



Volume 4. Forging an Empire: Bismarckian Germany, 1866-1890  
Imperial Press Law (May 7, 1874)

The Imperial Press Law of 1874 represented the culmination of liberals' efforts to shed the fetters of censorship that had been invoked after the revolutions of 1848/49. This law was one of the most important pieces of liberalizing legislation passed in the Bismarckian era. It was still in effect during the Weimar Republic and, after the interruption of Nazism, during the early years of the German Federal Republic. The law proclaimed freedom of the press, although that freedom was not absolute. Censorship was prohibited, but an editor remained criminally responsible before the courts for what appeared in his newspaper or journal. Editors often served jail terms for *lèse majesté*. Because freedom of the press was guaranteed by a law – and not by the constitution – it could be restricted or repealed by parliament. Thus, for example, a majority of Reichstag deputies were willing to ban all Social Democratic newspapers and other “subversive” printed matter during the period of the Anti-Socialist Law (1878-1890).

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### Imperial Press Law (May 7, 1874)<sup>1</sup>

#### I. Introductory Provisions

§ 1. Freedom of the press is subject only to those restrictions that are stipulated or permitted by the present law.

§ 2. The present law applies to all products of the printing press as well as to all other duplications generated by mechanical or chemical means and intended for dissemination, including writings and graphic representations with or without lettering, and music with text or annotations.

What is decreed in the following with respect to “printed matter” applies to all aforementioned products.

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<sup>1</sup> In the Federal Republic of Germany, the law expired on July 1, 1966, after the federal states [*Länder*] passed their own press laws. (All footnotes adapted from Ernst Rudolf Huber, ed., *Dokumente zur Deutschen Verfassungsgeschichte* [*Documents on German Constitutional History*], 3rd rev. ed., vol. 2, 1851-1900. Stuttgart: Kohlhammer, 1986, pp. 455-60.)

§ 3. "Dissemination" as defined for the purpose of this law also includes posting, exhibiting, or making these products available in places where they are liable to public notice.

§ 4. The authorization to operate any type of press-related business on an independent basis or to publish and distribute printed matter can be revoked neither by administrative nor judicial means.

Apart from this, the provisions of the Trade Regulations Act are authoritative for the operation of press-related businesses.

§ 5. Those persons to whom a certificate of legitimation can be denied in accordance with § 57 of the Trade Regulations Act may be prohibited from the non-commercial public dissemination of printed matter by the local police authorities.

Infringements of such prohibitions are penalized in accordance with § 148 of the Trade Regulations Act.

## II. Press Regulations

§ 6. Any printed matter appearing under the purview of this law must indicate the printer's name and place of residence and, if it is intended for the book trade or other types of dissemination, the publisher's name and place of residence, or – if the printed matter will be self-marketed – the name of the author or editor. In place of the name of the printer or publisher, details included in the company's entry in the commercial register will suffice.

The only exception to this regulation is printed matter serving the purposes of business and commerce, domestic and social life, such as: forms, price tags, business cards and the like, as well as ballots for public elections, provided they do not contain anything aside from the purpose, time, and place of the election, and the names of the persons to be elected.

§ 7. Newspapers and journals published monthly or more frequently, even those published in irregular installments (periodical publications as defined for the purpose of this law), also have to indicate the name and place of residence of the commissioning editor on each issue, piece, or number.

The designation of multiple persons as commissioning editors is admissible only if the form and content of the designation makes clear which portion of the text each of the designated persons edited.

§ 8. Commissioning editors of periodical publications can only be persons who have the right of disposal, who possess civil rights, and who make their home or maintain their usual abode in the German Reich.

§ 9. As soon as distribution or dispatch commences, the publisher is obliged to deliver one free copy of each issue (number, piece) to the local police authority in the place of distribution, whereupon a receipt will be issued to the publisher immediately.

This regulation does not apply to publications exclusively serving the purposes of the sciences, the arts, business, or industry.

§ 10. The commissioning editor of a periodical publication that accepts advertisements is obliged to include, upon request and in exchange for payment at the usual advertising rate, any official announcements conveyed to him by the public authorities in one of the next two issues.

§ 11. The commissioning editor of a periodical publication is obliged, upon request by an involved public authority or private person, to correct facts conveyed in his publication, and to do so without any additions or deletions, provided that the correction is signed by the sender, does not include any punishable content, and is limited to factual details.

