

## **PRESS ACT, 1910**

**1 of 1910**

**[9th February, 1910]**

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STATEMENT OF OBJECTS AND REASONS PUBLISHED WITH THE BILL 1. The continue recurrence of murderous outrages has shown that the measures which have hitherto been taken to deal with anarchy and sedition require strengthening and that the real search of the evil has not as yet been touched. Since 1907, the policy of the Government has been directed to the steady enforcement of the ordinary law against sedition. Prosecutions have invariably proved successful but have produced no permanent improvement in the tone of the Press, a certain section of which has continued, both by openly seditious writing and by suggestion and veiled incitement, to inculcate hostility to British rule. There is no lack of evidence that the series of crimes which preceded and have followed the passing of Act VII of 1908 is directly traceable to these influences, to which the authors of the outrages-young men of the educated middle class-are peculiarly susceptible. This propaganda has been carried on not only by means of newspapers but by leaflets, pamphlets and the like, rendering it necessary to assume control over printing-presses as well as newspapers. 2. The main divisions of the Bill which has been prepared with this object are-(1) Control over presses and means of publication; (II) control over publishers; (III) control over the importation into British India and the transmission by the post of objectionable matter; (IV) the suppression of seditious or objectionable newspapers, books or other documents wherever found. 3. I. The first of these objects it is sought to attain as follows :- (1) all proprietors of printing-presses making a declaration for the first time under S.4 of the Press and Registration of Books Act, 1867 will be required to give security, which may, however, be dispensed with by the Magistrate at his discretion. The proprietors of existing presses will be required to give security only if and when they are guilty of printing objectionable matter of the description to which the Act applies; (2) Local Governments may declare such security forfeit where it appears to them that the press has been used for printing or publishing objectionable matter. The Bill defines such matter as that calculated- (a) to incite to murder, to anarchical outrage by means of explosives, or to acts of violence; (b) to tamper with the loyalty of the Army or Navy; (c) to excite racial class or religious animosities, or hatred or contempt of the Government of British India or of any Native State or Prince; (d) to incite to criminal intimidation; (e) to incite to interference with the administration of the law or with the maintenance of law and order; (f) to intimidate public servants by threat of injury to them or to those in whom

they are interested. The declaration of forfeiture operates to annul the declaration made under Press and Registration of Books Act, 1867. When the initial security so deposited has thus been forfeited, the deposit of further security in a larger sum is required before a fresh declaration can be made under S.4 of the Press and Registration of Books Act of 1867, and if thereafter the press is again used for printing or publishing objectionable matter the further security deposited and the press itself may be declared forfeit. II. Control over publishers of newspapers, the second main object of the Bill, is provided for in a similar manner. The keeping of a printing-press and the publishing of a newspaper without depositing security when required are punishable with the penalties prescribed for failure to make the declarations required by section 4 and S.5 of the Press and Registration of Books Act, 1867. III. The more efficient control over the importation and transmission by post of objectionable matter of the kind described in the Bill is given by empowering the customs and post office authorities to detain and examine packages suspected of containing such matter, and to submit them for the orders of the Local Government. The Bill further prohibits the transmission by post of any newspaper in respect of which a declaration has not been made under Press and Registration of Books Act, 1867, and security deposited as required under this Bill, and empowers postal officials to open and deliver to the proper authorities articles in the course of transmission which are suspected of containing such newspapers. IV. The fourth object of the Bill is attained by authorizing the Local Government to declare forfeit any newspaper, book or other document which appears to it to contain matter of the prohibited description, and upon such a declaration the Bill empowers the police to seize such articles and to search for the same. In each case the Local Government is the authority authorized to declare forfeiture, but a check is imposed upon the exercise of this power in that the Bill provides for an application, within two months of the date of such declaration to a special bench of three Judges of the High Court, on the question of fact whether the matter directed to is or is not of the description defined in the Bill. If the High Court finds that it is not of that description, it must cancel the order of forfeiture. All other legal proceedings for action taken under the Bill are barred. Subsidiary matters provided for in the Bill are the search for and seizure under special warrant of the Magistrate of property declared forfeit under the Bill; for the submission by the printer of every newspaper to such officer as the Local Government may direct of

