

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

The Foreign Relations 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.	
6.	The Foreign Relations Bill.	29.2.32.	
7.	The Indian Air Force Bill.	10.3.32.	
8.	The Ancient Monuments Presentation (Amendment) Bill.	5.4.32.	
9.	The Port Haj Committees Bill.	5.9.32.	
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.	
14.	The Indian Merchant Shipping (Amendment) Bill.	14.11.32.	
15.	The Indian Tariff (Ottawa Trade Agreement) Amendment Bill.	12.12.32.	

LEGISLATIVE ASSEMBLY.

We, the undersigned, Members of the Select Committee to which the Bill to provide against the publication of statements likely to promote unfriendly relations between His Majesty's Government and the Governments of foreign States was referred, have considered the Bill and the paper
Paper No. 1. noted in the margin, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

2. *Clause 2.*—We consider that this clause is too wide. It deals with any matter which may promote unfriendly relations with foreign States. The English Common Law regarding publications calculated to interfere with peaceful relations with foreign States is narrower than this; it deals with libels on foreign Sovereigns and their representatives which have the effect above mentioned. We consider that the Indian law should be similarly restricted, and that the definition of the offence should include both elements, namely, the element of defamation, and the element of prejudice to friendly relations. We have redrafted the clause accordingly.

The introduction of the element of defamation necessitates the inclusion of a category of the persons whose defamation will come within the scope of the clause. The English Common Law cases include, in addition to a Sovereign of a State, such personages as his consort and his ambassador; but the category is necessarily unsatisfactory, as the cases are not numerous. We consider that the needs of the situation in India will be met if the Ruler of a foreign State, the members of his family and his Ministers are protected.

Again, it seems unnecessary at present to extend the scope of the clause to all foreign States. We propose to restrict it to those States within what may be called the sphere of influence of the Indian

press. We have accordingly confined the protection of the clause to States lying outside but adjoining India. Incidentally, this change meets those criticisms which attack the phrase "foreign States" on the ground of ambiguity.

We are impressed with the criticism of the phrase "to promote unfriendly relations", but we doubt if any clear cut phrase could at the present stage be devised. We propose, however, to adopt the phrase "to prejudice the maintenance of friendly relations", which should considerably reduce the difficulties of interpretation.

Clause 3.—We have recast this clause in order—

- (a) to confine the initiative in launching prosecutions to the Governor General in Council, and
- (b) to bar the jurisdiction of any Court inferior to that of a Presidency Magistrate or a Magistrate of the first class.

Clause 5.—As the Foreign Relations Ordinance, 1931, expired in October, 1931, this clause is now superfluous. In its place we have substituted a clause which will avoid unnecessary trouble and expense in sending officers of the Foreign Department to give formal evidence to the effect that any person defamed is a Ruler of a State outside but adjoining India, or is a member of his family or is one of his Ministers. We propose that a certificate from the Government of India should be sufficient in this behalf.

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.

R. K. SHANMUKHAM CHETTY.

*E. B. HOWELL.

*H. S. GOUR.

*L. GRAHAM.

ISMAIL ALI KHAN.

MOHD. YAMIN KHAN.

GAYA PRASAD SINGH.

*LALCHAND NAVALRAI.

HAJI ABDOOLA HAROON.

K. AHMED.

S. G. JOG.

*M. MASWOOD.

The 26th February, 1932.

MINUTES OF DISSSENT.

While we agree with the majority in restricting the scope of the offence made punishable under this Act by limiting it to defamation of certain persons, we are impressed by the difficulty which is emphasised in the opinions received on the Bill of subjecting to the requirement of judicial proof anything requiring such specialised knowledge as the prejudicing of the maintenance of friendly relations between two nations. The Government of India might at considerable inconvenience to itself depute the Foreign Secretary, as being the person best qualified to speak on the subject, to give evidence in any particular case, but there would be no obligation on the Court to accept his evidence. It will be readily appreciated that the cross-examination of the Foreign Secretary in such a case might do more to prejudice the maintenance of friendly relations than the original publication which forms the subject-matter of the prosecution. We think that the fresh burden of

proving the actual offence of defamation of certain persons having been placed on the prosecution, that burden is sufficient to ensure that the new provision will not be operated with harshness; and, if that is so, then judicial proof of the intention or tendency to prejudice the maintenance of friendly relations should not be required. We would, therefore, authorise the Government to prosecute under this Act in those cases in which in their opinion the publication, which is the subject-matter of the prosecution, is likely to prejudice the maintenance of friendly relations between the Government and another national Government. In this way the burden of proving defamation will remain on the prosecution, and the only difference in the law, as proposed by us, will be that instead of proceedings being capable of being initiated only by the persons aggrieved they may also be initiated by the Government, if in their opinion certain conditions are satisfied.

E. B. HOWELL.

L. GRAHAM.

The 26th February, 1932.

