

Monday,
22nd March, 1948

THE
CONSTITUENT ASSEMBLY OF INDIA
(LEGISLATIVE) DEBATES

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CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)
1948



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CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)

Monday, 22nd March, 1948

The Assembly met in the Assembly Chamber of the Council House at Quarter to Eleven of the Clock, Mr. Speaker (The Honourable Mr. G. V. Mavalankar) in the Chair.

STARRED QUESTIONS AND ANSWERS

ORAL ANSWERS

ISSUE OF IMPORT LICENCES TO HINDUSTAN MOTORS LIMITED AND OTHERS FOR 1948

910. ***Mr. E. K. Sidhva:** (a) Will the Honourable Minister of Commerce be pleased to state whether it is a fact that the firm of Hindustan Motors Limited have been given import licence for the first six months of the year 1948 for Rupees eighty five lakhs?

(b) What are the reasons for giving import licence for such a large amount to this firm?

(c) What is the allotment of licences for the same period given to other Motor Vehicles Assembly Plant Companies?

The Honourable Dr. B. E. Ambedkar: (a) Yes.

(b) No special preference has been shown to Messrs. Hindustan Motors Ltd. In fact licences have been granted after considering and taking into account the available foreign exchange for imports from dollar and non-dollar areas and the assembly capacity of the respective firms. Preference was given to such assembly plants as are also being equipped for a progressive manufacture of component parts in India, and thus help in the development of automobile industry in India.

(c) Government consider that it will be against the interests of the Public in general and the trade in particular to disclose the information required by the Honourable Member.

Mr. E. K. Sidhva: Sir, against this licence of Rs. 85 lakhs, may I know the shipments of cars that will be made from the manufacturing plants in India per month, and whether they will all be assembled here or they will be imported assembled?

The Honourable Dr. B. E. Ambedkar: I am afraid I must have notice of this question.

Shri H. V. Kamath: Which are the other Assembly Plants that have applied for import of cars?

The Honourable Dr. B. E. Ambedkar: I have no information with me.

Mr. E. K. Sidhva: What is the reason, Sir, for not giving an answer to part (c)?

Mr. Speaker: He has stated the reason.

Mr. E. K. Sidhva: Sir, answer to (a) has been given but

Mr. Speaker: Order, order. The Honourable Member is arguing. The Honourable Minister has given the answer that, it will not be in the public interest to give an answer.

LUXURY GOODS TO BE IMPORTED DURING 1948

911. *Shri Kishori Mohan Tripathi: (a) Will the Honourable Minister of Commerce be pleased to state if the Government of India propose to issue any permits in 1948 for the import of luxury goods from foreign countries into India?

(b) If so, what are the articles under head 'luxury goods', proposed to be imported into India in the year 1948 and what is the total amount of India's holding in foreign exchange proposed to be spent on the said imports?

The Honourable Dr. B. B. Ambedkar: (a) No, Sir, in so far as the current shipping period is concerned.

(b) Does not arise. The question of importation of luxury goods during the second half of 1948 will be considered at the appropriate time.

Shri Kishori Mohan Tripathi: Is it possible for the Government of India to stop imports of all luxury goods throughout the year?

The Honourable Dr. B. B. Ambedkar: As I said, that is a matter which I believe will be considered at each current shipping period.

SEPARATE GOVERNMENT STOCKS OF PETROLEUM FOR EMERGENCIES

912. *Shri Kishori Mohan Tripathi: Will the Honourable Minister of Works, Mines and Power be pleased to state:

(a) whether the Government of India hold separately any stock of petroleum for use during emergencies, if any;

(b) whether petroleum stocked for civil purposes are in such hands as would readily transfer the same if and when so demanded of them by the Ministry of Defence; and

(c) whether Government of India have considered the desirability of holding all stocks of petroleum in India in Indian hands and also the desirability of transferring the entire business to the control of Indian nationals?

The Honourable Pandit Jawaharlal Nehru: Government do not consider it advisable in the public interest to answer these questions.

Shri H. V. Kamath: Sir, what exactly is 'public interest' and what is not 'public interest'?

Mr. Speaker: Order, order. It is well-known.

SURVEY OF CHHATTISGARH STATES FOR MINERAL WEALTH

913. *Shri Kishori Mohan Tripathi: (a) Will the Honourable Minister of Works, Mines and Power be pleased to state, if at any time in the past, any official or non-official survey of the Chhattisgarh States has been made to ascertain the existence of mineral wealth in the area?

