CHAPTER - VI

FREEDOM OF PRESS AND OTHER CONSTITUTIONAL PROVISIONS

1. FREEDOM OF PRESS UNDER ART.19(1)(g):

1.1 CONSTITUTIONAL PROVISION:

Press has a dual aspect. Primarily it is a medium of expression; it is also an industrial and business establishment where printing and publication is carried on for profit. Further advertisements in newspapers has itself become a business and the main source of income of a newspaper commanding circulation. This business aspect of press is reaching high dimensions along with the growth and development of technology of printing, scientific intelligence applied in running a newspaper establishment, growth of Comemrce in domestic and international affairs, etc.

Since the business of running a printing press or newspaper has to be carried on like any other business, then the press becomes concerned with different laws relating to business such as Contract, Sale of goods, Partnership, Insurance etc.,and as an industrial establishment it becomes concerned with enactments such as Industrial Disputes Act, Factories Act, different enactments governing employment conditions of the employees
working in the press such as wages, Provident Fund, Bonus, Gratuity etc.\(^1\) It is not within the scope or compass of this work to deal with all such laws of general application. Here an attempt is made to brief out the constitutional foundation of dealing the press as a business activity and industrial establishment.

The growing dimension of the press as a business calls for regulation or control by the State in the interests of the general public. In United States Congress has an independent power of regulating commerce, known as the 'Commerce Power'\(^2\) (Art.I, Sec.8(3)). The business aspect of press in U.S.A. has been subjected to anti-trust or anti-monopoly legislation which is studied elsewhere in this Chapter. The constitutional authority for imposing restrictions upon the press as a business is drawn from the doctrine of 'Police Power', which is judicially evolved as "the liberty of the individual, ... even in innocent matters, is not absolute. It must frequently yield to the common good"\(^3\). However this doctrine of 'police power' is counter balanced by the doctrine of 'due process' which is studied in detail in previous Chapter of this work. Thus what can be said, in general, about the business aspect of press in U.S.A. is that, as the press has business aspects it has no special immunity from laws applicable to business in
general. 4

Under Indian Constitution, so far as commercial activities of the press are concerned, the ambit of its rights and the limitations thereto are to be derived from Cls.(1)(g) and (6)5, which are as follows:

"(1) All citizens shall have right.....

(g) to practice any profession, or to carry on any occupation, trade.....or business.

(6) Nothing in sub-Clause (g) of the said Clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said Sub-Clause, and, in particular, nothing in the said Sub-Clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to -

(i) the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business, or
(ii) carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise."

Therefore, in India, the power of the State to impose restrictions on a business is to be found from Clause (6) of Art.19, which authorise the State to impose "in the interests of the general public", "reasonable restrictions" on the exercise of the right to carry on any 'occupation, trade or business', which is guaranteed by Cl.(1)(g) of that Article'. The power of the State within the ambit of Cl.6 is subject to judicial review.

Thus certain aspects of the freedom of press can be drawn from Cl.(1)(g) apart from Cl.(1)(a) of Art.19. Therefore, there would be a question of harmonisation of duel operation of the two provisions in Art.19 viz., under Clause (1)(a) and Cl.(1)(g). So also on one hand, a business is not immune from regulation because it is an agency of the press and the publisher of a newspaper has no special privilege to invade the rights and liberties of others. Further in regulating the economic and business aspects of a newspaper or other public media,
the State cannot impose any restriction which curtails
the circulation of the newspaper or its' freedom of
discussion and supplying uncontrolled information and
comments on public affairs. The question of harmonisa-
tion of duel operation of two provisions and that of
interaction of two competing public interests has been
dealt with by the Supreme Court of India and the same
is discussed here.

1.2 INTERRELATION BETWEEN ART.19(1)(a) AND ART.19(1)(g):

Though the freedom of speech and expression is
considered under Art.19(1)(a), it also falls for consi-
deration under Art.19(1)(g) namely freedom to practice
any profession or to carry on any occupation, trade or
business. In other words what has to be considered is
the interrelation of Art.19(1)(a) and 19(1)(g) of the
Constitution of India⁶. The first case in which this
question fell for determination was Sakal Papers (Pvt.)
Ltd. V. Union of India⁷ and subsequently the same issue
was considered in the Bennett Coleman & Co. V. Union of
India⁸. In Sakal Paper's Case the Newspaper (Price page)
Act,1956,which empowered the Central Government to regu-
late the price of newspapers in relations to their pages
and sizes and to regulate the allocation of the space
for advertising matter was challenged. So also Daily
Newspapers (Price and Page) Order, 1960, made under the Act which fixed the minimum number of pages that might be published by a newspaper according to the price charged and prescribed the number of supplements that could be issued, was challenged under Art.19(1)(f) of the Constitution. The Supreme Court upheld the challenge. In determining the issue under challenge a unanimous decision of the Court held that the publication of a newspaper involved not only freedom of speech and expression under Art.19(1)(a) but also the carrying on of the business under Art.19(1)(g) which necessarily involved reasonable restrictions being placed on the business activities of a newspaper. The Court held that merely by trying to place a reasonable restriction on the business of a newspaper, however reasonable it may be, it cannot affect the right of freedom of speech or take it away. Court observed that:

"The right of freedom of speech cannot be taken away with the object of placing restrictions on the business activities of a citizen....It cannot like the freedom to carry on business be curtailed in the interest of general public."

It further observed:

"If a law directly affecting it is challenged it
is no answer that the restrictions enacted by it are justifiable under Clauses (3) to (6). The reference to the press being a business would be wholly irrelevant for considering whether the impugned Act infringes or does not infringe the freedom guaranteed by Art.19(1)(a)".

This question again fell for consideration in Bennet Coleman's case in which three judgements were delivered. One was by Ray J. for he himself and for Sikri, C.J. and for P.Jaganmohan Reddy J., another by Beg J. concurring with the result of above. Three dissented. In this case news print which was to be borrowed from United States of America was to be rationed because of short of supply and Newsprint policy was laid down by the impugned Newsprint Control Order of 1972-73. It was challenged on the ground that restrictions imposed by the Newsprint Policy are said to infringe rights of freedom of speech and expression under Art.19(1)(a) of the Constitution. The features of the newsprint policy are that the Newsprint policy defines "Common ownership Unit" to mean newspaper establishment or concern owning two or more news interest newspapers, including at least one daily. Main features of the policy imposing restrictions are that:
(a) No newspaper or new edition can be started by a common ownership unit even within the authorised quota of newsprint.

