which this Bill seeks to perpetuate.

Since the parties were so evenly balanced, it would be interesting to refer to one or two

instances which happened in the course of our deliberations. As the Committee rose for the day on Wednesday, October 26th, it was decided to have two sittings on the following day, both morning and afternoon. This was arranged in order to expedite business, and with the full concurrence of the Home Member. It was, however, discovered by Government during the morning sitting of the 27th that there would be one vote less during the afternoon owing to the absence of Mr. Yamin Khan who had to go away to Meerut. Mr. Yamin Khan was trying to pair off with a Nationalist or Independent party member if one was available, but since none could be found Government was faced with an awkward situation. The next thing was that at the close of the morning sitting, the Chairman coolly announced, contrary to the arrangement referred to above, that there would be no afternoon sitting that day, as Mr. Haig had an engagement. On this a member of the opposition recommended to the Chairman to at least add if not substitute, the name of Mr. Yamin Khan.

The second incident happened on October 29th during the morning sitting. Clause seven had been under discussion the previous day, and on the discussion being resumed it was urged by the opposition members that the clause should be totally deleted, and that this question should be put to the vote first as consideration of the other amendments would not arise if total deletion was carried. Rather than the question being put to the vote, the Chairman allowed what in our opinion was desultory talk by a member. This talk whatever its purpose, had the effect of keeping the Committee engaged till the arrival of the nominated member, in consequence of whose absence Government was one vote less. These methods were indulged in in spite of the protests which were made by the opposition members, and in fact at the stage, when four of us walked out, we pointedly brought to the notice of the Chairman this incident, to which the Chairman replied that he was justified in not putting the matter to the vote under the circumstances, as

he was determined not to enable the opposition to secure a snatch vote and that he would not have hesitated to wait for another hour if necessary. Sometime after the nominated member turned up, the matter was put to the vote, and lost as usual by the casting vote of the Chairman. These dilatory tactics were carried on for 45 minutes.

We maintain that the Chairman did not make a proper use of his casting vote which he always announced in the following words: "Of course, my vote is with the Government". We venture to think that constitutionally speaking the casting vote is intended to be given with proper discretion and on full consideration of the merits of the question, and not as if it is pledged already to the Government. This determined attitude of the Chairman has been conspicuous throughout the proceedings, as pointed out before.

We are constrained to remark that throughout the proceedings we were helpless to get Government members to agree to any reasonable modification of the provisions of the Bill on any material point, and we realised that it was more or less a case of Government being determined to carry the Bill with all its obnoxious features by the Chairman exercising double vote, despite the opposition which we could and did offer.

Now we come to the final stage. In the course of the discussion on clause 7, we urged that peaceful picketing, peaceful persuasion, peaceful argument and peaceful mode of inducement for the purpose of promoting indigenous and swadeshi products and industries should, in all fairness, be exempted from the operations of this clause. The Chairman informed the Committee that Government was determined to suppress even peaceful picketing, etc., and that therefore, they were not prepared to entertain any exemption such as the one proposed by the opposition. We observed that in view of that attitude and in view of the fact that we were to be defeated by the casting vote, it would be futile for us to waste our and the Committee's time any more, and that rather than try and convince an unwilling "majority" we will prefer to urge our views before the Assembly.

Realising the consequences of their arbitrary action, the Government agreed that the Committee might rise for a few minutes and some *via media* might be devised to avoid the breaking up of our deliberations. But even this method did not prove fruitful, and it was suggested by the Chairman that the business of the day might continue for the day, leaving consideration of this particular question till Monday, October the 31st, when he pointed out that both Government and the opposition should bring in their considered suggestion which, if accepted after discussion, may be adopted. The question, having thus been reserved, was resumed on Monday, and the proposal of the opposition, incorporated in the form of an explanation to clause 7, was worded as follows:

"Peaceful persuasion or inducement which does not or is not calculated to involve any obstruction, violence, intimidation, annoyance or alarm to any person does not come within the purview of this section."

