

ACT No. IX OF 1878.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 14th March, 1878).

An Act for the better control of Publications in Oriental languages.

WHEREAS certain publications in oriental languages printed or circulated in British India have of late contained matter likely to excite disaffection to the Government established by law in British India, or antipathy between persons of different races, castes, religions or sects in British India, or have been used as means of intimidation or extortion :

Preamble.

And whereas such publications are read by and disseminated amongst large numbers of ignorant and unintelligent persons, and are thus likely to have an influence which they otherwise would not possess ; and whereas it is accordingly necessary for the maintenance of the public tranquillity and for the security of Her Majesty's subjects and others to confer on the Executive Government power to control the printing and circulation of such publications ; It is hereby enacted as follows :—

1. This section and sections eleven to sixteen both inclusive apply to the whole of British India ; the other sections of this Act apply only to those parts of British India to which they may from time to time be extended by the Governor General in Council by a notification in the *Gazette of India*.

Local extent.

2. In this Act—

Interpretation-clause.

'Newspaper' means any periodical work containing public news, or comments on public news, printed wholly or partially in any oriental language, and includes two or more copies of a newspaper bearing the same name, whether published on the same day

"Newspaper."

or on different days, and also includes any series of newspapers, whether printed on one day or different days, or with one name or with different names; and

“Print,” &c.

‘Print,’ ‘printed’ and ‘printer’ apply not only to printing, but also to lithography, engraving and photography.

Power to call upon printer and publisher of newspaper to give bond;

3. Any Magistrate of a District, or Commissioner of Police in a Presidency-town, within the local limits of whose jurisdiction any newspaper is printed or published, may, with the previous sanction of the Local Government and subject to the provisions of section five, call upon the printer and publisher of such newspaper to enter into a joint and several bond, or when the printer and publisher of such newspaper are the same person, call upon such person to enter into a bond, binding themselves or himself, as the case may be, in such sum as the Local Government thinks fit, not to—

(a) print or publish in such newspaper any words, signs or visible representations likely to excite disaffection to the Government established by law in British India, or antipathy between any persons of different races, castes, religions or sects in British India; or

(b) use or attempt to use such newspaper

for the purpose of putting any person in fear or causing annoyance to him and thereby inducing him to deliver to any person any property or valuable security, or anything signed or sealed which may be converted into a valuable security, or to give any gratification to any person, or

for the purpose of holding out any threat of injury to a public servant, or to any person in whom they or he believe or believes that public servant to be interested, and thereby 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.

EXPLANATION.—“Valuable security,” “gratification” and “public servant” are used in this section in the senses in which they are respectively used in the Indian Penal Code.

4. When any bond is executed under section three, the said Magistrate or Commissioner may further require the obligor or obligors of the same to deposit the amount thereof in money or the equivalent thereof in securities of the Government of India, and the money or securities so deposited shall, subject to the provisions hereinafter contained, remain so deposited until fifteen days after the person or persons depositing the same has or have made and subscribed a declaration under Act No. XXV of 1867, section eight. and make deposit.

When such person or persons has or have subscribed such a declaration, and fifteen days have elapsed from the date of subscribing the same, he or they may apply to the said Magistrate or Commissioner for the restoration of the said money or securities, and thereupon such money or securities shall, subject to the provisions hereinafter contained, be restored to such person or persons.

5. When any publisher or printer is called upon by a Magistrate or Commissioner of Police to execute a bond under this Act in respect of any newspaper, the publisher of such newspaper may deliver to such Magistrate or Commissioner an undertaking in writing to the effect that no words, signs or visible representations shall, during the year next following the date of such undertaking, be printed or published in such newspaper which have not previously been submitted to such officer as the Local Government may appoint in this behalf, by name or in virtue of his office, or which on being so submitted have been objected to by such officer. No bond or deposit to be required when undertaking is given under this section.

When such undertaking has been so delivered, no such bond or deposit shall be required from the publisher or printer of such newspaper during the said year.

6. Whenever

Notice to
newspaper
offending.

6. Whenever it appears to the Local Government that any newspaper printed or published in the territories under its administration contains any words, signs or visible representations of the nature described in section three, clause (a), or that any such newspaper has been used or attempted to be used for any purpose described in the same section, clause (b), such Local Government may cause a notice in the form in the schedule hereto annexed, or to the like effect, to be published in the local official Gazette.

Service of
such notice.

7. A true copy of such notice shall be fixed on some conspicuous part of the premises described in the declaration made in respect of the newspaper under the said Act No. XXV of 1867, section five, and the copy so fixed shall be deemed to have been duly served on the printer and publisher of such paper.