(b) There is a limitation on the maximum number of pages to 10.

(c) No interchangeability is permitted between different papers of common ownership unit or different editions of the same paper.

(d) Allowance of 20 per cent increase in page level up to a maximum of 10 has been given to newspapers with less than 10 pages.

It was urged by the petitioners that because of above newsprint policy, a big daily newspaper is prohibited and prevented from increasing the number of pages, page area and periodicity by reducing circulation to meet its requirement even within its admissible quota which is violative of Art.19(1)(a) and the restrictions are therefore arbitrary, unreasonable having adverse affects on daily newspapers. The newsprint policy is said to be discriminatory and violative of Art.14 because common ownership units alone are prohibited from starting a newspaper or a new edition of the same paper while other newspapers with only one daily are permitted to do so.
The page limit upto 10 pages to all newspapers is said to be irrational and arbitrary and violative of Art.14 because it equates newspapers which are unequal and provides the same permissible page limit for newspapers which are essentially local in their character and big newspapers. Along with this there were certain other reasons for challenge of newsprint order.

The contention of Union of India was that the freedom of speech and expression under Art.19(1)(a) was not violated though it might have been incidentally and consequently abridged. Because subject matter of the policy was to control import by regulating the use to distribution of goods after they were imported. Thus subject matter of policy was rationing of imported commodity and its equitable distribution. In its judgement ratio adopted by the Court was that, power of the Government to import newsprint was conceded. So also power of Government to control the distribution of newsprint. But beyond this Government has not got the power to interfere with the manner in which the newsprint should be utilised by the newspapers who have to be left free to determine their pages, their circulation and their new editions within their allotted quota. Further it was held that to prevent a common ownership unit from starting new edition or a newspaper and compulsory
reduction of number of pages to 10 offends Art.19(1)(a) and infringes the right to freedom of speech and expression. The newsprint policy of fixing the page level at 10 is really seeking to make unequals equal and also to benefit one type of daily at the expense of another. The policy of limiting all papers to 10 pages is arbitrary and violates Art.14 of the Constitution. It was held that by the expression 'freedom of the press' is meant the right of all citizens to speak, publish and express their views. It embodies the right of the people to read and is not antithetical to the right of the people to speak and express. Thus it was held that the newsprint policy for 1972-73 was violative of Arts.19(1) and 14 of our Constitution and that restriction of fixing limit of 10 pages of the policy infringed Art.19(1)(a) and 14 of the Constitution and are therefore, unconstitutional and were struck down. It is submitted that power of the Government exercised under other enactment such as Import Control Act etc., to control imported goods such as newsprint is conceded. But when such power affects economic viability of the citizens, in instant case by fixing a page level at 10 pages, it amounts to infringement of fundamental right guaranteed under Art.19(1)(g) of our Constitution. It equally affects upon right to freedom of speech and expression
under Art.19(1)(a). Not only this but it violated Art.14 of our Constitution.

These decisions establish that when more than one fundamental right conferred by Art.19(1) inheres in a person, the legislature has power to put on each fundamental right the restrictions to which that right is subject. Since the publisher of a newspaper has the right to the freedom of the press a law can put only those restrictions on his right which are permitted by Art.19(2); but since he has right to carry on his business of publishing a newspaper, a law can put reasonable restrictions on that right in the interest of the general public under Art.19(6). But such restrictions may not affect the freedom of the press. In these decisions, the exercise by the legislature of its undoubted power under Art.19(1)(6) appears to conflict with the right conferred by Art.19(1)(a) and the restrictions which can be put on that right under Art.19(2). Both the cases are decided by the Supreme Court after considering issues involved in the each case respectively.

It is submitted that there is no hard and fast rule to resolve the situation of this type. Nor the Court has laid down any standard or test or any doctrine to be made applicable in such situation. Justice Mathew in Bennett case said that doctrine of pith and substance
test, although not strictly appropriate, may serve the useful purpose. H.M. Seervai, the eminent Jurist and Constitutionalist suggests test of pith and substance is the appropriate test. It is submitted that view taken by majority judgement in Sakal Papers and Bennett Coleman cases is correct one.

1.3 CONSTITUTIONAL CONTROVERSIES UNCOVERED BY RESTRICTIVE CLAUSE:

Under this caption three important pronouncements of the Supreme Court may be referred in which the Court was confronted with the determination of the Constitutionality of some central laws out of perview of Art.19(2).

The first noteworthy case is Express Newspapers V. Union of India. In this case the constitutionality of the Working Journalists (Conditions of Service) and Miscellaneous Provisions Act, 1955 was challenged under Art.19(1)(a). The Act extended certain industrial laws to, and made provisions in respect of gratuity, hours of work, leave and fixation of Wages for the working journalists and other persons employed in newspaper establishment.

While observing that the press had under Art.19(1) (a) the right of free propogation and free circulation
without any previous restrictions on publication, the Supreme Court held that impugned Act valid as it was a beneficent legislation intended to regulate the conditions of service of the working journalists and some other persons. The Court observed:

"It could not ....be said that there was any ulterior motive behind the enactment of such a measure because the employers may have to share a greater financial burden than before or that the working of the industry may be rendered more difficult than before. These are all incidental disadvantages which may manifest themselves in the future working of the industry, but it could not be said that the legislature in enacting that measure was aiming at these disadvantages when it was trying to ameliorate the conditions of the workmen. Those employers who are favourably situated, may not feel the strain at all while those of them who are marginally situated may not be able to bear the strain and may in conceivable cases have to disappear after closing down their establishments. That, however, would be a consequence which would be extraneous and not within the contemplation of the Legislature. It could therefore hardly be urged that the possible
effect of the impact of these measures in conceivable cases would vitiate the legislation as such. All the consequences which have been visualized in this behalf by the petitioners viz., the tendency to curtail circulation and thereby narrow the scope of dissemination of information, fetters on the petitioners' freedom to choose the means of exercising the right, likelihood of the independence of the press being undermined by having to seek Government aid; the imposition of penalty on the petitioners' right to choose the instruments for exercising the freedom or compelling them to seek alternative media etc., would be remote and depend upon various factors which may or may not come into play.

Unless these were the direct or inevitable consequences of the measures enacted in the impugned Act, it would not be possible to strike down the legislation as having that effect and operation. A possible eventuality of this type would not necessarily be the consequence which could be in the contemplation of the legislature while enacting a measure of this type for the benefit of the workmen concerned.\textsuperscript{12}

The Court further said that although there could be no
doubt that the Act directly affected the press and fell outside the categories of protection mentioned in Art. 19 (2), it had not the effect of taking away or abridging the freedom of speech and expression of the petitioners and did not therefore, infringe Art. 19(1)(a).

