

EAST INDIA (PRESS ACTS),

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Report of the Committee appointed by the Government of India to examine the Press and Registration of Books Act, 1867, the Indian Press Act, 1910, and the Newspaper (Incitement to Offences) Act, 1908.

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*Presented to Parliament by Command of His Majesty.*

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[Cmd. 1489.]

*Resolution by the Government of India,  
dated 21st March 1921.*

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No. 534. On the 22nd February 1921 a Resolution was carried in the Legislative Assembly recommending to the Governor-General in Council "that a Committee of whom not less than two-thirds shall be non-officials be appointed to examine the Press and Registration of Books Act, 1867, the Indian Press Act, 1910, and the Newspaper (Incitement to Offences) Act VII. of 1908; and report which of these should be repealed or modified and in the latter case what modifications are required."

The Governor-General in Council has been pleased to accept this recommendation and has decided to appoint a Committee of which the personnel will be as follows :--

THE HON. DR. TEJ BAHADUR SAPRU, *Chairman.*

THE HON. SIR WILLIAM VINCENT, K.C.S.I.

MR. JAMNADAS DWARKADAS.

MR. SESHAGARI AYYAR.

MR. SACHCHIDANANDA SINHA.

MR. BAKHSHI SOHAN LAL.

MUNSHI ISWAR SARAN.

BABU JOGENDRA NATH MUKERJEE.

KHAN BAHADUR MIR ASAD ALI.

The Committee will report their recommendations to the Governor-General in Council. It will meet at a time to be appointed by the Chairman.

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## EAST INDIA (PRESS ACTS).

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### **Report of the Committee appointed by the Government of India to examine the Press and Registration of Books Act, 1867, and the Indian Press Act, 1910, and the Newspaper (Incitement to Offences) Act, 1908.**

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In accordance with the instructions contained in the Home Department Resolution No. 534, dated the 21st March 1921, we the members of the Committee appointed by the Government of India to examine the Press and Registration of Books Act, 1867, the Indian Press Act, 1910, and the Newspaper (Incitement to Offences) Act, 1908, have the honour to report for the information of Government and such action as they may think desirable, our conclusions on the questions referred to us for examination.

2. These conclusions have, we may state, been reached after a careful survey of the political situation, an exhaustive examination of witnesses who appeared before us, and a scrutiny of voluminous documentary evidence including the valuable and weighty opinions of local Governments placed at our disposal by the Government of India as well as of the memoranda submitted to us by various members of the public. Many of these memoranda were sent in response to a general invitation issued by the Government of India to those interested in the subject under discussion to communicate their views to Government for the information of the Committee. We have examined orally 18 witnesses, all connected with the Press, and we also invited eight other prominent journalists to give evidence; to our great regret, they were however either unable or, in some cases, unwilling to accept our invitation.

3. Of the Acts referred to us for examination, the Indian Press Act, 1910, is by far the most important, and it will therefore be convenient if in the first place we record our conclusions in respect of that Act. This is the more desirable because our recommendations in respect of the other two Acts referred to us, must be largely dependent on our findings regarding this measure.

It is unnecessary to discuss in this report the reasons which induced the Government of India to place the Indian Press Act on the Statute Book. Those who are interested in the subject will find the facts fully explained in the reports of the discussions on the Bill in Council. It is apparent, however, that the main object of the Act was to prevent the dissemination of incitements to violence and of sedition, although the scope of section 4 of the Act is much wider. Since 1910, however, circumstances have changed very materially and we have to consider the

necessity for the continuance of this law in the light of a political situation entirely different from that in which it was enacted.

4. The chief questions that have to be examined in our opinion are, firstly, whether the Act has been effective in preventing the evil against which it was directed; secondly, whether legislation of this character is now necessary for the maintenance of law and order; and, thirdly, whether on a comparison of the advantages and disadvantages which the retention of the Act would involve, its continuance is desirable in the public interest. We may say at the outset that on a careful consideration of these points we are of opinion that the Act should be repealed.

5. As to the effectiveness of the Act, it is generally admitted that direct incitements to murder and violent crime which are specifically referred to in section 4 (1) (a) of the Act are rarely found in the Press to-day. This was not the case in 1910 so far as a certain section of the Press was concerned, and it is the view of at least one local Government that the Press Act has contributed to the elimination of such public incitements. We are not, however, satisfied that the cessation of such incitements is due solely or even mainly to the Act, or that in present conditions the ordinary law is not adequate to deal with such offences. Further, it must be admitted that in so far as the law was directed to prevent the more insidious dissemination of sedition, of general misrepresentations of the action of Government, of exaggerations of comparatively minor incidents, of insinuations of injustice and of articles intended to exacerbate racial feeling, the Act has been of little practical value, for we find that a section of the Press is at present just as hostile to Government as ever it was, and that it preaches doctrines calculated to bring the Government and also occasionally particular classes or sections of the community into hatred and contempt as freely now as before the Act was passed. Moreover, we believe that the more direct and violent forms of sedition are now disseminated more from the platform and through the agency of itinerary propagandists than by the Press, and no press law can be effective for the repression of such activities. In our opinion, therefore, it must be admitted that the Act has not been wholly effective in securing the object which it was enacted to achieve. We observe that one witness before us went so far as to say that it had both been futile and irritating.