It is extremely significant to remember that this proviso not only had the unanimous support of the opposition members, but that of Mr. Anklesaria also. Indeed Mr. Anklesaria was

the author of this explanation. It should be noted that with the addition of Mr. Anklesaria the respective strength of the parties became 8 to 6, and if the matter had been left to voting, Government were bound to lose; but it is to be recorded that the Chairman's ruling came to the rescue of Government. We maintain that that ruling was unwarranted and unconstitutional, and that the Chairman acted wrongly in declining to put it to the vote. An amendment had been expressly invited, and for which an adjournment was granted. It is also necessary to point out that an identical amendment was permitted to be discussed in Committee on October 29th, without the Chairman ruling it out of order, and even on October 31st discussion on it was allowed to be resumed in which the Chairman and the Home Member themselves took prominent part. Finding that Mr. Anklesaria pressed his amendment and was not in a mood to withdraw it, Government's attitude changed. The position of the opposition thus became wholly intolerable, as we realised that the casting vote method was not the only method of defeating our efforts, but the shutting out of a legitimate sphere of discussion and amendments; and therefore four members namely, Mr. B. R. Puri, Mr. S. C. Mitra, Mr. Azharali and Mr. Gaya Prasad Singh decided to leave the Select Committee.

Our first attempt was always to put our points of view clearly before the Committee, and to move deletion of all the obnoxious clauses one after the other. Failing in deletion on account of the casting vote, we moved necessary amendments. We note that our Honourable colleague Mr. Anklesaria has said in his statement to the Press which we find in the *Hindustan Times* and in the *Statesman* of 3rd November, 1932, as follows:

"He (President) did not rule me out of order as being inconsistent and contradictory in law on October 29th itself when I moved the amendment in question. Such a ruling would have entirely altered the entire course of discussion of this clause. It was regrettable that the ruling should have been made after so much discussion . . . as a matter of fact, when an amendment is ruled out of order, it is immaterial whether I pressed it or not, but, on the contrary, I did nothing to show that I was not going to stand by my amendment."

As we propose to move our amendments to the Bill in details on the floor of the House, we do not feel inclined to discuss the clauses. We hold that the amendment of Mr. Anklesaria was not negating the principles of the Bill, and that it was justified both on facts and in law. The clauses of the Bill even in their modified form, are open to grave objections, and unacceptable. Thus the deletion of all the obnoxious clauses of the Bill should have been and is the only remedy.

There should be no law depriving the liberties of the Press, or punishing parents for the sins of their children, or making peaceful propaganda to promote swadeshi movements an offence.

Even conceding that some extra powers are needed, the period of three years is too long, and we accordingly proposed six months. The Civil Disobedience Movement is only a means

to an end. The object is to attain self-government rapidly. We feel that as soon as the popular demands are conceded, the movement will cease automatically; and no such drastic

legislation will be necessary. Repressive measures have never been found to cure political discontent.

B. V. JADHAV.

S. G. JOG.

MOHAMMAD AZHAR ALI.

GAYA PRASAD SINGH.

S. C. MITRA.

The 6th November, 1939.

[As amended by the Select Committee.]

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

A

BILL

TO

Supplement the Criminal Law.

WHEREAS it is expedient to supplement the Criminal Law and to that end to amend the * * * Indian Press (Emergency Powers) Act, 1931, and XXIII of further to amend temporarily the * * * Indian 1931. Criminal Law Amendment Act, 1908, for the XIV of 1908. purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. (1) This Act may be called the Criminal Law Short title, duration Amendment Act, 1932. and commencement.

(2) It shall remain in force for three years from its commencement.

(3) The whole of the Act except section 4 and section 7 shall come into force at once, and the Local Government may, by notification in the local official Gazette, direct that section 4 or section 7 shall come into force in any area on such date as may be specified in the notification.