Other two cases which posed constitutional controversies are Sakal Papers Case¹³ and Benett Coleman case¹⁴. Facts and some aspects of these two cases have been discussed elsewhere in earlier part of this Chapter. To mention under this caption is that in Sakal Papers case both the Newspaper (Price and Page) Act, 1956, and the Newspaper (Price and Page) Order, 1960, issued under the Act, were on trial in the Supreme Court. Accordingly, Section 3(1) of the impugned Act was held to be unconstitutional. The Court rejected plea that the restraints imposed were in the general interest of the public on the ground that Art. 19(2) did not permit the State to abridge the freedom in the interest of the general public. It also said that the State could not make a law which directly restricted one guaranteed freedom for securing the better enjoyment of another which, in the present case, was the freedom guaranteed by Art. 19(1)(g). The Court was of the view that freedom of speech could not be restricted for the purpose of regulating the commercial aspect of the activities of newspapers.
It is submitted that Sakal Papers is a right decision. Perhaps the Government chose a wrong way to curb unfair competition and to help small as well as newly started newspapers to flourish.\textsuperscript{15}

In Bennett Coleman case, the Supreme Court by a majority struck down some of the restrictions in the Newsprint Policy 1972-73 as being violative Art.19(1)(a). The Court was of the view that if a law were to single out the press for laying down prohibitive burdens on it that would restrict the circulation, penalise its freedom of choice as to personnel, prevent newspapers from being started and compel the press to Government aid, it would violate Art.19(1)(a) and would fall outside the protection of 19(2).

It may be mentioned here that as a consequence of the Bennett Coleman and Co., the Government of India had revised its policy of newsprint allocation so as to undo what was done and to ensure that newspapers were free to use their quota for augmenting their circulation or pages or both.\textsuperscript{16}

It is submitted that The Bennett Coleman and Co., is a momentous decision in more than one sense. It has not only reinforced the existing concept of free expression but also enlarged it. Secondly, it has safeguarded
the freedom of press against the attack of executive and that too during the period of emergency. The case has been commended by Professor M.P. Jain "as a land mark in the history of citizens' civil rights in India"\(^{17}\).

It is submitted that the three judicial pronouncements discussed above are healthy precedents in the area of press freedom. The Express Newspaper endorses the State concern for a just press establishment, and the Sakal Papers and Bennett Coleman & Co., ensure that the press freedom cannot be invaded by means which run counter to the constitutional guarantee.

1.4. **FREE PRESS AND MONOPOLISTIC PRACTICES IN BUSINESS:**

1.4.1. **POSITION IN UNITED STATES:**

The question of monopolies or monopolistic practices in trade or business have been generally treated as evil calling for appropriate remedy. In United States, Supreme Court had an occasion to deal with this issue. In Associated Press v. U.S.\(^{18}\) application of the Sherman Anti-Trust Law, which was designed to prevent monopolies in industry, was upheld by the Supreme Court to news agency. In this case Justice Black observed that:

"It would be strange indeed...... if the grave concern for freedom of the press which prompted
the adoption of the First Amendment should be read as a command that the government was without power to protect that freedom. ... The First Amendment affords not the slightest support for the contention that a combination to trade in news and views has any constitutional validity."

Above mentioned Sherman Anti-Trust Law was also held to be applicable to newspapers in Citizen Publishing Co., V. U.S. 19. In this case Roberts J. quoted with approval above passage.

It is submitted that in the United States First Amendment guarantee of freedom of press is in absolute terms. Therefore, before engrafting any exception to this absolute prohibition, Court has to be satisfied for the necessity to be established for such exception. In India right under Art.19(1)(a) and 19(1)(g) is expressly made subject to a large number of specified restrictions. This may be concluded to mean that in United States, the area of freedom of speech and press is much larger than it is in India. If U.S. Supreme Court has upheld validity of laws against monopolies such laws must be upheld in India. However, a law against monopoly can be justified only as a reasonable restriction on business under Art.19(6).
1.4.2 POSITION IN INDIA:

This question came to be considered by our Supreme Court very recently in Indian Express Newspapers Pvt. Ltd., V. Union of India\(^\text{20}\). It was held that while examining the constitutionality of a law which is alleged to contravene Art.19(1)(a) of the Constitution, we cannot no doubt, be solely guided by the decisions of the Supreme Court of the United States of America. However, the pattern of Art.19(1)(a) and that of Art.19(1)(g) of our Constitution is different from the pattern of the First Amendment to the American Constitution which is almost absolute in its terms. The rights guaranteed under Art.19(1)(a) and Art.19(1)(g) of the Constitution are to be read along with Clauses (2) and (6) of Art.19 which carve out areas in respect of which valid legislation can be made. It may be noticed that newspaper industry has not been granted exemption from taxation in express terms. On the other hand Entry 92 of List I of the Seventh Schedule to the Constitution empowers parliament to make laws levying taxes on sale or purchase of newspapers and on advertisements therein\(^\text{21}\).

In this case petitioners i.e. newspaper establishments etc. i.e. Indian Express Newspapers, Bennette Coleman and Co., The Statesman Ltd., & Oths., Kasturi and Sons Ltd., and Anand Bazar Patrika Ltd., filed petitions
under Art.32 before Supreme Court against Union of India. In these petitions validity of the imposition of import duty on newsprint imported from abroad under different customs Legislation and levy of auxiliary duty under Finance Act, 1981, etc. was under challenge. It was held that newspaper industry enjoys two of the fundamental rights namely the freedom of speech and expression guaranteed under Art.19(1)(a) and the freedom of engage in any profession, occupation, trade, industry or business guaranteed under Art.19(1)(g). While there can be no tax on right to exercise freedom of expression tax is leviable on profession, occupation, trade, business and industry. Hence tax is leviable on newspaper industry. But when such tax transgresses into the field of expression and stifles that freedom it becomes unconstitu- tional. As long as it is within reasonable limits and does not impede freedom of expression it will not be controvening the limitations of Art.19(2). The delicate task of determining when it crosses from the area of profession, occupation, trade, business or industry into the area of freedom of expression and interferes with that freedom is entrusted to the Courts.

