

CHAPTER XI

CONCLUSIONS

(Chapters VIII to X)

1. Section 99-A of the Criminal Procedure empowering the State Government to forfeit newspapers, books and documents for publishing matters described therein is constitutional. So are section 27-B of the Post Office Act, section 181-A of the Sea Customs Act, and section 3(1) of the Criminal Law Amendment Act. But in regard to section 3(2) of the Act, if the section is interpreted as empowering the governments to forfeit documents in the notified area during the period when notification under section 3(1) is in force, there can be no objection as to its constitutionality.
2. The recommendation of the Press Laws Enquiry Committee to amend the Sea Customs Act and empower the Customs Authorities to detain in the course of import across customs border documents inciting the people to commit crime is worthy of consideration.
3. The order passed under section 99-A of the Criminal Procedure Code or other enactment should also be reasonable in order to satisfy the constitutional requirements.
4. Area of operation of the governmental order is co-extensive with the executive power of the Government passing the order.
5. The governmental notification making the order of forfeiture should sufficiently describe the subject matter and disclose facts and the opinion of the Government. Otherwise the Government would run the risk of the notification being vacated.
6. When a person moves the High Court for setting aside the order, the burden of proof to show that the publication in question is an objectionable one is on the Government. Therefore, before the High Court, at the hearing, they have the right to begin. If any possible advantage lies in saying the last word before the High Court, the applicant may be given a chance.

7. A distinction is to be made between vacating the order of forfeiture on the ground that the notification does not disclose grounds of opinion and setting aside the order of forfeiture on the ground that the publication in question does not contain seditious or other objectionable matter. The former may be called 'quashing' and the latter setting aside. Only when the formal requirements in making the order are satisfied the question of setting aside arises.
8. An order passed by the High Court on an application to set aside the order of forfeiture is final. It is final in the sense that there is no other remedy under the Criminal Procedure Code. But the constitutional remedies by way of appeal to the Supreme Court are not barred.