(b) If so, what have been the results of the survey?

(c) If not, do Government propose to survey the area for ascertaining the existence of mines therein?

The Honourable Pandit Jawaharlal Nehru: (a) to (c). The information is being collected and will be laid on the table of the House when received.

ENQUIRY INTO CONDITIONS OF AGRICULTURAL LABOUR IN INDIA

914. *Shri Kishori Mohan Tripathi: (a) Will the Honourable Minister of Labour be pleased to state if any enquiry has ever been made into the condition of agricultural labour in India?

(b) If so, has any report of the enquiry been published?

(c) If not, do the Government of India propose to hold such an enquiry on an all India basis and if so, when?

The Honourable Shri Jagjivan Ram: (a) No specific enquiry has been instituted by the Central Government into the conditions of agricultural workers in India, but certain aspects of agricultural labour problems, such as migration and emigration of agricultural workers, land tenure problems, rural credit and indebtedness, rural employment and agricultural prices and wages have been touched upon in the Reports of the Royal Commission on Agriculture, 1926, Royal Commission on Labour, 1931, the Famine Enquiry Commission, 1945, the Agricultural Finance Sub-Committee (1945) and the Agricultural Prices Sub-Committee (1946).

(b) Reports referred to in (a) above have been published.

(c) A proposal to institute a special enquiry into agricultural labour conditions is also under consideration.

Shri Kishori Mohan Tripathi: When will such an enquiry start, Sir?

The Honourable Shri Jagjivan Ram: The enquiry is likely to start very shortly.

श्री रामसहाय : क्या माननीय मिनिस्टर साहब यह बताएंगे कि स्टेट्स (states) को इसमें इन्कलूड (include) किया जायगा ?

Shri Ram Sahai: Will the Honourable Minister please say if the States will be included in this enquiry?

आनरेबिल श्री जगजीवनराम स्वाहिस तो ऐसी . ही है ।

The Honourable Shri Jagjivan Ram: It is intended to do so.

Shri H. V. Kamath: Is the Honourable Minister aware, Sir, that the number of landless labourers is steadily growing nowadays?

The Honourable Shri Jagjivan Ram: I take it from the Honourable Member.

Shri Biswanath Das: May I know the scope of the enquiry that is proposed to be undertaken?

The Honourable Shri Jagjivan Ram: The enquiry will be to ascertain the working conditions, rates of wages and all other things about the agricultural workers.

Shri H. V. Kamath: What steps, Sir, do Government propose to take to check the growing expropriation and impoverishment of labour in the rural areas?

The Honourable Shri Jagjivan Ram: That is for the Provincial Governments, and depends upon the tenancy legislation that they can frame.

ECONOMIC CONDITION OF INDIANS IN MAURITIUS

†915. ***Seth Govinddas:** (a) Will the Honourable the Prime Minister be pleased to state whether Government are aware of the deteriorating economic condition of the Indians in Mauritius?

(b) Have the Government of India received any communication from the Indians in Mauritius asking them to set up an enquiry to find out the real economic condition of Indians in Mauritius?

(c) If so, what action has been taken by Government in the matter?

The Honourable Pandit Jawaharlal Nehru: (a) Government have no definite information to that effect although one or two recent communications received by Government contain some such statement.

(b) A suggestion to this effect was recently made by an Indian gentleman who was formerly associated with Mauritius.

(c) Government are trying to verify the information contained in the communications referred to. They consider, however, that the important thing is to have an Indian Representative in Mauritius and I am glad to say that the United Kingdom Government have recently agreed to our appointing a representative in that country.

IMPORT LICENCES, NUMBER AND VALUE OF CARS AND TRUCKS TO BE IMPORTED DURING 1948 .

916. *Shri Jaspal Roy Kapoor: (a) Will the Honourable Minister of Commerce be pleased to state what is the total number and the value of cars and trucks for which import licences have been sanctioned for the year 1948-49?

(b) What is the number of applicants who applied for import licence for such cars and trucks?

(c) What is the number of applicants to whom licence has been granted?

(d) How many of the rejected applicants are old dealers in the trade?

(e) How many of the licensees are new entrants in the trade?

(f) What is the basis on which import licences for motor cars and trucks are granted?