It is submitted that in this case no test or doctrine or a specific standard as regards guiding principle to balance between right under Art.19(1)(a)
and Art.19(1)(g) has been laid down. Nor any rule as to when Art.19(6) while validating any legislation as reasonable legislation may be held transgressing limits of Art.19(1)(a), is laid down. The observation is that Court has to deliberate the balance in between two interests if conflicting. Court has to consider the facts and circumstances of each case while arriving at any conclusion. In this case, petitions were allowed as it was held that the Government has not taken relevant circumstance into consideration. Therefore Notification withdrawing certain exemption was set aside with a direction to realise duty at interim rate.

1.4.3. **JOURNALISTIC OUTLOOK**:

Mr. S.M. Mulgaonkar, an outstanding Journalist says about the aspect of tax on newsprint as it goes to the roots of the economic set-up of newspaper industry. He says, viewed from the side of newspaper establishments, from concept of freedom of Press under Art.19(1)(a), such tax amounts to tax on knowledge, a tax on information; a tax on process of free discussion in a democracy²³.

He pointed out that from journalistic point of view, the customs levy on newsprint is bad enough. There is a State Trading Corporation (STC), which has been entrusted with canalization of newsprint imports. The
objective of canalization is to obtain a better price leverage in the international market and to secure further reduction of cost by moving the bulk purchases by Chartered Vessels. It was initially announced by STC that it was not a commercial operation and that it would be content with a service charges. However, this is not worked out practically. As there are variations in the price of newsprint purchased by STC and selling price. Attempts by newspapers to seek an explanation for the wide disparities in price were fruitless. The Government refused to associate newspaper representatives even in an advisory capacity with the Newsprint Price Fixation Committee. In fact several points for arguments regarding monopolistic practices exercised by STC are voiced from journalistic sector. viz., STC charges price of newsprint with a more margin resulting to disparities in the actual purchase price and price which a newspaper establishment or industry has to pay, newsprint is not made available in time and when it is required by newspapers but it is imported when funds are made available by the Government to STC. For getting newsprint in Rupee Currency, the newsprint which does not bear quality, is purchased and imported by STC from any source or place and newspaper industry has to purchase the same as there is no choice left with the newspaper industry.
Practices of Government regarding the newsprint policy have gone further to make a compulsion of purchasing newsprint which is produced in India, and which bears a poor quality standard, in a fixed proportion as to purchase of imported newsprint. Further it is to be purchased at a higher rate than that of imported newsprint. This Indian newsprint is manufactured largely in public sector and is usually from NEPA, Mysore and Karnataka Mills.

Another aspect of reaching roots of economic set-up of newspaper industry is distribution of the Government advertisements. There is a Department of Audio-Visual Publicity which handles Government advertisements. This Department fixes its own arbitrary rates for placing Government Advertisements, which has no relation in substance with the newspapers lowest commercial rate. Government also may choose individual newspapers in a selective manner to special harassments.

In Maharashtra an attempt was made by 'Jichakar Committee' to regularise the distribution of advertisements by Government of Maharashtra. However, this attempt also could not be worked out practically.

Union Government of India has made applicable Report of Bachhawat Wage Board by the extra ordinary
Gazette of India published as per powers conferred by Section 12 of the Working Journalists and other newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955. By this Gazette Central Government has fixed or revised rates of wages in respect of journalists and non-journalist newspaper employees. This has casted additional economic burden to newspaper industry.

The commercial aspects of newspaper business are discussed here only to demonstrate how the substance of the freedom of the press can be eroded by the Government -al attitudes without a frontal attack on freedom in theory. The Supreme Court in one of its judgements has also laid emphasis on the command of the means and quoted with approval an American authority for the view that "unrestraint without command of means is mockery of freedom".

1.5 DELINKING AND DIFFUSION OF PRESS OWNERSHIP:

While considering business aspect of press, it may be mentioned that Second Press Commission has made some recommendations. One of the important recommendations of the Second Press Commission was with regard to delinking and diffusing of ownership and control of the newspaper business. According to the Commission, the freedom of press is not merely a professional right that inheres in a journalist but an essential right of readers.
to get information. It is necessary that the presentation of news and views in the press should be fair, accurate, objective balanced and truthful. The control of the newspapers by big business results in the distortion of news and also in projecting the ideology of the owners of the newspapers. In the opinion of the Commission, the control of the press by big business is not in public interest as it affects three aspects of the working of the press, namely, news coverage, editorial policy, and professional quality of journalism. Accordingly, it recommended that a person carrying on business of publishing a newspaper should not have an interest in any other businesses in excess of 10 per cent of its subscribed share capital. Secondly, a person having an interest in any other business should not have in the business of publishing a newspaper an interest which is in excess of 10 per cent interest in the newspaper business. According to the Commission, such delinking and diffusion will not be violative of either Art.19(1)(a) or 19(1)(g) of the Constitution.

It seems that basic purpose behind above proposal is to eliminate entirely the external influence on the policy of a particular newspaper. Secondly, this recommendation apparently seems to be concerned with big newspapers. Justice E.S.Venkataramiah\(^2\) points out that the impact of the proposal will be directly on the
freedom of speech and expression as the idea is to shut out certain news and editorial policies of the press, e.g., stopping newspapers to publish news favouring private enterprise or to express an opinion in favour of status quo in socio-economic matters, which aspects were alluded to by the Commission. He further points out that the financial feasibility of the proposal is seriously open to question. The proposal may create a financial crisis in the newspaper industry making its very survival difficult. He poses a question that what is the guarantee that other external influences will not work to project a particular ideology or distort the news so as to suit certain interests whether they may be of a ruling party in power or of others?

It may be mentioned that some other persons such as Shri Girilal Jain (a journalist of repute), Shri H.K. Paranjape (an eminent economist), Shri Rajendra Mathur (a journalist of repute) and Justice S.K. Mukherjee dissented the proposal.

It is submitted that the proposal of the Commission seems to be controversial and needs consideration in all its aspects before any decision is taken thereon.
2. **FREEDOM OF THE PRESS AND THE BASIC STRUCTURE DOCTRINE:**

Indian Constitution does not provide for any doctrine such as basic structure doctrine. However, this doctrine has been evolved by the Judicial pronouncements. What constituted the basic structure? What would amount to destruction of such basic structure? The judges had different perceptions about it which can be illustrated from case to case. It was in *Golaknath v. Punjab* \(^3\) \(^5\), for the first time the Supreme Court held that Parliament could not take away or abridge the fundamental rights, even by a constitutional amendment. However, this was overruled by *Keshavananda Bharati* \(^3\) \(^6\) in which it was held by the majority that the constituent power of amending the Constitution was subject to a limitation that the basic structure of the Constitution could not be altered or damaged.

