

**JOINT/SELECT COMMITTEE
REPORTS OF LEGISLATIVE
ASSEMBLY - 1934**

**The Indian States (Protection)
Bill**

List of Reports of Select or Joint Committees
presented to the Legislative Assembly in 1934.

Serial No.	Short title of the Bill.	Date of presentation. Remarks.
1.	The Indian Tariff(Amendment) Bill.	5. 2.34.
2.	The Indian States(Protection) Bill.	14. 2.34.
3.	The Negotiable Instruments(Amendment)Bill.	26. 2.34.
4.	The Factories Bill.	27. 2.34.
5.	The Indian Tariff(Textile Protection) Amendment Bill.	2. 4.34.
6.	The Sugar (Excise Duty) Bill.	10. 4.34.
7.	The Matches (Excise Duty) Bill.	14. 4.34.
8.	The Indian Dock Labourers Bill.	16. 7.34.
9.	The Mechanical Lighters(Excise Duty) Bill.	23. 7.34.
10.	The Indian Carriage by Air Bill.	25. 7.34.
11.	The Indian Aircraft Bill.	25. 7.34.
12.	The Hedjaz Pilgrims(Muallims) Bill(<u>Second Report of the Select Committee</u>)	2. 8.34.
13.	The Indian Army (Amendment) Bill.	7. 8.34.
14.	The Indian Iron and Steel Duties Bill.	13. 8.34.
15.	The Indian Petroleum Bill.	14. 8.34.
16.	The Indian Income-tax(Amendment) Bill by Sir Hari Singh Gour.	22. 8.34.
17.	The Indian Navy (Discipline) Bill.	25. 8.34.

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LEGISLATIVE ASSEMBLY.

We, the undersigned, Members of the Select Committee to which the Bill to protect Administrations of States in India which are under the suzerainty of His Majesty from activities which tend to subvert, or to excite disaffection towards, or to interfere with such Administrations, was referred, have considered the Bill and the papers

Papers I—IV. noted in the margin and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

2. *Long title and preamble.*—The verbal alteration made here is in consequence of the change made in clause 4.

Clauses 2 and 3.—We are of opinion that the object aimed at by clause 3 of the Bill can more suitably be attained by the creation of a separate offence in this Bill than by an amendment of the Indian Penal Code. This decision renders clause 2 of the Bill unnecessary. We have also provided for the offence now created a penalty somewhat less severe than that imposed by section 121A of the Indian Penal Code for the cognate offence when committed in relation to a government in British India.

Clause 4 (re-numbered clause 3).—We have met certain criticisms levelled against the provisions of this clause by inserting an *Explanation* saving from the mischief of the new clause (j) of subsection (1) of section 4 of the Indian Press (Emergency Powers) Act, 1931, statements of fact made without evil intention. We have also introduced a slight adjustment of section 23 of that Act to meet the circumstances which might arise from the exercise of powers under the Act by the Governor General in Council at the headquarters of the Central Government in respect of a press situated in a province.

Clause 5 (re-numbered clause 4).—We have substituted for the words "movement for the promotion of assemblies" the more explicit expression "attempts are being made to promote assemblies", and have replaced the rather vague expression "cause interference with the Administration" by the more definite expression "cause obstruction to the Administration". We have also confined the exercise of the powers under this clause in Presidency towns to Chief Presidency Magistrates.

Clause 6 (re-numbered clause 5).—We have amended this clause in consonance with the decisions reached on clause 5, and have inserted the qualifying words contained in section 144 of the Code of Criminal Procedure, 1898.

Clause 7 (re-numbered clause 6).—We have inserted the word "wilfully" to meet certain criticisms received when the Bill was circulated.

3. The Bill was published as follows:—

In English.

Gazette.	Date.
Gazette of India	2nd September, 1933.
Fort St. George Gazette	18th September, 1933.
Bombay Government Gazette	2nd November, 1933.
Calcutta Gazette
United Provinces Gazette	14th October, 1933.
Punjab Government Gazette	9th September, 1933.
Burma Gazette	28th October, 1933.
Central Provinces Gazette	9th September, 1933.
Assam Gazette	25th October, 1933.
Bihar and Orissa Gazette	25th October, 1933.
Coorg District Gazette	1st November, 1933.
Sind Official Gazette	9th November, 1933.
North-West Frontier Gazette	27th October, 3rd and 10th November, 1933.

In the Vernaculars.

Province.	Language.	Date.
Madras	Tamil	15th December, 1933.
	Telugu	14th September, 1933.
	Hindustani } Kanarese } Malayalam }	21st November, 1933.
	Oriya	19th December, 1933.
Central Provinces.	Marathi } Hindi }	18th September, 1933.
Coorg	Kanarese	1st December, 1933.