Liability of
plant, copies
of paper, and
deposit to
forfeiture.

8. If after the publication of such notice and the service thereof, the newspaper in respect of which it has been issued contains any words, signs or visible representations of the nature described in section three, clause (a), or is used, or attempted to be used, for any purpose described in the same section, clause (b),

all printing presses, engines, machinery, types, lithographic stones, paper and other implements, utensils, plant and materials, used or employed, or intended to be used or employed, in or for the purpose of printing or publishing such newspaper, or found in or about any premises where such newspaper is printed or published, and

all copies of such newspaper wherever found, and any money or securities which the printer or publisher of such newspaper may have deposited under the provisions of section four :

shall be liable to be forfeited to Her Majesty :

Provided that the publisher of any newspaper may, on the publication of a notice in respect thereof under section six, and before anything has become liable to forfeiture under this section in respect of such newspaper, deliver to the Magistrate of the District, or to

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the Commissioner of Police in a Presidency-town, within the local limits of whose jurisdiction such newspaper is published, an undertaking in writing of the nature specified in section five, and, if such Magistrate or Commissioner accepts such undertaking, nothing shall become liable to forfeiture under this section between the date on which such undertaking is so accepted and the end of the period for which it is given.

9. Whenever it appears to the Local Government that any money or security deposited under this Act in respect of any newspaper is liable to be forfeited under section eight, such Local Government may, by a notification in the local official Gazette, declare such money or security to be forfeited ;

Power to declare deposit forfeited.

And whenever it appears to the Local Government that any implements, utensils, plant or materials used or employed, or intended to be used or employed, in or for the purpose of printing or publishing any newspaper, or which is or are in or about any premises where such newspaper is printed or published, or any copies of any newspaper, is or are liable to be forfeited under that section,

Power to declare newspapers, plant, &c., forfeited, and to seize the same.

the Local Government may declare such implements, utensils, plant, materials or copies to be forfeited, and may by warrant issued by its authority under the hand of any Magistrate empower any person to seize and take away such implements, utensils, plant, materials and copies wherever found, and to enter upon any premises

(a) where the newspaper specified in such warrant is printed or published, or

(b) where any such implements, utensils, plant or materials may be or may be reasonably suspected to be, or

(c) where any copy of such newspaper is sold, distributed, published or publicly exhibited, or reasonably suspected to be sold, distributed, published or publicly exhibited, or kept for sale, distribution, publication

publication or public exhibition, or reasonably suspected to be so kept,

and search for such implements, utensils, plant, materials and copies.

Every warrant issued under this section, so far as relates to a search, shall be executed in manner provided for the execution of search-warrants under the law relating to criminal procedure for the time being in force.

10. When any book, pamphlet, placard, broadsheet or other document printed wholly or partially in any oriental language in British India contains any words, signs or visible representations which are of the nature described in section three, clause (a),

or when any such book, pamphlet, placard, broadsheet or other document has been used, or attempted to be used, for any purpose described in the same section, clause (b),

all printing presses, engines, machinery, types, lithographic stones, paper and other implements, utensils, plant and materials, used or employed in or for the purpose of printing or publishing such book, pamphlet, placard, broadsheet or other document, or found in or about any premises where the same is printed or published, and all copies of such book, pamphlet, placard, broadsheet or other document, shall be liable to be forfeited to Her Majesty.

Whenever it appears to the Local Government that anything is liable to be forfeited under this section, the Local Government may declare such thing to be forfeited, and may direct any Magistrate to issue a warrant in respect of the same, and thereupon such thing may be searched for, seized and taken away in manner provided by section nine.

The Local Government may, upon good cause shown, cancel any forfeiture under this section.

11. When any newspaper printed elsewhere than in British India contains any words, signs or visible representations of the nature described in section three, clause (a), or is used or attempted to be used

for

Books, &c., printed in British India and containing matter, or used for purpose, described in section 3.

Copies of newspaper printed elsewhere, and brought into British India,

for any purpose described in the same section, clause (b), all copies of such newspaper, brought into British India, shall be liable to be forfeited to Her Majesty.

liable to forfeiture in certain cases.

12. Whenever it appears to the Local Government that any copies of any newspaper in any of the territories under its administration are liable to be forfeited under section eleven, such Local Government may declare all copies of such newspaper wherever found to be forfeited, and may by warrant issued by its authority under the hand of any Magistrate, empower any person to seize and take away all copies of such newspaper wherever found, and to enter upon any premises where any copy of such newspaper is sold, distributed, published or publicly exhibited, or reasonably suspected to be sold, distributed, published or publicly exhibited, or kept for sale, distribution, publication or public exhibition, or reasonably suspected to be so kept;

Power to seize copies of newspaper forfeited under section 11.

and search for all copies of such newspaper.