So far as freedom of press and basic structure doctrine is concerned, the issue has been discussed by Their Lordships of Division Bench of Bombay High Court, Constituting Bharucha and Sugla JJ. in *India V. Bennett Coleman case* \(^3\) \(^7\). In this case the Bennett Coleman & Co., Ltd., had started bringing out editions of its paper, The Times of India and Nav Bharat Times from a Press in Lucknow. This was done without seeking permission under
Section 22 of the Monopolies And Restrictive Trade Practices Act, 1969. Provision under Section 22 is that no person or authority other than the Government shall establish any new undertaking which when established, would become an inter-connected undertaking or an undertaking to which the part of the Act, called part A, without obtaining the previous permission of the Central Government before any expansion of the existing undertaking was made. This applied to the press also. The Secretary, Department of Company Affairs, issued an order in July 1984, declaring that the Bennett Coleman Company had committed breach of Sec.22, and issued a show cause notice asking why a penal action should not be taken against it. Bennett Coleman Company challenged the Sec.22 on the ground of being violative of the right of freedom of the press, which was included within the right to freedom of speech and expression guaranteed by Art.19(1)(a). Writ Petition was heard and disposed of by Pendse J., who held Sections 21 and 22 void in so far as they applied to newspaper undertakings. However, the learned judge made it clear that the orders dated 20 July 1984, was not otherwise invalid, if the sections under which it was issued were valid. This question come before the Division Bench consisting of Bharucha and Sugla JJ. The question which came up before the Division Bench were as follows:
i) was Section 22 of the M.R.T.P. Act violative of Art.19(1)(a) ?

ii) If it was violative of Art.19(1)(a) was it protected by its inclusion within Schedule IX by virtue of Art.31(B) ?

iii) If it was protected by Art.31-B, was the constitutional amendment which sought to include it in Schedule IX violative of the basic structure of the Constitution and, therefore, void?

The Court held that the freedom of the press is an aspect of the basic structure of the Constitution. It was also held that an amendment seeking to confer immunity against judicial sanction as to the validity of a law inconsistent with the freedom of the press was bound to be against the basic structure. From this judgement it follows that fundamental rights such as freedom of speech, freedom of association, freedom of carrying out trade, business or profession are equally part of the basic structure of the Constitution. However, the fact that fundamental rights are part of the basic structure does not mean that they are absolute. Constitution provides for reasonable restrictions in Clauses (2) to (6) it can be equally said to be the part and parcel of basic structure, along with fundamental freedoms enumerated under Art.19(1)(a) to (g). Exclusion of judicial
review as contemplated by Articles 31-A, 31-B or 31-C is violative of the basic structure. Therefore, here it can be said, at the most, that if freedom of the press were to be totally deleted from the Constitution, it would amount to violation of the basic structure. It appears that if the above judgement is taken to mean that exclusion of judicial review of certain laws, with respect to some fundamental rights, as contemplated by Art.31-A, 31-B, 31-C is violative of basic structure then it is respectfully submitted that it is not correct. However, if judgement is taken in a spirit to mean that if freedom of press is totally deleted from the Constitution it would amount to violation of the basic structure, it is correct. It is further stated with respect that as the said judgement is not clear on these aspects, therefore, it may be said to be a questionable judgement. Doctrine of basic structure in this regard requires to be more settled and clear.

3. **FUNDAMENTAL RIGHTS AND DIRECTIVE PRINCIPLES:**

   It will not be out of place if it is pointed out at this juncture that in Minerva Mills Ltd., V. Union of India, Chief Justice Chandrachud pointed out that -

   "The significance of the preception that parts III and IV together constitute a core of the commitment to social revolution.... They are like
two wheels of a chariot one no less important than the other. ... Harmony and balance between fundamental rights and directive principles is an essential feature of the basic structure of the Constitution.\textsuperscript{40}

In the same tone he went on to further observe that -

"The rights conferred by part III are subject to reasonable restrictions and the Constitution provides that enforcement of some of them may, in stated and uncommon circumstances be suspended. But just as the rights conferred by part III would be a rudder and a compass if they were not geared to an ideal, in the same manner the attainment of the ideals set out in part IV would become a pretence tyranny. If the price to be paid for achieving that ideal is human freedom... The goals set out in part IV have, therefore, to be achieved without the abrogation of means provided for by part III."\textsuperscript{41}

Though in Minerva's case Supreme Court held that fundamental rights cannot be abrogated for the implementaton of the directive principles of the State policy, it had taken the help of the directive principles in deciding whether a particular restriction on the fundamental right
was reasonable or not. For instance in State of Bombay V.P.N. Balasara Justice Fazal Ali speaking for the Court observed that in judging the reasonableness of the restrictions....one is to bear in mind the Directive principles. Thus in the light of Art.47, the Bombay Prohibition Act, 1949 was held intravirous. In other cases also aid of Art.47 is taken by the Courts to hold that a restriction in the liquire laws is valid,

4. **EFFECT OF EMERGENCY ON FREEDOM OF PRESS:**

4.1 **CONSTITUTIONAL PROVISIONS UNDER INDIAN CONSTITUTION:**

Articles 358 and 359 of the Indian Constitution lay down the effect of a proclamation of emergency under Art.352 of the Constitution.

Under Art.358 of the Constitution, as it stood upto the 44th Amendment Act, 1978, Art.19 remained suspended during the operation of a Proclamation of Emergency Under Art.352. Consequently, censorship might be imposed by the Government during such Emergency, without being oppressed by the risk of contravening the freedom of expression guaranteed by Art.19(1)(a).

However, in the year 1978 Art.358 was drastically amended by the then Janata Party Government by the Constitution (44th Amendment Act) Act, 1978. By this Amendment suspension of Art.19 has been controlled, by
amending Art.358. Thus changes in Art.358 are two-fold:

i) The operation of Art.358 has been confined to war or external aggression. Hence, Art.19 can no longer be suspended by any proclamation of emergency on any domestic ground, be it internal disturbance or armed rebellion.

ii) Even in the case of an Emergency on the ground of war or external aggression, the suspension of Art.19, shall not be automatic, as before; but will depend upon a recital in a particular law to the effect that such law relates to the proclamation of Emergency. In the absence of any such declaration in the law itself, neither the law nor any executive action taken thereunder shall have any immunity from attack on the ground of contravention of Art.19. Therefore, in future, in order to make Censorship Order during Proclamation of Emergency on the ground of external aggression, Government will have to make a law authorising such censorship and making provision therein as above.