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.

B. L. MITTER.

H. G. HAIG.

B. J. GLANCY.

S. C. MUKHERJI.

G. N. MUJUMDAR.

*ABDUR RAHIM.

SHER MOHD. KHAN.

*K. C. NEOGY.

*B. L. PATIL.

SOHAN SINGH.

F. E. JAMES.

C. S. RANGA IYER.

NAOROJI M. DUMASIA.

*JAGANNATH AGGARWAL.

NEW DELHI;

The 14th February, 1934.

* Subject to a minute of dissent.

MINUTE OF DISSENT.

We have signed the Report of the Select Committee subject to the following note :—

We agree that the Indian States Administration should be protected from conspiracies formed in British India in order to overawe such administration and from the formation of *Jathas* or Assemblies of men with the object of marching into a State in order to create trouble there (clauses 3 and 5). Regarding the British Indian Press we are not satisfied that the need has arisen in any way justifying a departure from the normal procedure of a judicial trial and substituting executive action therefor as is proposed in clause 4 of the Bill. Our reasons are briefly as under :—

- (a) An Act of 1922 known as the Indian States (Protection against Disaffection) Act, enacted under the certifying powers of the Governor General, makes the law of sedition under section 124A applicable to writings with reference to a States Administration though we owe no allegiance to the Rulers of such States. That Act therefore fully protects a Prince or a Chief as well as his Administration from malicious attacks.
- (b) We are not satisfied that there is a sufficiently widespread demand by the States Administrations for drastic and summary action of the kind contemplated.
- (c) The provisions of the Indian Press (Emergency Powers) Act, XXIII of 1931, as amended by the Criminal Law Amendment Act, XXIII of 1932, were intended for a grave emergency in British India and even in British India such emergency can no longer be said to exist.
- (d) We are not satisfied that there has been sufficient experience of the working of the Indian States (Protection against Disaffection) Act, 1922, to enable us

to hold that it has really failed in its object as alleged. Nor are we satisfied that objections as to undue delay and publicity which are equally applicable to other trials for similar offences under other penal laws, afford any justification for substituting executive action for the process of Courts. We hold clause 4 should be deleted.

Three of us (Sir Abdur Rahim, Mr. K. C. Neogy and Mr. Patil) are further of the opinion that clause 6 should also be deleted. That clause which is apparently based on the lines of section 144, Criminal Procedure Code, we are told, is intended mainly to authorise the District Magistrate practically at his discretion to prevent the holding of public meetings to discuss questions of general importance in relation to the Administration of an Indian State. For instance, under this clause, if enforced by notification, it would have been open to the Magistrate at Delhi to prohibit the Conference of the States People which was held here the other day. It is very generally believed that section 144, Criminal Procedure Code, has often been resorted to by the authorities to prevent the holding of *bona fide* political meetings in British India though that was never the object of section 144 and it would be setting a dangerous precedent for British India itself, if we agreed to the extension of the summary procedure of section 144, Criminal Procedure Code, to *bona fide* political meetings with reference to the affairs of an Indian State. Further there is no need for such a provision since clause 3 provides against conspiracies to overawe a State Administration and clause 5 would prevent the formation of *Jathas* for the purpose of raiding a State and creating trouble therein. We must also point out that the language of clause 6 is dangerously wide. It would indeed enable a Magistrate to strike at many perfectly legitimate and lawful activities of a citizen besides holding public meetings.

ABDUR RAHIM.

JAGANNATH AGGARWAL.

K. C. NEOGY.

B. L. PATIL.

[AS AMENDED BY THE SELECT COMMITTEE.]

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

A

BILL

TO

Protect the Administrations of States in India which are under the suzerainty of His Majesty from activities which tend to subvert, or to excite disaffection towards, or to obstruct such Administrations.

WHEREAS it is expedient to protect the Administrations of States in India which are under the suzerainty of His Majesty from activities which tend to subvert, or to excite disaffection towards, or to obstruct such Administrations; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian States Short title, extent and (Protection) Act, 1934. commencement.

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

(3) This section and sections 2 and 3** shall come into force at once; the remaining sections of this Act shall come into force in any district or area only when and for such time as the Local Government, by notification in the local official Gazette, directs.

2. *Whoever, within, or without British India, Conspiracy to overawe conspires to overawe, by Administration of a State means of criminal force in India, or the show of criminal force, the Administration of any State in India, shall be punished with imprisonment which may extend to seven years, to which fine may be added.*

3. The Indian Press (Emergency Powers) Act, 1931, as amended by the XXIII Application of Act Criminal Law Amendment Act, 1931, of 1932, shall be XXIII interpreted— of 1932.