2. * * * * *

* Whoever wilfully dissuades or attempts to dissuade the public or any person from entering the Military, Naval,* Air or Police service of His Majesty shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

Exception 1.—This provision does not extend to comments on or criticisms of the policy of Government in connection with the Military, Naval, Air or Police service made in good faith and without any intention to dissuade from enlistment.

Exception 2.—This provision does not extend to the case in which advice is given in good faith for the benefit of the individual to whom it is given or for the benefit of any member of his family or of any of his dependants.

3. * * * * *

* Whoever induces or attempts to induce any public servant to Tampering with public * * * fail in his servants. duty as such servant shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

Explanation.—For the purposes of this section, a public servant denotes a public servant as defined in section 21 of the Indian Penal Code, a servant of a local authority or railway administration, a village choukidar, and an employee of a public utility service as defined in section 2 of the Trade Disputes Act, 1929. XLV of 1880. VII of 1929.

4. * * * * *

(1) Whoever, with intent to harass any public servant in the discharge of his duties, or to cause him to terminate * * * his services or fail in his duty, refuses to deal * * * with, * * *, or to let on reasonable rent

a house usually let for hire or land not being cultivated land to, or to render any customary service to such public servant or any member of his family, * * * on the terms on which such things would be done in the ordinary course, or withholds from such person or his family such medical services as he would ordinarily render, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Explanation.—For the purposes of this section “public servant” has the same meaning as in section 3.

(2) No Court shall take cognizance of an offence punishable under this section unless upon complaint made by order of or under authority from the Local Government or some officer empowered by the Local Government in this behalf.

5. * * * * *

(1) Whoever publishes, circulates or repeats Dissemination of con- in public any passage tents of proscribed docu- from a newspaper, book. ment. or other document copies whereof have been declared to be forfeited to His Majesty under any law for the time being in force, shall be punished with imprisonment for a term which may extend to six months, or with fine, or with both.

(2) No Court shall take cognizance of an offence punishable under this section unless the Local Government has certified that the passage published, circulated or repeated contains, in the opinion of the Local Government, seditious or other matter of the nature referred to in sub-section (1) of section 99A of the Code of Criminal Procedure, 1898, or sub-section (1) of section 4 of the Indian Press (Emergency Powers) Act, 1931.

V of 1898.

XXIII of 1931.

6. (1) Whoever makes, publishes or circulates any statement, rumour or Dissemination of false report which is false and rumours. which he has no reasonable ground to believe to be true, with intent to cause or which is likely to cause fear or alarm to the public or to any section of the public or hatred or contempt towards any class of public servants or any class of His Majesty's subjects shall be punished with imprisonment which may extend to one year, or with fine, or with both.

Explanation.—For the purposes of this section public servant means a public servant as defined in section 21 of the Indian Penal Code.

XLV of 1860.

(2) So long as this section remains in force, clause (b) of section 505 of the Indian Penal Code shall be inoperative.

7. * * * * *

(1) Whoever—

Molesting a person to prejudice of employment or business.

(a) with intent to cause any person to abstain from doing or to do any act which such person has a right to do or to abstain from doing,* obstructs or uses violence to or intimidates such person or any member of his family or person in his employ, or loiters at or near a place where such person or member or employed person resides or works or carries on business or happens to be, or persistently follows him from

place to place, or interferes with any property owned or used by him or deprives him of or hinders him in the use thereof, or

- (b) loiters or does any similar act at or near the place where a person carries on business, in such a way and with intent that any person may thereby be deterred from entering or approaching or dealing at such place,

shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Explanation.—Encouragement of indigenous industries or advocacy of temperance, without the commission of any of the acts prohibited by this section is not an offence under this section.

(2) No Court shall take cognizance of an offence punishable under this section except upon a report in writing of facts which constitute such offence made by a police officer not below the rank of officer in charge of a police station.

8. (1) Where any young person under the age of sixteen years is convicted by any Court of an offence which, in the opinion of the Court, has been committed in furtherance of a movement prejudicial to the public safety or peace and such young person is sentenced to fine, the Court may order that the fine shall be paid by the parent or guardian of such young person as if it had been a fine imposed upon the parent or guardian.