two copies of each issue of his paper on pain of a penalty of Rs. 50 for each default; the return of security deposited by a printer or a publisher, when such person ceases to keep a printing-press or, being a publisher, makes a declaration under S.8 of the Press and Registration of Books Act of 1867 and lastly the saving of prosecutions under any other law. The following report of the Select Committee on the Bill to provide for the better control of the Press, was presented to the Council of the Governor- General of India for the purpose of making Laws and Regulations on the 8th February, 1910:- We, the undersigned. Members of the Select Committee to which the Bill to provide for the control of the Press 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. Clause 2.-We have considered it necessary to insert a special definition of "High Court" as the definition in S. 3 (24) of the General Clauses Act, 1897, is not suitable for the provinces of Coorg and Ajmere-Merwara where the Chief Commissioner who is the Local Government is also the High Court. We have therefore provided that in the case of these two provinces the "High Court" shall mean the High Court at Madras and the High Court for the North-Western Provinces, respectively. 3. Clauses 3 (1) and 8 (1).- In the case of a keeper of a press or publisher starting business after the commencement of this Act we have reduced the maximum amount of the security from Rs. 5,000 to Rs. 2,000 as we think that the larger amount might prove excessive in the case of well-intentioned printers and publisher of small means. 4. Clause 4 (1).- In sub-clause (c) we have substituted the words "the administration of justice in British India" for the words "any lawful authority" and we have struck out from this sub-clause the words "or antipathy between members of different races, castes, classes, religions or sects" and inserted in it words to make it include the bringing into hatred or contempt of any class or section of his Majesty's subjects in British India, as we are disposed to think that the clause as thus altered will be sufficient to carry out the purpose in view. 5. Clauses 3, 5, 8 and 10.- We have expressly provided that the deposit required under the Act may be made either in money or the equivalent thereof in securities of the Government of India. 6. Clause 14.-We have slightly modified this clause so as to make it clear that it applies only to newspapers printed and published in British India. 7. Clause 15.-This clause as introduced proposed to empower postal officers to open any article in course of transit by post. We do not consider it necessary that postal officers

should have this power. Nor do we think that they should have power to detain letters or parcels. We have therefore modified this clause by providing that such officers should have power only to detain articles after than letters or parcels and deliver them to such officer as the Local Government may appoint in this behalf to be disposed of in such manner as the Local Government direct. 8. Clauses 18 and 19.-We have considered it necessary to provide for cases where the Special Bench may consist of two Judges who may be divided in opinion; we have provided that in such cases the order of forfeiture made by the Local Government shall stand. 9. The other alterations which we have made in the Bill are of a formal nature and call for no special remarks. 10. The Bill was published in the Gazette of India in English on the 5th February, 1910. 11. We think that the measure has not been so altered as to require re-publication and we recommend that it be passed as now amended.

### **1. Short title and extent. :-**

(1) This Act may be called the Indian Press Act, 1910.

(2) It extends to the whole of, British India, inclusive of British Baluchistan, the Santhal Parganas and be Pargana of Spiti.

### **2. Definitions :-**

In this Act, unless there is anything repugnant is the subject or context,- (

a) "book" includes every volume part or division of a volume, and pamphlet, in any language, and every sheet of music, map, chart or plan separately printed or lithographed;

(b) "document" includes also any painting, drawing or photograph or other visible representation;

(c) "High Court" means the Highest Civil Court of Appeal for any local area except in the case of the provinces of Ajmer-Merwara and Coorg where it means the High Court of Judicature for the North-Western Provinces and the High Court of Judicature at Madras respectively;

(d) "Magistrate" means a District Magistrate or Chief Presidency Magistrate;

(e) "Newspaper" means any periodical work containing public news; and

(f) "printing-press" includes all engines, machinery, types, lithographic stones, implements, utensils and other plant or materials used for the purpose of printing.

### **3. Deposit of security by keepers of printing-presses :-**

(1) Every person keeping a printing-press who is required to make a declaration under Section 4 of the Press and Registration of Books Act, 1867 , shall at the time of making the same, deposit with the Magistrate before whom the declaration is made security to such an amount, not being less than five hundred or more than two thousand rupees, as the Magistrate may in each case think fit to require, in money or the equivalent thereof in securities of the Government of India : Provided that the Magistrate may, if he thinks fit, for special reasons to be recorded by him, dispense with the deposit of any security or may from time to time cancel or vary any order under this sub-section.