The effect of Art.358 is that it suspends the restrictions on the power of the State to make any law in contravention of the provisions of Art.19 only during the pendency of Emergency Proclamation. It does not lay down that the validity of any law, which had already
been made, cannot be challenged on the ground of violating the provisions of Art.19.

It is submitted that Laws or Orders made prior to the coming into operation of the proclamation of Emergency are not protected from the challenge of unconstitutonality on the ground of contravention of Art.19. Further any law or order made after coming into operation of the Proclamation of Emergency cannot be challenged during the continuance of the Emergency, on the ground of contravention of Art.19. Even after the Emergency is over, the constitutionality of acts done or omitted to be done during the Emergency cannot be challenged on the same ground. Thus Art.358 removes the fetters created on the legislative and executive powers by Art.19. However, as soon as the Proclamation ceases to operate, the legislative enactments passed and executive actions taken during the course of the said emergency shall be inoperative to the extent to which they conflict with the rights guaranteed under Art.19 because as soon as the emergency is lifted, Art.19 which was suspended during Emergency is automatically revived and begins to operate. As regards Art.359 it may be observed that, said Article does not as such suspend any of the fundamental rights. It provides for suspension of the enforcement of the rights conferred by Part III during Emergencies. Article authorises the president to issue
an order declaring that the rights to move any Court for
the enforcement of such of the rights in Part III as may
be mentioned in the order. And all proceedings in any
Court for the enforcement of the rights so mentioned
shall remain suspended for the period during which the
proclamation is in force or for such shorter period as
may be specified in the order. Thus by virtue of Art.
359(1) remedy of citizens to move the Court for enforece-
ment of rights is barred.

It may be pointed out that the provisions of
Art.358 apply to the whole of India, while order issued
under Art.359(1) may extend to whole of India, or any
part thereof. It is also submitted that the suspension
of the fundamental right under Art.19 follows a Procla-
mation of Emergency under Art.352, without any further
Presidential action (Art.352); but the right to enforce
any other fundamental right in the Courts does not so
follow but requires a specific Order of the President
under Art.359 for that purpose. Further the effect of
Art.358 continues so long as the Emergency lasts while
suspension of right to move the Court under Art.359(1)
may last as long as the Emergency or even for a shorter
period, if specified in the Presidential Order.

Since the Proclamation of Emergency by the
President is not subject to previous sanction of the
Parliament, the President may, even before the procla-
tion is laid before Parliament for approval under Clause 2(c) of Art.352, make an order suspending the fundamental rights under Art.359; in anticipation of the approval of Parliament. The propriety of the President issuing a proclamation of Emergency under Art.352 or making an Order under Art.359 is not justiciable.

The 44th Amendment brought the Indian Law on the same level as the U.S.A. or U.K., making distinction between a time of War and peace. It is to be noted that since the Amendment of Art.359(1) by the Constitution (44th Amendment) Act, 1978, Arts.20-21 cannot be included in an Order under Art.359(1). In the result, even during the subsistence of a Proclamation of Emergency under Art.352, a journalist who may have been imprisoned or detained under any law of preventive detention, may challenge his detention or imprisonment on grounds available under Arts.20-21, even though his freedom of expression under Art.19 might have been suspended under Art.358 or the enforcement of the right under Art.19 has been barred by an Order under Art.359. The 44th Amendment, thus, overrides the contrary view taken in the Emergency case of A.D.M. V. Shukla.

It is submitted that there is no provision in our Constitution for suspension of Fundamental Rights outside the Emergency Provisions in Part XVIII.
4.2 POSITION IN ENGLAND:

It may be observed that in England there is no Emergency Power with the Executive, except under parliamentary authority. There is no prerogative of the crown to issue a proclamation of Emergency, even the crown has the prerogative to put down a violent disorder by force.\textsuperscript{45}

However, in times of War, parliament itself endows the executive with power to restrict the liberties of the citizen. The individual in such cases can approach the courts of law to determine whether this liberty has been infringed in due conformity with the provisions of law enacted by Parliament. Thus in times of war, the Parliament may authorise the Executive\textsuperscript{46} by passing such laws as the Defence of Realm Act, 1914 or the Emergency Powers (Defence) Act 1939 to make Regulations for the public safety or defence of the realm, including a power to detain without trial.

It may also be observed that until world War I, Parliament used to help the executive in proper prosecution of the war by passing Habeas Corpus Suspension Act, followed by an Act of Indemnity at the end of the war. However since World War I, this practice has been discontinued, and instead, the executive is being authorised to make Regulations as mentioned above.

The Emergency Powers Act 1920 authorises the
Crown by a proclamation to declare a state of emergency and to issue regulations by order in Council so long as such declaration remains in force. Such declaration can be made by the Executive only when the essentials of life are threatened, as defined by the Statute. A proclamation shall remain in force only for a month, though there is no bar to fresh proclamation being issued. The proclamation must be laid before Parliament forthwith, and if Parliament is not sitting it must be summoned within five days.

It may be noted that the only thing that the regulations issued under the English declaration of Emergency can do is to secure and regulate the supply and distribution of the necessities of life and to empower the police to preserve peace.

Thus the Executive, under such regulations has no power.

i) to impose military service or industrial conscription.

ii) to alter the existing procedure in criminal cases,

iii) to punish by fine or imprisonment without trial,

iv) to suspend the writ of habeas Corpus.

Thus, in England, it is acknowledged that in times
of war where the very existence of the State is in jeopardy, the state has to prevent the dissemination of such information or comments which would interfere with a successful prosecution of war, which includes defence. However, even in times of war such a censorship can be lawful only if Parliament provides the requisite legal sanction. For instance, during the Second World War, the Emergency Powers (Defence) Acts were passed in order to make such regulation possible and Defence Regulation 2 D, made under these Acts, empowered the Government to suppress a newspaper if it was persistently publishing matter calculated to oppose the successful prosecution of the War. The restraints imposed by this Regulation were withdrawn after termination of the War.

It is submitted that neither the Parliament nor the Courts have so far contemplated any censorship of the Press in times of peace.