(g) Do Government propose to lay on the table of the House a statement giving the list of persons who had applied for such import licences together with the import quota allotted to them?

The Honourable Dr. B. E. Ambedkar: (a) For January-June 1948 licencing period certain monetary ceilings have been fixed for imports of cars and trucks. Licences are issued with value as the limiting factor, but also with price-limits in regard to each car or truck unit. In respect of imports from the U.S.A. the value of a C.K.D. (Completely knocked down) car should not exceed Rs. 5,000 and that of a C.K.D. truck Rs. 4,000. In respect of imports from the U.K. the price of a car should not exceed Rs. 6,250 if assembled and Rs. 5,000 if C.K.D. No licences are issued for imports of assembled cars from dollar area. No licences have yet been issued for other countries.

(b) 700.

(c) 76.

(d) None.

(e) Applications from new entrants for the current half year have not yet been considered.

(f) Licences for C.K.D. cars and trucks have been granted so far to firms who have their own assembly plants in India and on the basis of their capacity to assemble components and for assembled vehicles to accredited dealers on the basis of their past imports of particular makes of cars.

(g) I regret that it will not be in the interests of trade to disclose the information desired by the Honourable Member.

श्री रामसहाय : क्या मिनिस्टर साहब यह बताने की कृपा करेंगे कि यह जो कीमतें आपने बताई हैं उस में कस्टमस (customs) भी सम्मिलित होंगी या उसके अतिरिक्त है ।

Shri Ram Sahai: Will the Honourable Minister please state whether the prices referred to by him will include customs also or will be exclusive of this?

The Honourable Dr. B. E. Ambedkar: I am afraid, I cannot off-hand answer that question.

Shri T. T. Krishnamachari: In regard to answer to part (g), when the Honourable Minister says that Government do not feel disposed to give this information, may I ask, Sir, if he is aware that one particular importer under this C.K.D. plan has got licences covering 47 per cent. of the total imports from the Dollar areas.

The Honourable Dr. B. R. Ambedkar: I am unable to say anything about what my Honourable friend has said; it may be true or it may not be true.

Shri Deshbandhu Gupta: May I know, Sir, whether any of these persons whose licence applications have been rejected, have made representation to Government?

The Honourable Dr. B. R. Ambedkar: I must have notice of this question.

EXODUS TO INDIA AND FEELING OF INSECURITY AMONG HINDUS OF EAST PAKISTAN

1917. *Shri Jaspal Roy Kapoor: Will the Honourable the Prime Minister be pleased to state:

(a) whether the attention of Government has been drawn to the A.P.I. news that on the 11th of February 1948, about 500 houses inhabited by Hindus in Nowga village in the area of Lakhi police station in East Bengal were burnt down by Muslims;

(b) whether Government are aware that this incident has further accentuated the feeling of insecurity among the Hindus of Eastern Pakistan, and that their exodus to India, has accelerated;

(c) in view of the rapidly increasing number of Hindu refugees migrating from Eastern Pakistan into India whether Government propose to take up this matter with the Government of Pakistan;

(d) whether Government propose to arrange for the appointment of a Deputy High Commissioner for India in Eastern Pakistan;

(e) whether Government propose to negotiate with the Government of Pakistan for the appointment of a Custodian of East Bengal evacuees' properties; and

(f) what steps Government have taken or propose to take, to give relief to the refugees arriving from Eastern Pakistan and to rehabilitate them?

The Honourable Pandit Jawaharlal Nehru: (a) Government have seen the news item referred to.

(b) Government are aware that a considerable number of Hindus have migrated from East Bengal to West Bengal. They cannot say what the effect of the particular incident referred to has been. Government are of opinion that large scale migrations are not desirable and should not be encouraged as they will bring a great deal of suffering in their train. They trust that conditions will improve so as to enable minorities in East Bengal to resume their normal lives and vocations.

(c), (d) and (e). At the meeting of the Prime Ministers of India and Pakistan held on the 19th March in Delhi, it was agreed that an Inter-Dominion Conference should be held to discuss the position of minorities in East and West Bengal as well as other questions relating to the two Dominions. It is proposed to hold this conference in Calcutta. It will be attended by Ministers of the two Dominions and the Premiers of East and West Bengal and of Assam, too.