(2) Whenever it appears to the Local Government that any printing-press kept in any place in the territories under its administration, in respect of which a declaration was made prior to the commencement of this Act under Section 4 of the Press and Registration of Books Act, 1867 , is used for any of the purposes described Section 4 , sub-section (1), the Local Government may, by notice in writing, require the keeper of such press to deposit with the Magistrate within whose jurisdiction the press is situated security to such an amount, not being less than five hundred or more than five thousand rupees, as the Local Government may think fit to require, in money or the equivalent thereof in securities of the Government of India.

### **4. Power to declare security forfeited in certain cases :-**

(1) Whenever it appears to the Local Government that any printing press in respect of which any security has been deposited as required by Section 3 is used for the purpose of printing or publishing any newspaper, book or other document containing any words, signs or visible representations which are likely or may have a tendency, directly or indirectly, whether by inference, suggestion, allusion, metaphor, implication or otherwise-

(a) to incite to murder or to any offence under Explosive Substances Act, 1908 , or to any act of violence, or

(b) to seduce any officer, soldier or sailor in the Army or Navy of

His Majesty from his allegiance or his duty, or

(c) 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 Native Prince or Chief under the suzerainty of His Majesty, 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 any such Prince or Chief or

(d) 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

(e) to encourage or incite any person to interfere with the administration of the law or with the maintenance of law and order, or

(f) to convey any threat of injury to a public servant, or to any person in whom that public servant is believed to be interested, with a view to inducing that public servant to do any act or to forbear or delay to do any act connected with the exercise of his public functions, the Local Government may, by notice in writing to the keeper of such printing-press, stating or describing the words, signs, or visible representations which in its opinion are of the nature described above, declare the security deposited in respect of such press and all copies of such newspaper, book or other document wherever found to be forfeited to His Majesty. to obtain their alteration by lawful means, or of the administrative or other action of the Government or of any such Native Prince or Chief or of the administration of justice in British India without exciting or attempting to excite hatred, contempt or disaffection do not come within the scope of clause (c).

(2) After the expiry of ten days from the date of the issue of a notice under sub-section (1), the declaration made in respect of such press under Section 4 of the Press and Registration of Books Act, 1867, shall be deemed to be annulled.

**5. Deposit of further security. :-**

Where the security given in respect of any press has been declared forfeited under Section 4, every person making a fresh declaration in respect of such press under Section 4 of the Press and Registration of Books Act, 1867, shall deposit with the Magistrate

before whom such declaration is made security to such amount, not being less than one thousand or more than ten thousand rupees, as the Magistrate may think fit to require, in money or the equivalent thereof in securities of the Government of India.

**6. Power to declare further security, printing-press and publication forfeited. :-**

If after such further security has been deposited the printing-press is again used for the purpose of printing or publishing any newspaper, book or other document containing any words, signs, or visible representations which in the opinion of the Local Government are of the nature prescribed in Section 4 , sub-section (1), the Local Government may, by notice in writing to the keeper of such printing-press, stating or describing such words, signs or visible representations, declare-

(a) the further security so deposited;

(b) the printing press used for the purpose of printing or publishing such newspaper, book or other document, or found in or upon the premises where such newspaper, book or other document is, or at the time of printing the matter complained of was, printed, and

(c) all copies of such, newspaper, book or other document wherever found, to be forfeited to His Majesty.

**7. Issue of search-warrant :-**

Where any printing-press is or any copies of any newspaper, book or other document are declared forfeited to his Majesty under this Act, the Local Government may direct any Magistrate to issue a warrant empowering any police-officer, not below the rank of a Sub-Inspector, to seize and detain any property ordered to be forfeited and to enter upon and search for such property in any premises-

(i) where any such property may be or may be reasonably suspected to be, or

(ii) where any copy of such newspaper, book or other document is kept for sale, distribution, publication or public exhibition or reasonably suspected to be so kept

(2) Every warrant issued under this section shall, so far as relates to a search, be executed in manner provided for the execution of

search-warrants under Code of Criminal Procedure, 1898.