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 the law relating to criminal procedure for the time being in force.

13. Any person feeling aggrieved by the issue of any notification under section nine, or by any declaration made or anything done in the execution of a warrant issued under that section, or under section ten or section twelve, may, within three months from the date of the notification or declaration, or the doing of the thing complained of (as the case may be), appeal to the Governor General in Council; and the Governor General in Council shall take such appeal into consideration, and the order passed by him thereon shall be final and conclusive.

Appeal to the Governor General in Council.

14. The Governor General in Council may, by notification in the *Gazette of India*, direct that any newspapers printed at any place beyond the limits of British India, or any books, pamphlets, placards, broadsheets or other documents printed wholly or partially

Power to exclude from British India, newspapers, books, &c., printed out of British India.

partially in any oriental language at any such place, shall not be brought into, or circulated, distributed or publicly exhibited, or sold, or kept for circulation, distribution, public exhibition or sale, in British India.

Whoever, in contravention of any direction under this section, brings any such newspaper, book, pamphlet, placard, broadsheet or other document into British India, or circulates, distributes, publishes, exhibits or sells the same, or keeps the same for circulation, distribution, exhibition or sale, shall be punished with imprisonment for a term which may extend to six months, or with fine, or with both;

and all copies of such newspaper, book, pamphlet, placard, broadsheet or other document found in British India shall be forfeited to Her Majesty.

Whenever it appears to any Magistrate of a District, or to any Commissioner of Police in a Presidency-town, that anything within the local limits of his jurisdiction is forfeited under this section, he may issue a warrant to search for and seize the same, and such warrant shall be executed in manner provided for the execution of search-warrants under the law relating to criminal procedure for the time being in force.

Power of
postal author-
ities to seize
newspapers,
books, &c.

15. When any declaration has been made under section nine, section ten or section twelve, in respect of any newspaper, book, pamphlet, placard, broadsheet or other document, or any notification has been issued in respect of the same under section fourteen, any officer of the Postal Department empowered in this behalf by the Governor General in Council, by name or in virtue of his office, may search or cause search to be made for any copies of the same in the custody of that Department, and shall deliver all such copies found to such officer as the Governor General in Council may appoint in this behalf by name or in virtue of his office.

Jurisdiction
barred.

16. Every notification and declaration of forfeiture purporting to be issued or made under this Act shall,

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, or in execution of a warrant issued under this Act, shall be called in question by any Court of civil or criminal jurisdiction; and no civil or criminal proceeding shall be instituted against any person for anything purporting to be done under this Act or in execution of any such warrant, or for the recovery of any property purporting to be seized under this Act.

17. Any publisher or printer of a newspaper required to execute a bond or make a deposit under section three or section four, and publishing or printing such newspaper without having complied with such requisition, shall be punished with imprisonment for a term which may extend to six months, or with fine, or with both.

Penalty for publishing or publishing without executing bond or making deposit.

18. When any publisher of a newspaper has given an undertaking under section five or section eight, and during the period for which such undertaking is given, any words, signs or visible representations which have not been submitted to the officer appointed under section five, or which on being so submitted have been objected to by him, are printed or published in such newspaper, such publisher and the printer of such newspaper shall be punished with imprisonment for a term which may extend to six months, or with fine, or with both.

Penalty for breach of an undertaking under section 5 or section 8.

19. Any portion of this Act which has been extended to any part of British India under section one shall cease to be in force in such part whenever the Governor General in Council, by notification in the *Gazette of India*, so directs, but may be again extended to such part by a like notification.

Power to remove territory from operation of Act, and again extend Act.

20. 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.

Operation of other laws not barred.

SCHEDULE.

FORM OF NOTICE UNDER SECTION 6.

WHEREAS a certain newspaper (*state name of newspaper*) contains words, signs or visible representations (*as the case may be*) of the nature described in section 3, clause (*a*), of Act No. IX of 1878 [*or is used for a purpose mentioned in section 3 of Act No. IX of 1878, clause (b), or* Whereas an attempt has been made to use a certain newspaper (*state name of newspaper*) for a purpose, &c.]

This is to give notice to all whom it may concern, and to give all such persons warning, according to the provisions of section 6 of the said Act No. IX of 1878.

This day of 187 . *A. B.,*

Secretary to { *the Government of*
the Chief Commissioner of