Explanation.—In this section the word "guardian" includes any person who, in the opinion of the Court, has for the time being the charge of or control over the offender.

(2) Before making an order under this section the Court shall give the parent or guardian an opportunity to appear and be heard, and no such order shall be made if the parent or guardian satisfies the Court that he has not conduced to the commission of the offence by neglecting to control the offender, or that the offence was not committed in furtherance of a movement prejudicial to the public safety or peace.

(3) Where a parent or guardian is ordered to pay a fine under this section, the amount may be recovered in accordance with the provisions of the Code of Criminal Procedure, 1898.

V of 1898.

* * * * *

9. Notwithstanding anything contained in the Procedure in offences Code of Criminal Procedure, 1898,—

V of 1898.

- (i) no Court inferior to that of a Presidency Magistrate or Magistrate of the first class shall try any offence under this Act ;
- (ii) an offence punishable under section 2, 3, 5, 6 or 7 shall be cognizable by the police ;
- (iii) an offence punishable under section 4 shall be an offence in which a warrant shall ordinarily issue in the first instance; and
- (iv) an offence punishable under section 7 shall be non-bailable.

10. (1) The Local Government may, by notification

Power of Local Government to make certain offences cognizable and non-bailable. tion in the local official Gazette, declare that any offence punishable under section 186, 188, 189,

XLV of 1890
V of 1898.
V of 1898.

190, 228, 295A, 298, 505, 506 or 507 of the Indian Penal Code, when committed in any area specified in the notification shall, notwithstanding anything contained in the Code of Criminal Procedure, 1898, be cognizable * * *, and thereupon the Code of Criminal Procedure, 1898, shall, while such notification remains in force, be deemed to be amended accordingly.

(2) The Local Government may, in like manner and subject to the like conditions, and with the like effect, declare that an offence punishable under

XLV of 1890 section 188 or section 506 of the Indian Penal Code shall be non-bailable.

* * * * *

11. So long as this Act remains in force, section

16 of the Indian Criminal Law Amendment Act, 1908, shall be deemed to be re-numbered as sub-section (1) of section 16 and to that section as so re-numbered the following sub-section shall be deemed to be added, namely :—

XIV of 1908.

“ (2) The Governor General in Council, if satisfied to the like effect, may, by notification in the Gazette of India, declare an association to be an unlawful association, and thereupon such association shall be, so long as the declaration remains in force, an unlawful association for the purposes of this Act throughout the whole of British India.”

12. So long as this Act remains in force, to section

17 of the Indian Criminal Law Amendment Act, 1908, the following sub-section shall be deemed to be added, namely:—

XIV of 1908.

“ (3) An offence under sub-section (1) shall be cognizable by the police, and notwithstanding anything contained in the Code of Criminal Procedure, 1898, shall be non-bailable.”

V of 1898.

13. So long as this Act remains in force, after

insertion of new sections 17A, 17B, 17C, 17D, 17E and 17F in Act XIV of 1908. section 17 of the Indian Criminal Law Amendment Act, 1908, the following sections shall be deemed to be inserted, namely :—

XIV of 1908.

“ 17A. (1) The Local Government may, by notification in the local official Gazette, notify any place which in its opinion is used for the purposes of an unlawful association. Power to notify and take possession of places used for the purposes of an unlawful association.

Explanation.—For the purposes of this section ‘ place ’ includes a house or building, or part thereof or a tent or vessel.

(2) The District Magistrate or in a Presidency-town the Commissioner of Police, or any officer authorised in this behalf in writing by the District Magistrate or Commissioner of Police, as the case may be, may thereupon take possession of the notified place and evict therefrom any person found therein, and shall forthwith make a report of the taking possession to the Local Government :

Provided that where such place contains any apartment occupied by women or children, reasonable time and facilities shall be afforded for their withdrawal with the least possible inconvenience.