### **8. Deposit of security by publisher of newspaper :-**

(1) Every publisher of a newspaper who is required to make a declaration under Section 5 of the Press and Registration of Books Act, 1867 , shall, at the time of making the same, deposit with the Magistrate before whom the declaration is made security to such an account, not being less than five hundred or more than two thousand rupees, as the Magistrate may in each case think fit to require, in money or the equivalent thereof in securities of the Government of India : Provided that if the person registered under the said Act as printer of the newspaper is also registered as the keeper of the press where the newspaper is printed, the publisher shall not be required to deposit security so long as such registration is in force : Provided further that the Magistrate may, if he thinks fit, for special reasons to be recorded by him, dispense with the deposit of any security or may from time to time cancel or vary any order under this sub-section.

(2) Whenever it appears to the Local Government that a newspaper published within its territories, in respect of which a declaration was made by the publisher thereof prior to the commencement of this Act, under Section 5 of the Press and Registration of Books Act, 1867 , contains any words, signs or visible representations of the nature described in Section 4 sub-section (1), the Local Government may, by notice in writing, require the publisher to deposit with the Magistrate, within whose jurisdiction the newspaper is published security to such an amount, not being less than five hundred or more than five thousand rupees, as the Local Government may think fit to require, in money or the equivalent thereof in securities of the Government of India.

### **9. Power to declare security forfeited in certain cases :-**

(1) If any newspaper in respect of which any security has been deposited as required by Section 8 contains any words, signs or visible representations which in the opinion of the Local Government are of the nature described in Section 4 , sub- section (1), the Local Government may, by notice in writing to the publisher of such newspaper, stating or describing such words, signs or visible representations, declare such security and all copies of such newspaper, wherever found, to be forfeited to His Majesty

(2) After the expiry of ten days from the date of the issue of a notice under sub-section (1), the declaration made by the publisher of such newspaper under Section 5 of the Press and Registration of Books Act, 1867 , shall be deemed to be annulled.

**10. Deposit of further security :-**

Where the security given in respect of any newspaper is dedared forfeited, any person making a fresh declaration under Section 5 of the Press and Registration of Books Act, 1867 , as publisher of such newspaper, or any other newspaper which is the same in substance as the said newspaper, shall deposit with the Magistrate before whom the declaration is made security to such amount, not being less than one thousand or more than ten thousand rupees, as the Magistrate may think fit to require, in money or the equivalent thereof in securities of the Government of India.

**11. Power to declare further security and newspapers forfeited :-**

If after such further security has been deposited the newspaper again contains any words, signs or visible representations which in the opinion of the Local Government are of the nature described in Section 4 , sub-section (1), the Local Government may, by notice in writing to the publisher of such newspaper, stating or describing such words, signs or visible representations, declare-

(a) the further security so deposited, and

(b) all copies of such newspaper wherever found, to be forfeited to His Majesty.

**12. Power to declare certain publications forfeited and to issue search- warrants for same :-**

(1) Where any newspaper, book or other document wherever printed appears to the Local Government to contain any words, signs or visible representations of the nature described in Section 4 , sub-section (1), the Local Government may, by notification in the local official Gazette, stating the grounds of its opinion, declare such newspaper, book or other document to be forfeited to His Majesty, and there upon any police-officer may seize the same wherever found, and any Magistrate may by warrant authorise any police- officer not below the rank of Sub-Inspector to enter upon and search for the same in any premises where the newspaper, book or other document may be or may be reasonably suspected to

be.

(2) Every warrant issued under this section shall, so far as relates to a search, be executed in manner provided for the execution of search-warrants under Code of Criminal Procedure, 1898.

**13. Power to detain packages containing certain publications when imported into British India :-**

The Chief Customs-officer or other officer authorized by the Local Government in this behalf may detain any package brought, whether by land or sea, into British India which he suspects to contain any newspapers, books or other documents of the nature described in Section 4 , sub-section (1), and shall forthwith forward copies of any newspapers, books or other documents found therein to such officer as the Local Government may appoint in this behalf to be disposed of in such manner as the Local Government may direct.

**14. Prohibition of transmission by post of certain newspapers :-**

No newspaper printed and published in British India shall be transmitted by post unless the printer and publisher have made a declaration under Section 5 of the Press and Registration of Books Act, 1867 , and the publisher has deposited security when so required under this Act.