After receipt of the submission, the reprint must appear in the next issue that is not yet ready for printing, namely in the same section of the publication and in the same typeface as the reprint of the article to be corrected.

The inclusion occurs free of charge, provided that the reply does not exceed the space of the announcement to be corrected; for any lines exceeding this amount, the usual advertising rates apply.

§ 12. The regulations contained in §§ 6 to 11 are not applicable to printed matter originating with any German Reich, state, or municipal authority, or with the state representation of any German federal state, provided that its content is limited to official announcements.

§ 13. Periodical announcements duplicated by mechanical or chemical means (lithographed, autographed, metallographed, carbon-copied correspondences) are not subject to the regulations stipulated in this law for periodical publications, provided they are disseminated exclusively to editorial offices.

§ 14. If a periodical published abroad is convicted twice within a one year-period for violating §§ 41 and 42 of the Criminal Code, the Reich Chancellor may, within a two-month period after the second verdict took effect, issue a public announcement banning the further dissemination of this printed matter for up to two years.

The bans on foreign periodical publications passed thus far by individual federal states in accordance with their respective state legislation are no longer in force.

§ 15. In times of imminent war or of war, publications concerning troop movements or defensive measures may be prohibited by the Reich Chancellor by public announcement.<sup>2</sup>

§ 16. The press is prohibited from publishing public demands for the payment of fines and expenses incurred through criminal acts and from publicly confirming the receipt of contributions paid toward such.

Any monies received on account of any such demand, or the equivalent value, is to be declared forfeited and directed to the poor-relief fund in the place of collection.

§ 17. The press is not allowed to publish the bill of indictment or any other official documents accompanying criminal proceedings before they have been made known in public trial or before the proceedings have reached their conclusion.

§ 18. A fine of up to 1,000 marks or arrest or imprisonment for up to six months is imposed for:

- 1) infringements of the prohibitions included in §§ 14, 15, 16, and 17;
- 2) infringements of the regulations included in §§ 6, 7, and 8 that are committed when false details are knowingly provided.

The same penalty also applies to the publisher of a periodical publication if he knowingly allows a person to be wrongly designated as an editor of the publication.

§ 19. A fine of up to 150 marks or arrest is imposed for:

- 1) infringements of §§ 6, 7, and 8 that are not touched upon by § 18, item 2;
- 2) infringements of § 9;
- 3) infringements of §§ 10 and 11.

In the cases specified in item 3, prosecution only occurs upon request; additionally, the conviction and the sentence must order the inclusion of the submitted article in the following issue. If the unfounded refusal took place in good faith, then the sentence only demands the belated inclusion [of the submitted article]; there is no penalty and fines.

### III. Responsibility for Criminal Acts Committed by the Press

§ 20. The general criminal laws already in existence will determine the responsibility for acts whose punishability is based on the content of printed matter. If the printed matter is a periodical, then the commissioning editor is to be punished as a perpetrator, unless the assumption of guilt is ruled out due to special circumstances.

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<sup>2</sup> § 15 was revoked by the Imperial Law dated June 3, 1914 (*RGBl. [Reich Law Gazette]*, 195), §§ 10, 19.

§ 21. If the content of the printed matter meets the definition of a criminal act, then the commissioning editor, the publisher, the printer, and the person who commercially disseminated or otherwise distributed the printed matter (distributor) – provided they are not to be punished as perpetrators or accessories – are to be found negligent and sentenced to a fine of up to 1,000 marks or arrest or imprisonment in a fortress or jail for up to one year, unless they establish proof of having exercised due diligence or of circumstances that made the exercising thereof impossible.

Punishment, however, is ruled out for any of the persons specified if, prior to the pronouncement of the first sentence, he establishes that the author or contributor who consented to the publication of the printed matter, or that the editor (in case it is not a periodical publication), or that someone designated in sequence above is located within the jurisdiction of a judicial authority of a German federal state, or, if he is deceased, was located within the jurisdiction of a judicial authority of a German federal state at the time of publication; with respect to the distributor of foreign printed matter, punishment is also ruled out if the person has received it by way of the book trade.

#### IV. Statutory Limitation

§ 22. Criminal prosecution of those crimes and offences perpetrated through the dissemination of printed matter with punishable contents, and of any other offences punishable under this law, fall under the statute of limitations after six months.