4.3 POSITION IN THE UNITED STATES:

It has been already pointed out that the guarantee of freedom of the press in the United States Constitution is in absolute terms and that there is no mention of censorship therein. Nevertheless, it has been judicially acknowledged that in times of war when the security of the nation is in jeopardy, and the danger to the society from injurious publications is grave and imminent,
'previous restraint', including censorship may be upheld as constitutionally permissible.

Further the United States Constitution specifically states:

"The privilege of the writ of habeas corpus shall not be suspended, unless when in case of rebellion or an invasion, the public safety may require it". (Art.I Sec.9(2))

Thus nothing short of actual invasion or rebellion may justify the suspension of the writ. It has also been held that the power to suspend the writ belongs to the Congress, as it is a legislative power, as held by Chief Justice Taney in Ex-parte Merryman. Further it is for the courts to determine whether the conditions have arisen which would justify the suspension of the right of Congress.

As regards other Fundamental Rights other than Habeas Corpus mentioned above there is no provision in the United States Constitution corresponding to Art.359 of the Constitution of India, for suspension of any of the fundamental rights, either during war or emergency, whether by legislature or by Executive.

However, in times of Emergency, the States acquire wider police powers, but in every case, the excess of authority must be weighed by the balance of justice.
Nevertheless, the legislature is not the final authority to determine what constitutes proper exercise of police power.

It is submitted that in United States any censorship would not be tolerated in times of peace.

4.4 POSITION IN INDIA:

4.4.1 EMERGENCIES:

Since India became a Republic, it has found itself involved in war with its neighbours on three occasions. In 1962, the Chinese invasion took the Government and the people of India completely by surprise. In 1965, Pakistan drew India into war. Further in 1971, Pakistan unsuccessfully employed against India the technique of a pre-empire attack. Thus, therefore, a Proclamation of Emergency was issued under Art.352 on 26th October 1962 and it continued to remain in force till 10th January 1968 when it was revoked. In view of war with Pakistan, another Proclamation of Emergency was issued on 3rd December 1971.

The President, during the Emergency Proclaimed on October 26, 1962, by an order deprived the foreigners of the right to move any court for enforcement of fundamental rights conferred by Articles 14, 21 and 22 of the Constitution. The President also by another order deprived any person of the right to move any court for
enforcement of the rights conferred by Articles 14, 21 and 22. Of such person has been deprived of any such rights under Defence of India Ordinance, 1962 or any rule or order made thereunder. Thus his right to move the court was not taken away, if he had been deprived of his liberty by or under any law other than the Defence of India Act. Thus there was no press censorship during the first spell of emergency proclaimed in the wake of Chinese aggression. A Press Advisory System was in operation at the time of the India-Pakistan war in 1965.

4.4.2 PROCLAMATION OF EMERGENCY ON ACCOUNT OF INTERNAL DISTURBANCE:

The President of India has issued a proclamation of emergency, on June 26, 1975. It declared that "a grave emergency exists whereby the security of India is threatened by internal disturbances." On the same day a censorship order was issued under Rule 48(1) of the Defence of India Rules, 1971. Rule 48 in its turn was framed under Section 3 of the Defence of India Act, 1971. Under the Censorship Order certain matters specified therein were required to be submitted for scrutiny to an authorised officer prior to their publication. The Order provided that no such publication shall be made except with and in accordance with such conditions and restrictions as the officer may impose. Censorship means the official licensing or suppressing, on certain
grounds authorised by law of publication and 'to censor' means 'to exercise such control over, make excisions of changes in.' This pre-censorship under part IV of Defence of India Rules, 1971 was against the publication of 'prejudicial matter' as defined in R.36(6). On June 30, the Defence of India Act itself was amended by an Ordinance, to widen the definition of 'prejudicial act' to include the causing of 'internal disturbance' as well, following the amplitude of the provision in Art.352 of the Constitution. As a result since then it was competent for the censoring authority of the Government of India to prohibit the publication of any matter prejudicial to (i) defence of India (ii) civil defence (iii) public safety (iv) maintenance of public order (v) efficient conduct of military operations, the securing of which was the object of the Defence of India Act, as so amended.

The Emergency was revoked and the Press Censorship Order itself was revoked in March 1977.

4.5 REACTIONS:

It is submitted that there was no pre-censorship of the press on any of the previous three occasions when the country was engaged in actual war. India has experienced for the first time the pre-censorship of press during emergency on the count of internal disturbance in
1975. Eminent Advocate and Jurist Soli J. Sorabjee described this as "the pre-censorship imposed on the press was a shattering experience, somewhat like the after-effects of a strong dose of medicine". He further adds that "whether it was necessary to administer such an over-dose is a question which must await the dispassionate verdict of history after the dust has settled and things are viewed more objectively in their true perspective with a sense of proportion. One thing, however, is certain. 26th of June 1975 will be regarded as the turning point in the history and the destiny of our country." 54

Indian journalists were shocked by the imposition of pre-censorship. Immediately the Journalists met at the press club and demanded withdrawal of censorship order by passing a resolution on 28th June 197555. In defence of the deprivation of people's right to know, the then Prime Minister Indira Gandhi declared:

"In India democracy had given too much liberty to the newspapers which were misusing it and weakening the nation's confidence. If newspapers were allowed to incite people, there would have been a terrible situation. Press censorship had to be imposed to prevent incitement of people to defy laws."56
Declaration of Emergency and imposition of precensorship was commented world wide. Foreign newspapers seriously condemned the same. For instance, The New York Times, New York, wrote under the title 'Gandhi Coup.' as:

"For all practical purposes Prime Minister Indira Gandhi is today the dictator of India, Chief beneficiary of the coup she carried out yesterday, when she proclaimed an emergency, fastened censorship upon the country and ordered nearly 700 of her chief political opponents imprisoned. What began earlier this month as a constitutional crisis, a confrontation between an Indian judge and the Prime Minister has now brought about the most significant political change in India since the country achieved independence."^{57}

So also 'The Times', London in its editorial under the heading 'The Indian Dictator' (Editorial) wrote:

"Censorship has already managed to put India behind a barrier almost as impenetrable as most Communist countries. That this can be said in itself a sign of how great reversal of Indian Government has been in the past week. An open society has become a closed one; elected Members of Parliament, innocent of any crime and including Members of Government Party, are under
detention without legal redress; the country now
seems to be ruled by a small cabal.\textsuperscript{58}

Indian Press could not cry against censorship. However,
it greeted the same by leaving blank spaces at the
editorial columns\textsuperscript{59}.