I sign subject to a doubt whether the phrase "a member of the family" and the word "prejudice" in clause 2 are not too wide, and whether we should not limit both by omitting the one and substitut-

ing "endanger" and "endangered" for the words "prejudice" and "prejudiced" in the said clause.

H. S. GOUR.

I regret I cannot agree with the view expressed in the Report that clause 2 has been sufficiently narrowed down. I dissent from the view that it is necessary or proper to extend any protection with regard to any libel respecting any member of the family of the foreign ruler. If the intention is to bring the Indian law on this subject in consonance with the English law, there is no such provision in the English law making libel on the members of the family of foreign Sovereigns amenable under such special laws. The expression "member of his family" is very wide and elastic to include even a remote kinsman of the ruler. The dictionary meaning of the word "family" is a body of servants or servitors of a house or the retinue or following of a person of estate or authority. Even the narrower meaning includes those descended really and putatively from a common progenitor. The modern meaning too would include a group comprising immediate kindred. Further the original Bill did not aim at any protection against libelling any member of a foreign ruler's family. It provided punishment for circulation of any report with intent to promote unfriendly relations between His Majesty's Government and the Government of any foreign State only. In my

opinion the introduction of the words "member of the family" besides being unnecessary are likely to create complication.

2. I am also against the phraseology used in clause 2, viz., "with intent to prejudice the maintenance of friendly relations". Considering from the political point of view the idea underlying the Bill is to prevent dissemination of the defamatory statements against foreign rulers made with intent to create enmity or hostility between the two Governments and not only with an intent to cause unkind or unfavourable relations between them or such as may merely tend to displease the ruler. Word "friendly" means kind or favourable. Use of such an expression will go a great way to put too much restraint on the freedom of speech and the privilege of the Press. Words "with intent to create enmity" may be more appropriate.

3. I am also in conflict with the recommendation that the trial of the offence provided for in clause 2 be held before a 1st Class Magistrate. It is absolutely necessary that the peculiar offence contemplated in the Bill should be tried by a higher and experienced tribunal such as a Court of Session.

LALCHAND NAVALRAI.

The 26th February, 1932.

In my opinion the scope of the Bill is still very wide and is not based on the English common law.

My suggestions in this connection are as follows:—

- (1) It should extend only to those provinces which the Governor General in Council may specify by notification.

My reason for this is that many Provincial Governments have stated that there is no need for such a law in their provinces.

- (2) The mention of the members of the family in clause 2 is very wide. It should be restricted to the narrowest possible limits on the basis of the English common law.
- (3) The word "prejudice" in clause 2 is also very wide. In English common law the word used is "endanger".
- (4) The court should not be inferior to that of a Sessions Judge and the case should be triable by a Jury.

M. MASWOOD.

[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 statements likely to prejudice the maintenance of friendly relations between His Majesty's Government and the Governments of certain foreign States.

WHEREAS it is expedient to provide against the publication of statements likely to *prejudice the maintenance of friendly relations* between His Majesty's Government and the Governments of *certain* foreign States; It is hereby enacted as follows :—

1. (1) This Act may be called the Foreign Relations Act, 1932.

Short title and extent.

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

2. Whoever commits any offence punishable

Penalty for defamation under Chapter XXI of the Indian Penal Code against *XLV of 1860.*
prejudicing foreign relations. a Ruler of a State outside

but adjoining India, or against a member of the family or against a Minister of such Ruler, with intent to prejudice the maintenance of friendly relations between His Majesty's Government and the Government of such State, or whereby the maintenance of such relations is likely to be prejudiced, shall be punishable with imprisonment which may extend to two years, or with fine, or with both.

3. No Court inferior to that of a Presidency Magistrate or a Magis-

Restriction on cognisance of offences.

trate of the first class shall proceed to the trial of any offence under section 2, and no Court shall proceed to the trial of any such offence except on complaint made by, or under authority from, the Governor General in Council.

4. The provisions of sections 99A to 99G of the Code of Criminal Pro-

Power to forfeit certain publications or to detain them in the course of transmission through post.

cedure, 1898, and of sections 27B to 27D of the Indian Post Office Act, 1898, shall apply in *V of 1898,*
the case of any book, *VI of 1898,*

newspaper or other document containing matter in respect of which any person is punishable under section 2, in like manner as they apply in the case of a book, newspaper or document containing seditious matter within the meaning of those sections.

5. Where, in any trial of an offence under section 2, or in any proceeding before

Proof of status of persons defamed. a High Court arising out of section 4, there is a question whether any person is a Ruler of any State, or is a member of the family or is a Minister of such Ruler, a certificate under the hand of a Secretary to the Government of India that such person is such Ruler, member or Minister shall be conclusive proof of that fact.

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GOVERNMENT OF INDIA.

LEGISLATIVE ASSEMBLY
DEPARTMENT.

Report of the Select Committee on the
Bill to provide against the publication
of statements likely to promote
unfriendly relations between His
Majesty's Government and the Gov-
ernments of foreign States, with the
Bill as amended.