#### V. Confiscation

§ 23. Confiscation of printed matter without order by a judge takes place only:

- 1) if the printed matter does not conform to the regulations contained in §§ 6 and 7, or is disseminated in violation of § 14,
- 2) if the infringement of a prohibition enacted on the basis of § 15 of this law occurs by means of the printed matter,
- 3) if the content of the printed matter meets the definition of one of the acts threatened with penalty in §§ 85, 95, 111, 130, or 184 of the German Criminal Code, though in the instances subject to §§ 111 and 130 only if there is serious danger that a delay in confiscating this matter would directly invite or incite a crime or an offense.

§ 24. The court of competent jurisdiction can decide to confirm or reverse a provisional confiscation order.

The public prosecutor's office must request a decision from the court within 24 hours of the

issuance of the confiscation order, and the decision must be handed down by the court within 24 hours of receiving the application.

If the police authority has ordered the confiscation without an order from the public prosecutor's office, then it must arrange for the proceedings to be sent to the latter without delay and within 12 hours at the latest. The public prosecutor's office must either order the revocation of the confiscation order by means of an immediately executable directive or apply for court confirmation within 12 hours of receiving the proceedings.

If the authority ordering the confiscation does not receive a confirming court decision within five days of the issuance of the confiscation order, the confiscation becomes invalid and the individual printed items must be released.

§ 25. There is no provision for legal redress against a court decision that revokes a provisional confiscation order.

§ 26. If criminal prosecution in the substance of the case does not begin within two weeks of the confirming court decision, then the provisional confiscation order confirmed by the court is to be revoked.

§ 27. The confiscation of printed matter applies only to copies intended for distribution. It may also extend to printing plates and printing blocks; with respect to printed matter in the stricter sense, upon request by the persons involved, the police authorities are to deposit the type setting instead of confiscating it.

When confiscation occurs, the passages of the writing that provoked it are to be marked and the laws upon which they infringe are to be cited. Separable parts of the printed matter (supplements of a newspaper, etc.) that do not contain anything punishable by law are to be excluded from the confiscation.

§ 28. During the duration of the confiscation, the dissemination of the printed matter affected by it, or the reprint of the passages provoking it, is inadmissible.

Anyone with knowledge of the confiscation who acts contrary to this regulation will be punished by a fine of up to 500 marks or imprisonment of up to six months.

§ 29. Sole jurisdiction over decisions on transgressions committed by the press also rests with the courts in those federal states where the administrative authorities are still responsible for the sentencing of these offences.

As far as the involvement of the public prosecutor's office in courts of the lowest instance is not mandatory in the individual federal states, the files in the cases of confiscations effected without judge's order are to be presented to the court immediately.<sup>3</sup>

## VI. Final Regulations

§ 30. For the time being, the special legal regulations that exist with respect to the press in times of impending war, of war, of a declared state of siege, or of domestic political unrest (uprising) remain in force in this law as well.

The right of state legislators to pass regulations concerning public posting, fastening, and exhibiting of announcements, posters, and proclamations, as well as their free and public distribution, is not affected by this law.

The same applies to the regulations of state laws with respect to free copies in libraries and public collections.

Barring any general business tax based on state laws, no particular taxation of the press and of individual press products (newspaper or calendar stamp tax, taxes on advertisements, etc.) can take place.

§ 31. This law takes effect on July 1, 1874.

Its introduction in Alsace-Lorraine is subject to a special law.<sup>4</sup>

Source: *Reichsgesetzblatt [Federal Law Gazette]*, 1874, pp. 65ff.

Original German text reprinted in Ernst Rudolf Huber, ed., *Dokumente zur Deutschen Verfassungsgeschichte [Documents on German Constitutional History]*, 3rd rev. ed., vol. 2, 1851-1900. Stuttgart: Kohlhammer, 1986, pp. 455-60.

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<sup>3</sup> § 29 para. 2 became invalid because of §§ 12 ff. of the Law on the Constitution of the Courts dated January 27, 1877 (*RGBl. [Reich Law Gazette]*, 77).

<sup>4</sup> The Imperial Press Law was introduced, with the exception of §§ 14, 23–29, and 31, in Alsace-Lorraine by state law on August 8, 1898 (*GBl. [Law Gazette]*, 73).