

FOREWORD

It is a matter of pleasure and privilege to write a foreword to the study on "Official Secrecy and the Press" done by the Indian Law Institute, New Delhi for the Press Council of India. The study has been prepared by Dr. S.N. Jain, Director of the Institute. The Official Secrets Act, 1923 (to be hereafter called the Secrecy Act) which deals, *inter alia*, with disclosure of official information has engaged the attention of the government, journalists, scholars and lawyers from time to time. But the impact of Section 5 of that Act on the freedom of the press does not appear to have been examined in such great depth as has been done in the present study.

The need for an open government has been recognised in a number of Western democracies including the United States of America, and laws have been enacted to ensure that the information in possession of the government or its officers is not ordinarily withheld. Exceptions have been made in matters where considerations of the security of the State, its relations with foreign powers, official activities for prevention of crime, protection of legitimate economic interests and maintenance of privacy, etc., require that certain restrictions be imposed on their disclosure. It has been rightly pointed out that a balance has to be drawn between openness which is essential in a democratic society, and secrecy which is meant to protect national interests of a vital nature. So far as the press is concerned it is one of the principal vehicles for supplying information to the citizens and, therefore, it becomes all the more necessary to determine the extent to which the present strict rules of official secrecy require change and liberalisation.

Section 5 of the Secrecy Act has been regarded by the press in our country as a greatly inhibiting factor in the matter of obtaining information relating to the exercise of governmental and executive functions which impinge on the day to day life of the citizens. The questions that are being frequently debated in the press, in seminars, and discussions are :

- (i) The extent to which the principle of open government should be recognised and given effect to in a system of democratic government as ours ;
 - (ii) what changes are necessary in our laws, particularly in the above section, which was meant to perpetuate a colonial rule and is outmoded now and how to remove the impediments in the way of supply of information to the press ?
 - (iii) should journalists have any special rights for obtaining information on account of their peculiar responsibility in a democratic polity ?
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(iv) whether journalists should be accorded special protection in the matter of disclosure of their sources of information ?

The question of amendment of Section 5 has been considered by various committees and commissions from 1948 onwards but hardly any material changes have been suggested. It is significant that cases in which prosecutions were launched for violation of its provisions have been few and far between. But the journalists have a genuine fear of the section, and so have the government officials. Even in the matter of "leaks" certain amount of risk is involved though the publication may be in the public interest. All these and allied matters have received careful attention and have been fully examined by Dr. Jain. The study has proved to be a very useful and important document which has enabled the Press Council to formulate its recommendations for amendatory legislation. Moreover, it is bound to furnish the basis on which the above-mentioned problems will prove to be the nerve centres for supplying fresh stream of thought for the necessary legislative action.

The recommendations of the Press Council of India for amending Section 5 are given in Appendix I of the book. The Council had widely circulated the draft-study prepared by Dr. Jain amongst the associations of journalists. The views contained in the study and also the views received by the Council from the journalists were examined by the Council at its various meetings. The final recommendations as emerging therefrom have been drafted in the form of draft amendment of Section 5.

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