(3) A notified place whereof possession is taken under sub-section (2) shall be deemed to remain in the possession of Government so long as the notification under sub-section (1) in respect thereof remains in force.

17B. (1) The District Magistrate, *Commissioner of Police* or officer taking possession of a notified place shall also take possession of all moveable property found therein, and shall make a list thereof in the presence of two respectable witnesses.

(2) If, in the opinion of the *District Magistrate, or in a Presidency-town the Commissioner of Police*, any articles specified in the list are or may be used for the purposes of the unlawful association, he may proceed subject to the provisions hereafter contained in this section to order such articles to be forfeited to His Majesty.

(3) All other articles specified in the list shall be delivered to the person whom he considers to be entitled to possession thereof, or, if no such person is found, shall be disposed of in such manner as the *District Magistrate or Commissioner of Police*, as the case may be, may direct.

(4) The *District Magistrate or Commissioner of Police* shall publish, as nearly as may be in the manner provided in section 87 of the Code of Criminal Procedure, 1898, for the publication of a proclamation, a notice specifying the articles which it is proposed to forfeit and calling upon any person claiming that any article is not liable to forfeiture to submit in writing within fifteen days any representation he desires to make against the forfeiture of the article. **V of 1898.**

(5) Where any such representation is accepted by the *District Magistrate or Commissioner of Police*, he shall deal with the article concerned in accordance with the provisions of sub-section (3).

(6) Where any such representation is rejected, the representation, with the decision thereon, shall be forwarded to the *District Judge*, in the case of a decision by a *District Magistrate*, or, to the *Chief Judge of the Small Cause Court*, in the case of a decision by the *Commissioner of Police*, and no order of forfeiture shall be made until the *District Judge or Chief Judge of the Small Cause Court*, as the case may be, has adjudicated upon the representation. Where the decision is not confirmed the articles shall be dealt with in accordance with the provisions of sub-section (3).

(7) In making an adjudication under sub-section (6) the procedure to be followed shall be the procedure laid down in the Code of Civil Procedure, 1908, **V of 1908.** for the investigation of claims so far as it can be made to apply, and the decision of the *District Judge or Chief Judge of the Small Cause Court*, as the case may be, shall be final.

(8) If the article seized is livestock or is of a perishable nature, the *District Magistrate or Commissioner of Police* may, if he thinks it expedient, order the immediate sale thereof, and the proceeds of the sale shall be disposed of in the manner herein provided for the disposal of other articles.

17C. Any person who enters or remains upon a notified place without the permission of the *District Magistrate*, or of an officer authorised by him in this behalf, shall be deemed to commit criminal trespass, * * *

17D. Before a notification under sub-section (1) of section 17A is cancelled, the Local Government shall give such general or special directions as it may deem requisite regulating the relinquishment by Government of possession of notified places * * *.

17E. (1) Where the Local Government is satisfied, after such inquiry as it may think fit that any monies, securities or credits are being used or are intended to be used for the purposes of an unlawful association, the Local Government may, by order in writing, declare such monies, securities or credits to be forfeited to His Majesty:

(2) A copy of an order under sub-section (1) may be served on the person having custody of the monies, securities or credits, and on the service of such copy such person shall pay or deliver the monies, securities or credits to the order of the Local Government:

Provided that, in the case of monies or securities, a copy of the order may be endorsed for execution to such officer as the Local Government may select, and such officer shall have power to enter upon and search for such monies and securities in any premises where they may reasonably be suspected to be, and to seize the same.

(3) Before an order of forfeiture is made under sub-section (1) the Local Government shall give written notice to the person (if any) in whose custody the monies, securities or credits are found of its intention to forfeit, and any person aggrieved thereby may within fifteen days from the issue of such notice file an application to the District Judge in a District, or to the Chief Judge of the Small Cause Court in a Presidency-town, to establish that the monies, securities or credits or any of them are not liable to forfeiture, and if any such application is made, no order of forfeiture shall be passed in respect of the monies, securities or credits concerned until such application has been disposed of, and unless the District Judge or Chief Judge of the Small Cause Court has decided that the monies, securities or credits are liable to forfeiture.