6. Turning to the question of the necessity for such legislation we find that it was an emergency measure enacted at a time when revolutionary conspiracies, the object of which was directly promoted by certain organs of the Press, were so active as to endanger the administration. We believe that this revolutionary party is now quiescent, that the associations

supporting it have been broken up, and that many members of the revolutionary party have realised that the object which they had in view can, under present conditions, be achieved by constitutional means. Further, the political situation has undergone great changes since 1910, and the necessity for the retention of the Act must be examined in the light of the new constitutional position created by the inauguration of reforms. Many of us feel that the retention of this law is, in these circumstances, not only unnecessary but incompatible with the increasing association of representatives of the people in the administration of the country. We believe also that the malignant influence of seditious organs of the Press will in future be, and in fact is already beginning to be, counteracted by the growth of distinct parties in politics, each supported by its own Press, supplemented by the activities of a properly organised bureau of information, the value of which was admitted by many witnesses. It is true the scope of the Act is not limited to the prevention of sedition, but it is not necessary for us to discuss in detail the subsidiary provisions included in section 4 of the Act as we believe that these provisions have seldom been used, and that the evils against which they are directed can be checked by the ordinary law. We think, therefore, that under present conditions the retention of the Act for the purposes for which it was enacted is unnecessary.

7. On an examination of the third aspect of the case, viz., the comparative advantages and disadvantages of retaining the Act, we find that, while many local Governments advocate its retention in the interests of the administration, on the other hand the Act is regarded with bitter hostility by nearly all shades of Indian opinion. Most of the witnesses examined before us believe it to be indefensible in principle and unjust in its application. It has been said that the terms of section 4 of the Act are so comprehensive that legitimate criticism of Government might well be brought within its scope; that the Act is very uncertain in its operation; that it has been applied with varying degrees of rigour at different times and by different local Governments and in particular that it has not been applied with equal severity to English-owned and Indian-owned papers. A general feeling was also apparent among the witnesses that the Act is irritating and humiliating to Indian journalism and that the resentment caused by the measure is the more bitter because of the great services rendered to Government by the Press in the war. Many witnesses indeed are of opinion that the Act is fatal to the growth of a healthy spirit of responsibility in the Press and that it deters persons of ability and independent character from joining the profession of journalism. Finally, it is maintained that the Act places in the hands of the Executive Government arbitrary powers not subject to adequate control by any independent tribunal, which may be used to suppress legitimate criticism of Government, and that such a law is

entirely inconsistent with the spirit of the reforms scheme and the gradual evolution of responsible government.

8. There is in our judgment great force in many of these criticisms. We find, as already noted, that the Act has not proved effective in preventing the dissemination of sedition, and that it is doubtful whether it is necessary to retain it for the purpose of preventing incitements to murder and similar violent crime; further, in view of the cogent criticisms made as to the principles and operation of the Act, we have come to the conclusion that it would be in the interests of the administration that it should be repealed. In making this recommendation, we have not overlooked the opinion expressed by various Local Governments that the retention of the Act is desirable in the interests of law and order. We observe, however, that there is a considerable divergence of opinion among those Governments on this point, and while we realise that the views of those who are opposed to the repeal of the Act are entitled to great weight, and indeed that these views have been accepted by the Government of India frequently in times past, we are satisfied that there is a genuine popular demand for its repeal, and we consider that in the altered circumstances created by the reforms, the advantages likely to be secured by repeal of this measure outweigh the benefits which could be obtained by its retention on the Statute Book.

9. In our examination of the question of the repeal of the Press Act, we also considered the further question as to which, if any, of its provisions should be retained by incorporation in other laws. Various suggestions have been placed before us in this connection, some of greater and some of minor importance. Perhaps the most important of these is the question whether the dissemination of disaffection against Indian Princes through the Press of British India should be penalised in any way. We have been handicapped in our examination of this question by the very inadequate representation of the views of the Princes, many of whom were unwilling to allow their opinions to be placed before the Committee. We have, however, had the advantage of seeing some minutes submitted by them and of examining Sir John Wood, the Secretary of the Political Department. It has been argued that the Government of India is under an obligation to protect Indian Princes from such attacks, that the Press Act alone affords them such protection, and that if it is repealed it is unfair, having regard to the constitutional position of the Government of India, *vis-a-vis* the Indian States, that the Press in British India should be allowed to foment disaffection against the ruler of an Indian State. On the other hand, various witnesses have protested in the strongest terms against any such protection being afforded to the Princes. It is alleged that the effect of any such provision

in the law would be to stifle all legitimate criticism, and deprive the subjects of such States of any opportunity of ventilating their grievances and protesting against maladministration or oppression. We understand that, before the Press Act became law, it was not found necessary to protect Indian Princes from such attacks, and we note that the Act, so far as the evidence before us shows, has only been used on three occasions for this purpose; we do not, in the circumstances, think that we should be justified in recommending on general grounds any enactment in the Penal Code or elsewhere for the purpose of affording such protection in the absence of evidence to prove the practical necessity for such provision of the law. Our colleague Mr. Asad Ali desires to express no opinion on this question.