**15. Power to detain articles being transmitted by post :-**

Any officer in charge of a post-office or authorised by the Post-Master General in this behalf may detain any article other than a letter or parcel in course of transmission by post, which he suspects to contain-

(a) any newspaper, book or other document containing words, signs or visible representations of the nature described in Section 4 , sub- section (1), or

(b) any newspaper in respect of which the declaration required by Section 5 of the Press and Registration of Books Act, 1867 , has not been made, or the security required by this Act has not been deposited by the publisher thereof, and shall deliver all such articles to such officer as the Local Government may appoint in this behalf to be disposed of in such manner as the Local Government may direct.

**16. Copies of newspapers printed in British India to be**

## **delivered gratis to Government :-**

(1) The printer of every newspaper in British India shall deliver at such place and to such officer as the Local Government may, by notification in the local official Gazette, direct and free of expense to the Government, two copies of each issue of such newspaper as soon as it is published.

(2) If any printer of any such newspaper neglects to deliver copies or the same in compliance with sub-section (1), he shall, on the complaint of the officer to whom the copies should have been delivered or of any person authorised by that officer in this behalf, be punishable on conviction by a Magistrate having jurisdiction in the place where the newspaper was printed with fine which may extend to fifty rupees for every default.

## **17. Application to High Court to set aside order of forfeiture**

**:-**

Any person having an interest in any property in respect of which an order of forfeiture has been made under section 4 , Section 6 , Section 9 , Section 11 and Section 12 may, within two months from the date of such order, apply to the High Court to set aside such order on the ground that the newspaper, book or other document in respect of which the order was made did not contain any words, signs or visible representations of the nature described in Section 4 , sub-section (1).

## **18. Hearing by Special Bench. :-**

Every such application shall be heard and determined by a Special Bench of the High Court composed of three Judges, or where the High Court consists of less than three Judges, of all the Judges.

## **19. Order of Special Bench setting aside forfeiture :-**

(1) If it appears to the Special Bench that the words, signs or visible representations contained in the newspaper, book or other document in respect of which the order in question was made were not of the nature described in Section 4 , sub-section

(1), the Special Bench shall set aside the order of forfeiture.

(2) Where there is a difference .of opinion among the Judges forming the Special Bench, the decision shall be in accordance with the opinion of the majority (if any) of those Judges.

(3) Where there is no such majority which concurs in setting aside

the order in question, such order shall stand.

**20. Evidence to prove nature or tendency of newspapers :-**

On the hearing of any such application with reference to any newspaper, any copy of such newspaper published after commencement of this Act may be given in evidence in aid of the proof of the nature or tendency of the words, signs or visible representations contained in such newspaper which are alleged to be of the nature described in Section 4 , subsection (1).

**21. Procedure in High Court :-**

Every High Court shall, as soon as conveniently may be, frame rules to regulate the procedure in the case of such applications, the amount of the cost thereof and the execution of orders passed thereon, and until such rules are framed the practice of such Court in proceedings other than suits and appeals shall apply, so far as may be practicable, to such applications

**22. Jurisdiction barred :-**

Every declaration of forfeiture purporting to be made under this Act shall, as against all persons, be conclusive evidence that the forfeiture therein referred to has taken place, and no proceeding purporting to be taken under this Act shall be called in question by any Court, except the High Court on such application as aforesaid, and no civil or criminal proceeding, except as provided by this Act, shall be instituted against any person for anything done or in good faith intended to be done under this Act.

**23. Penalty for keeping press or publishing newspaper without making deposit. :-**

(1) Whoever keeps in his possession a press for the printing of books or papers without making a deposit under Section 3 or Section 5 , when required so to do, shall on conviction by a Magistrate be liable to the penalty to which he would be liable if he had failed to make the declaration prescribed by Section 5 of the Press and Registration of Books Act, 1867 .

**24. Return of deposited security in certain cases :-**

Where any person has deposited any security under this Act and ceases to keep the press in respect of which such security was deposited, or, being a publisher, makes a declaration under Section 8 of the Press and Registration of Books Act, 1867 , he may apply to the Magistrate within whose jurisdiction such press is situate for the return of the said security; and thereupon such security shall,

upon proof to the satisfaction of the Magistrate and subject to the provisions hereinbefore contained, be returned to such person.

**25. Service of notices :-**

Every notice under this Act shall be sent to a Magistrate, who shall cause it to be served in the manner provided for the service of summons under Code of Criminal Procedure, 1898.

**26. Operation of other laws not barred. :-**

Nothing herein contained shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act.