▼ of 1908.

(4) In disposing of an application under sub-section (3) the procedure to be followed shall be the procedure laid down in the Code of Civil Procedure, 1908, for the investigation of claims so far as it can be made to apply, and the decision of the District Judge or Chief Judge of the Small Cause Court, as the case may be, shall be final.

(5) Where the Local Government has reason to believe that any person has custody of any monies, securities or credits which are being used or are intended to be used for the purposes of an unlawful association, the Local Government may, by order in writing, prohibit such person from paying, delivering, transferring or otherwise dealing in any manner whatsoever with the same, save in accordance with the written orders of the Local Government. A copy of such order shall be served upon the person to whom it is directed.

(6) The Local Government may endorse a copy of an order under sub-section (3) for investigation to any officer it may select, and such copy shall be warrant whereunder such officer may enter upon any premises of the person to whom the order is directed, examine the books of such person, search for monies and securities, and make inquiries from

such person, or any officer, agent or servant of such person, touching the origin of and dealings in any monies, securities or credits which the investigating officer may suspect are being used or are intended to be used for the purposes of an unlawful association.

(7) A copy of an order under this section may be served in the manner provided in the Code of Criminal Procedure, 1898, for the service of a **v of 1898:** summons, or, where the person to be served is a corporation, company, bank or association of persons, it may be served on any secretary, director or other officer or person concerned with the management thereof, or by leaving it or sending it by post addressed to the corporation, company, bank or association at its registered office, or, where there is no registered office, at the place where it carries on business.

(8) Where an order of forfeiture is made under sub-section (1) in respect of any monies, securities or credits in respect of which a prohibitory order has been made under sub-section (3), such order of forfeiture shall have effect from the date of the prohibitory order, and the person to whom the prohibitory order was directed shall pay or deliver the whole of the monies, securities, or credits forfeited, to the order of the Local Government.

(9) Where any person liable under this section to pay or deliver any monies, securities, or credits to the order of the Local Government refuses or fails to comply with any direction of the Local Government in this behalf, the Local Government may recover from such person, as arrears of land-revenue or as a fine, the amount of such monies or credits or the market value of such securities.

(10) In this section, ' security ' includes a document whereby any person acknowledges that he is under a legal liability to pay money, or whereunder any person obtains a legal right to the payment of money ; and the market value of any security means the value as fixed by any officer or person deputed by the Local Government in this behalf.

(11) *Except so far as is necessary for the purposes of any proceeding under this section, no information obtained in the course of any investigation made under sub-section (6) shall be divulged by any officer of Government, without the consent of the Local Government.*

17F. Every report of the taking possession of property and every declaration of forfeiture made, or purporting to be made under this Act, shall, as against all persons, be conclusive proof that the property specified therein has been taken possession of by Government or has been forfeited, as the case may be, and *save as provided in sections 17B and 17E* no proceeding purporting to be taken under *section 17A, 17B, 17C, 17D or 17E* shall be called in question by any Court, and no civil or criminal proceeding shall be instituted against any person for anything in good faith done or intended to be done under *the said sections* or against Government or any person acting on behalf of or by authority of Government for any loss or damage caused to or in respect of any property whereof possession has been taken by Government under this Act."

14. In the long title and in the preamble of the Amendment of title and Indian Press (Emergency Powers) Act, 1931, for the words " against the **XXIII of 1931.** publication of matter inciting to or encouraging murder or violence " the words " for the better control of the Press " shall be substituted.

XXIII of 1931;
15. For sub-section (3) of section 1 of the Indian Press (Emergency Powers) Act, 1931, the following sub-section shall be substituted, namely :—

“(3) It shall remain in force until the expiration of the Criminal Law Amendment Act, 1932.”