(a) as if in sub-section (1) of section 4 of the Act, after clause (i) the following word and clause were inserted, namely:—

“ or

(j) to bring into hatred or contempt or to excite disaffection towards the Administration established in any State in India ”,*

(b) as if in Explanation 2 and Explanation 3 to the said sub-section, after the word “Government” the words “or Administration”, and after the letter and brackets “(d)” the words, letter and brackets “or clause (j)” were inserted; and

(c) as if after Explanation 4 to the said sub-section the following Explanation were inserted, namely:—

“Explanation 5.—Statements of fact made without malicious intention and without attempting to excite hatred, contempt or disaffection shall not be deemed to be of the nature described in clause (j) of this sub-section.”;

and any power which might, by reason of such insertions but not otherwise, be exercised by the Local Government under that Act if so altered, may also be exercised by the Governor General in

Council ; and for the purpose of the exercise by the Governor General in Council of such powers, the Act shall be interpreted as if references to the Local Government were references to the Governor General in Council and as if to sub-section (1) of section 23 the following proviso were added, namely :—

“ Provided that an application under this section against an order made by the Governor General in Council under any of the sections therein specified except section 19 shall lie to the High Court for the local area in which any security required under this Act from the printing press or newspaper concerned was deposited or to be deposited.”

4. (1) When a District Magistrate or in a Presidency-town the Chief Presidency Magistrate is of opinion that within his jurisdiction attempts are being made to promote assemblies of persons for the purpose of proceeding from British India into the territory of a State in India and that the entry of such persons into the said territory or their presence therein is likely or will tend to cause obstruction to the Administration of the said State or danger to human life or safety or a disturbance of the public tranquillity or a riot or an affray within the said territory, he may, by order in writing stating the material facts of the case, prohibit within the area specified in the order the assembly of five or more persons in furtherance of the said purpose.

XLV of 1860. (2) When an order under sub-section (1) has been made, and for so long as it remains in force, any assembly of five or more persons held in contravention of the order shall be an unlawful assembly within the meaning of section 141 of the Indian Penal Code, and the provisions of Chapter VIII of the Indian Penal Code and of Chapter IX of the Code of Criminal Procedure, 1898, shall apply accordingly.

(3) An order under sub-section (1) shall be notified by proclamation, published in the specified area in such places and in such manner as the Magistrate may think fit, and a copy of such order shall be forwarded to the Local Government.

(4) No order under sub-section (1) shall remain in force for more than two months from the making thereof, unless the Local Government, by notification in the local official Gazette, otherwise directs.

V of 1898. 5. (1) Where, in the opinion of a District Magistrate or in a Presidency-town the Chief Presidency Magistrate, there is sufficient ground for proceeding under this section and immediate prevention or speedy remedy is desirable, such Magistrate may, by written order stating the material facts of the case and served in the manner provided by section 134 of the Code of Criminal Procedure, 1898, direct any person to abstain from a certain act if such Magistrate considers that such direction is likely to prevent or tends to prevent obstruction to the Administration of a State in India or danger to human life or safety or a disturbance of the public tranquillity or a riot or an affray within the said State.

(2) An order under sub-section (1) may, in cases of emergency or in cases where the circumstances do not admit of the serving in due time of a notice upon the person against whom the order is directed, be passed *ex parte*.

(3) An order under sub-section (1) may be directed to a particular individual, or to the public generally.

(4) A District Magistrate or Presidency Magistrate may, either on his own motion or on the application of any person aggrieved, rescind or alter any order made under sub-section (1) by himself or by his predecessor in office.

(5) Where such an application is received, the Magistrate shall afford to the applicant an early opportunity of appearing before him either in person or by pleader and showing cause against the order; and if the Magistrate rejects the application wholly or in part, he shall record in writing his reasons for so doing.

(6) No order under sub-section (1) shall remain in force for more than two months from the making thereof unless the Local Government, by notification in the local official Gazette, otherwise directs.

6. (1) Whoever *wilfully* disobeys or neglects to comply with any direction made under section 5, or in such order as altered under sub-section (4) of that section, shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

(2) An offence under this section shall be an offence for which a police-officer may arrest without warrant.

GOVERNMENT OF INDIA.

LEGISLATIVE ASSEMBLY
DEPARTMENT.

Report of the Select Committee on the
Bill to protect the Administrations of
States in India which are under the
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activities which tend to subvert, or to
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