(f) The West Bengal Government have been invited to set up a Rehabilitation and Development Board of their own which will work in close collaboration with the Rehabilitation and Development Board at the Centre through a representative permanently stationed at Delhi. Refugees from East Pakistan will be entitled to relief in the same way as refugees from West Pakistan.

Shri Mihir Lal Chattopadhyay: Is it a fact that quite a large number of people have been fleeing from Eastern Pakistan to Assam?

The Honourable Pandit Jawaharlal Nehru: I have no figures. Some may probably be going away.

Shri Mihir Lal Chattopadhyay: Is it a fact that refugees coming from Eastern Pakistan are being harassed on their way in various ways such as searches and holding up of their property, etc.?

The Honourable Pandit Jawaharlal Nehru: I think that is probably true. In fact, at the present moment, people crossing the borders are subjected to a great deal of harassment, partly because of the question of customs coming in, and this affords a splendid opportunity for harassment.

FOREIGNERS DIED INTESTATE IN INDIAN UNION DURING LAST FINANCIAL YEAR

918. ***Shri V. C. Kesava Rao:** (a) Will the Honourable Minister of Law be pleased to state the number of foreigners who have died intestate in the Indian Union during the last financial year?

(b) How is the property of such persons disposed of if they die without any relatives?

(c) What amount was accrued to the treasury during the last financial year on account of foreigners dying intestate in India?

The Honourable Dr. B. R. Ambedkar: (a) The information is not readily available and the time and expenditure involved in collecting the information will not be commensurate with the result achieved.

(b) Under Section 174 of the Government of India Act, 1935, any property in India accruing to His Majesty by escheat or lapse, or as *bona vacantia* for want of a rightful owner, if it is situate in a Province, vests in His Majesty for the purposes of the government of that Province, and in any other case accrues to His Majesty for the purposes of the government of the Dominion.

(c) Government have no information.

BRITISH PERSONNEL AND STRENGTH OF INDIAN SERVICE OF ENGINEERS

919. ***Shri V. C. Kesava Rao:** (a) Will the Honourable Minister of Works, Mines and Power be pleased to state the present strength of the Indian Service of Engineers?

(b) What is the number of British personnel in this category?

(c) What are the qualifications necessary for this class of officers and how do Government propose to train the required number?

(d) Is a register of qualified engineers in the country being kept and if not, do Government propose to consider the desirability of doing so?

The Honourable Dr. Syama Prasad Mookerjee: (a) The number of officers of the Indian Service of Engineers, who are at present in service, is 117.

(b) 6.

(c) The minimum qualifications required of officers of this class is the possession of Engineering qualifications of the Degree standard of a recognised University.

With regard to the second part of the question, training in Engineering is provided in Engineering Colleges. Government were only concerned with recruitment which also stopped in 1934. The question of formation of Service of Engineers on an All-India basis is under examination in consultation with Provincial Government.

(d) No. Certain proposals in this connection received from the Indian Institute of Engineers are however under consideration.

ADDITION OF A NAGARI SCRIPT TO INSCRIPTIONS ON INDIA ARCH ON KINGSWAY

920. { Shri S. V. Krishnamurthy Rao:
Shri R. R. Diwakar: e

(a) Will the Honourable Minister of Works, Mines and Power be pleased to state whether Government are aware that the India Arch on the Kingsway, New Delhi bears an inscription regarding the laying of its foundation stone only in English and Urdu?

(b) Are Government aware that thousands of people who visit the Arch know only the Nagari script which is now a script recognised by the Government of India?

(c) If so, do Government propose to take steps to see that the inscription is written in the Nagari script also?

(d) Do Government propose to take steps to see that in future, if any inscription is written on any new Government of India buildings, the Nagari script is also used?

The Honourable Dr. Syama Prasad Mookerjee: (a) Yes.

(b) Yes.

(c) Yes.

(d) Yes.

EXPORT OF *Gur* TO PAKISTAN DURING JANUARY AND FEBRUARY, 1948

†921. *Ch. Ranbir Singh: (a) Will the Honourable Minister of Commerce be pleased to state the amount of *Gur* exported to Pakistan during the months of January and February 1948?

(b) If no exports have been made, what steps do Government propose to take to promote the trade of *Gur* between India and Pakistan?

The Honourable Dr. B. R. Ambedkar: The question should have been addressed to the Honourable Minister for Food. It has accordingly been transferred to the list of questions for 1st April 1948, when the Honourable Minister for Food will answer it.