XXIII of 1931.
16. In sub-section (1) of section 4 of the Indian Press (Emergency Powers) Act, 1931,—

(a) after clause (b) the following words and clauses shall be inserted, namely :—

“ or which tend, directly or indirectly,—

(c) to seduce any officer, soldier, sailor or airman in the military, naval or air forces of His Majesty or any police officer from his allegiance or his duty, or

(d) to bring into hatred or contempt His Majesty or the Government established by law in British India or the administration of justice in British India * * * * * or any class or section of His Majesty's subjects in British India, or to excite disaffection towards His Majesty or the said Government * * * * , or

(e) to put any person in fear or to cause annoyance to him and thereby induce him to deliver to any person any property or valuable security or to do any act which he is not legally bound to do, or to omit to do any act which he is legally entitled to do, or

(f) to encourage or incite any person to interfere with the administration of the law or with the maintenance of law and order, or to commit any offence, or to refuse or defer payment of any land-revenue, tax, rate, cess or other due or amount payable to Government or to any local authority, or any rent of agricultural land or anything recoverable as arrears of or along with such rent, or

(g) to induce a public servant or a servant of a local authority to do any act or to forbear or delay to do any act connected with the exercise of his public functions or to resign his office, or

(h) to promote feelings of enmity or hatred between different classes of His Majesty's subjects, or

(i) to prejudice the recruiting of persons to serve in any of His Majesty's forces, or in any police force, or to prejudice the training, discipline or administration of any such force.” ;

(b) the Explanation shall be numbered as Explanation 1, and after the Explanation as so numbered the following Explanations shall be inserted, namely :—

“ Explanation 2.—Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means without exciting or attempting to excite hatred, contempt or disaffection shall not be deemed to be of the nature described in clause (d) of this sub-section.

Explanation 3.—Comments expressing disapprobation of the administrative or other action of the Government without exciting or attempting to excite hatred, contempt or disaffection, shall not be deemed to be of the nature described in clause (d) of this sub-section.

Explanation 4.—Words pointing out, without malicious intention and with an honest view to their removal, matters which are producing or have a tendency to produce feelings of enmity or hatred between different classes of His Majesty's subjects shall not be deemed to be words of the nature described in clause (h) of this sub-section."

17. On the commencement of this Act section 62 of the Special Powers Ordinance, 1932, shall cease to have effect.

18. Anything done or any proceedings commenced in pursuance of the provisions of Chapter VI of the Special Powers Ordinance, 1932, shall, upon the commencement of this Act, be deemed to have been done or to have been commenced in pursuance of the corresponding provisions of the Indian Criminal Law Amendment Act, 1908, as amended by this Act, and shall have effect as if this Act was already in force when such thing was done or such proceedings were commenced.

19. Anything done or any proceedings commenced in pursuance of the provisions of the Indian Press (Emergency Powers) Act, 1931, as amended by section 77 of the Special Powers Ordinance, 1932, shall, upon the commencement of this Act, be deemed to have been done or to have been commenced in pursuance of the corresponding provisions of the Indian Press (Emergency Powers) Act, 1931, as amended by this Act, and shall have effect as if this Act was already in force when such thing was done or such proceedings were commenced.

20. Any person accused of the commission of an offence punishable under section 24, 25, 26, 28, 67 or 70, or by reason of the provisions of Chapter VI of the Special Powers Ordinance, 1932, may, notwithstanding the expiry of the said Ordinance, be tried and punished as if such offence were an offence punishable under or by reason of the corresponding enactment of this Act, and as if this Act had been in force at the time of such commission; and any trial of any such offence begun but not completed at the expiry of the Special Powers Ordinance, 1932, may be continued and completed as if it had been begun after the passing of this Act:

Provided that no trial of an offence punishable under section 67 or 70 of the said Ordinance shall be begun, continued or completed in any area in which section 4 or section 7, as the case may be, is not in force.

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GOVERNMENT OF INDIA,
LEGISLATIVE ASSEMBLY
DEPARTMENT.

Report of the Select Committee on the
Bill to supplement the Criminal Law,
with the Bill as amended.