10. We have also considered the question of vesting Courts of Justice with power to confiscate a Press, if the keeper is convicted for the second time of disseminating sedition. Although section 517 of the Criminal Procedure Code affords some faint authority for the enactment of such a provision in the law, we feel that it would operate inequitably, particularly in the case of large and valuable Presses used not only for the printing of a particular paper but also for other miscellaneous work. In the case of smaller Presses the forfeiture of the Press would probably not be an effective remedy, and on a careful consideration of the facts we doubt the necessity for inserting any such provision in the law.

11. There is indeed only one provision of the Act which we think should be retained, namely, the power to seize and confiscate newspapers, books or other documents which offend against the provisions of section 124 A. of the Penal Code. If this power is retained the ancillary power of preventing the importation into British India, or transmission through the post of such documents, on the lines now provided for in sections 13, 14 and 15 of the Indian Press Act is a necessary corollary if the law is to be effective. The confiscation of openly seditious documents in no way, we believe, constitutes an interference with the reasonable liberty of the Press, and the openly seditious character of some of the documents which are now circulated in India has convinced us of the necessity of retaining this power as a regular provision of the substantive law. The exact method by which this should be effected is we think a matter for the expert advisers of the Government of India to decide. We would, however, also provide for redress, in cases in which the owner of a Press or any person interested in the production of any such document or in the possession of any particular copy of the document considers himself aggrieved by allowing such persons to apply to the High Court and challenge the seizure and confiscation of the document. We would also provide that when such an application is made the onus of proving

the seditious character of the document should be on the Government. We think that the powers conferred by sections 13 to 15 of the Press Act might be conveniently incorporated in the Sea Customs Act and the Post Office Act so that the Customs and Postal Officers should be empowered to seize seditious literature within the meaning of section 124 A. of the Indian Penal Code, subject to review on the part of the Government, and to challenge by any person interested, in the courts. We recommend that in this case and in the case of seditious leaflets seized under the conditions referred to in the earlier portions of this paragraph, the orders of the Government should be liable to be contested in the High Court.

12. It follows almost of necessity from what we have said above that we recommend the total repeal of the Newspapers (Incitement to Offences) Act, 1908. We may observe that this Act has not been used for the last 10 years.

13. As to the Press and Registration of Books Act, we recommend that this Act should be retained with the following modifications:—

- (1) That no person should be registered as a publisher or printer unless he is a major as defined by the Indian Majority Act.
- (2) That in the case of all newspapers, the name of the responsible editor should be clearly printed on the front sheet of the paper, and that an editor should be subject to the same criminal and civil liability in respect of anything contained in the paper as the publisher and printer.
- (3) That the term of imprisonment prescribed in sections 12, 13, 14 and 15 should be reduced to six months.
- (4) That the provisions of section 16 of the Press Act should be reproduced in this Act.

We have also considered certain other matters of detail which are of a technical nature. We think they should be left to the expert department to deal with.

14. We append a summary of our conclusions:—

- (1) The Press Act should be repealed.
- (2) The Newspapers (Incitement to Offences) Act should be repealed.
- (3) The Press and Registration of Books Act, the Sea Customs Act and the Post Office Act should be amended where necessary to meet the conclusions noted below:—

(a) The name of the editor should be inscribed on every issue of a newspaper, and the editor should be subject to the same liabilities as the printer and the publisher as regards criminal and civil responsibility.



(b) Any person registering under the Press and Registration of Books Act should be a major as defined by the Indian Majority Act.

(c) Local Governments should retain the power of confiscating openly seditious leaflets, subject to the owner of the Press or any other person aggrieved being able to protest before a Court and challenge the seizure of any such document in which case the Local Government ordering confiscation should be called upon to prove the seditious character of the document.

(d) The powers conferred by sections 13 to 15 of the Press Act should be retained, Customs and Postal Officers being empowered to seize seditious literature within the meaning of section 124 A., Indian Penal Code, subject to review on the part of the Local Government and challenge by any persons interested in the proper courts.

(e) Any person challenging the orders of the Government should do so in the local High Court.

(f) The term of imprisonment prescribed in sections 12, 13, 14 and 15 of the Press and Registration of Books Act should be reduced to six months.

(g) The provisions of section 16 of the Press Act should be reproduced in the Press and Registration of Books Act.

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