It may also be observed that on July 4, 1975, the
then Prime Minister of India said that the pre-censorship
of news and comments which had been imposed to prevent
a disastrous situation leading to the disintegration of
the country could not be withdrawn. The Prime Minister
also observed that the apparent vigour of pre-censorship
was perhaps due to lack of time to work out details
before it was actually imposed\textsuperscript{60}.

It is submitted that no person, loving democracy
and living in democracy, would like instance of censorship in the history of the country nor in future.

In conclusion it may be said in the words of eminent Jurist Louis D. Brandeis as under:

"Democracy in any sphere is a serious undertaking. It substitutes self-restraint for external restraint. It is more difficult to maintain than to achieve. It demands continuous sacrifice by the individual and more exigent obedience to the moral law than any other form of government."
Success in any democratic undertaking must proceed from the individual. It is possible only where the process of perfecting the individual is pursued."\textsuperscript{61}

5. \textbf{SUMMARY :}

To sum up it is submitted that Freedom of Press is considered under Art.19(1)(a), it also falls for consideration under Art.19(1)(g). Indian Supreme Court had dealt with the situations whenever there arose occasions to weigh reasonable restrictions in the interest of general public under Art.19(6) with that of guarantee of freedom under Art.19(1)(a). However, in different set of facts of cases, Indian Supreme Court has considered the situation according to circumstances of each case. No hard and fast rule or any standard or test or any doctrine is, so far, evolved by the Supreme Court to deal with such situation. Further even though an Act of legislature directly affects the press and falls outside the categories mentioned in Art.19(2), but does not have effect of taking away or abridging the freedom of press under Art.19(1)(a), may be upheld. If two interests are conflicting, court has to delicate the balance in between two interests according to facts and circumstances of each case while arriving at a certain conclusion. The commercial aspect of newspaper business
is discussed in detail because under the garb of regulating the commerce the substance of freedom of the press may be eroded by the Governmental attitudes without a frontal attack on freedom in theory. Indian Supreme Court has laid emphasis on the command of means as essential of freedom. The suggestion of Second Press Commission about delinking and diffusion of press ownership requires reconsideration before any decision is taken thereon.

Freedom of Press is a part of basic structure of Indian Constitution. Because if freedom of press is totally deleted from the Constitution it would amount to violation of basic structure of the Constitution. This clear position is required to come out from judicial pronouncements. However, freedom of press is subject to reasonable restrictions. It is a fundamental right which is to be weighed with the directive principles of State Policy in Part IV of the Constitution.

There is no any Proclamation of Emergency after 1975 and proclamations of Emergency have been lifted. However some facts are discussed, so as to understand the enlargement of the power of the State to impose restrictions on the press. Impact of Emergency on freedom of press may be summerised as under:
1) On December 3, 1971, a Proclamation under Art. 352 was issued in view of aggression of Pakistan while this Emergency was continuing, a second Proclamation, on the ground of internal disturbance, was issued on June 26, 1975. Articles 358 and 359 were Amended subsequently. During above Emergencies Art.19 remained suspended by the operation Art.358 and Orders under Art.359 barring the right to enforce in the Courts the fundamental rights under Articles 14, 21 and 22 as well as Art.19. As a result, freedom of press and journalists lay completely at the mercy of the Government, without the risk of being challenged in a Court of law.

2) During Emergencies as above the Government of India used different repressive measures to curb the freedom of press, which are as under:

i) Issued the press censorship Order on June 25, 1975.

ii) Cancelled the declarations made under the Press and Registration of Books Act, 1867, relating to over 2,500 newspapers during the proclamation of Emergency on June 25, 1975.

ii) Detained number of Journalists under the maintenance of Internal Security Act or the Defence of India Rules.
iv) One specific Press Law was enacted, namely, the Prevention of Objectionable Matter Act, 1976 which empowered the Government to proceed directly against offending newspapers by way of forfeiture etc.

v) Article 31 D was inserted in the Constitution itself by the 42nd Amendment Act, 1976, by giving absolute power to the Government to deal with anti-national activities.

Both the Proclamations of Emergency of 1971 and 1975 were revoked in March 1977. The Censorship Order was revoked on 22 March 1977. After coming into Power of the Janata Government, the drastic changes are carried out by Passing of Constitution (43rd Amendment) Act, 1977 (April 1978) and Constitution (44th Amendment) Act, 1977. The Prevention of Publication of Objectionable Matter Act, 1976, has been repealed in April 1977.

It is submitted that no person, loving freedom and living in democracy, would like instance of Emergency as above and particularly of the Censorship in the history of the country nor in future.
REFERENCES

1. Dr. Durga Das Basu; 'Law of the Press in India' 1980, p.123.

2. See Art.I, Section 8(3) of United States Constitution.

3. Adkins v. Children's Hospital (1923), 261 U.S.525.


7. Sakal Newspapers (Pvt.) Ltd., V. Union of India, AIR 1962 S.C. 305.


9. Ibid Note No.7.

10. Ibid Note No.6 at p.657, para 10.249.


12. Ibid at page 578.

13. Ibid Note No.7.


17. Ibid at 162.


21. Ibid at Para 42, 44, 47, 62, 63.

22. Ibid.


24. Ibid.

25. Personal discussion with Mr. Ramesh Rasal, Editor, Godateer Samachar, Marathi Daily at Nanded on 12th May 1991.
26. Ibid.

27. Ibid Note No.23.


29. See The Gazette of India (extraordinary), New Delhi, August 31st, 1989, No.541.

30. C.F. Ibid Note No.23.


33. Ibid.

34. Ibid.


40. Ibid at page 1806 para 61.

41. Ibid at page 1807 para 62.


46. R.V. Halliday (1917) A.C. 260.

47. See Ibid Note No.44 at page 118.

48. See Constitution of United States Art.I Sec.9(2).

49. Ex-Parte Marryman; (1861) Taney's Reports 246.

50. See Ibid Note No.45 page 117.


52. For Text See Ibid; Part III 9, 6 and 7.

54. Ibid at page 9.

55. 'The Press she could not whip'; Edited by Amiya Rao and B.G. Rao, Popular Prakashan, Bombay, 1977, XIII.

56. Ibid at page XVII.


59. 'The Indian Express', Bombay, June 28, 1975.

60. On July 4, 1975, The Prime Minister told a deputation of The Indian Federation of Working Journalists that she would like professional bodies to make suggestions in this regard. Mrs. Gandhi said she believed in the freedom of press, but complained that most papers said nothing against incitements by the opposition or the irresponsible sections of the press.