PAKISTAN'S POLICY *re* RETURNING NON-MUSLIMS

922. *Shri Deshbandhu Gupta: (a) Will the Honourable Minister of Relief and Rehabilitation be pleased to state whether the attention of Government has been drawn to the statement made by Mr. Ghazanfar Ali, the Minister of Refugees in the Government of Pakistan on 27th February, 1948 regarding Pakistan's policy towards returning non-Muslims?

(b) If so, are Government aware that several Hindu and Sikh owners of houses and factories, who returned to Pakistan, are disappointed to find that the Government of Pakistan are not prepared to restore their property?

(c) If so, what steps do Government propose to take in this connection?

The Honourable Shri K. C. Neogy: (a) The Honourable Member presumably refers to the statement made to the A.P.I. correspondent by the Minister for Refugees, Pakistan and published in the issue of 26th February, 1948 of *The Pakistan Times* of Lahore. If so, the answer is in the affirmative.

(b) Some cases have come to the notice of the Government in which non-Muslim evacuees are reported to have experienced difficulties in obtaining restoration of their properties.

† Answer to this question laid on the table, the questioner being absent.

(c) The question of restoration of property of evacuees who wish to go back and settle in Pakistan has been raised. India has been asked to state her policy in this behalf. The matter is under consideration. Meanwhile Government of India has seen the enunciation of policy of West Punjab Government in this behalf by the Governor of that Province at the annual meeting of the Northern Pakistan Chamber of Commerce on 20th March. This will be carefully considered in the formulation of our policy.

Shri Deshbandhu Gupta: Does the Honourable Minister keep figures of cases in which property and factories have been restored to refugees from West Pakistan?

The Honourable Shri K. C. Neogy: I am afraid not.

Shri Deshbandhu Gupta: Have Government received any complaints to the effect that persons who owned large properties, particularly factories, have been refused permission to reoccupy them and to restart them?

The Honourable Shri K. C. Neogy: I have already said that such reports have reached us.

Shri Deshbandhu Gupta: Have Government made enquiries and are they in a position to state the extent of the value of these properties which have not been restored and for which applications have been made?

The Honourable Shri K. C. Neogy: Enquiries are being made by our Deputy High Commissioner's organisation in Lahore and I have not got the particulars here.

Shri T. T. Krishnamachari: May I ask the Honourable Minister whether his attention has been drawn to a statement appearing in the Press by Sir Francis Mudie, Governor of West Punjab, and if so, does the Honourable Minister propose to tell us how the position is affected by that statement?

The Honourable Shri K. C. Neogy: As I said, this statement of Sir Francis Mudie will be carefully considered by us in the formulation of our policy.

گیانی گورمکھ سنگھ مسافر : کیا آئریبل منسٹر بتائینگے کہ جو مسلمان دہلی واپس آ رہے ہیں انکو انکی جائداد اور فیکٹریاں واپس دی جا رہی ہیں ۔

Giani Gurmukh Singh Musafar: Will the Honourable Minister please state whether the properties and factories of Muslims are being restored to the owners who are returning to Delhi?

The Honourable Shri K. C. Neogy: So far as the legal position goes, the restoration of any property of this kind requires prior approval of the Government and I am not aware of any case in which restoration has been made since the new law has been promulgated.

گیانی گورمکھ سنگھ مسافر : کیا آئریبل منسٹر کو واقفیت ہے کہ جن مسلمانوں کو اپنی جائدادیں اور فیکٹریاں یہاں پر واپس دی جاتی ہیں ۔ وہ انکو بھج کر پھر پاکستان واپس جا رہے ہیں ؟

Giani Gurmukh Singh Musafar: Is the Honourable Minister aware of the fact that the Muslims to whom their property and factories are restored here are going back to Pakistan after selling these?

The Honourable Shri K. C. Neogy: That must relate to a period before the promulgation of the Ordinance that I have in view.

گھائی گورنمنٹ سٹیک مسافر : کیا آپ پہلے منسٹر کو علم ہے کہ جن مسلمانوں کو یہاں واپس آکر جائدادیں اور فیکٹریاں واپس دی جاتی ہیں وہ انکو فروخت کرتے ہیں اور جو لوگ ان کو خریدتے ہیں ان پر اسکے confirmation کا بار پڑ جاتا ہے۔ اس کے پھس نظر کیا گورنمنٹ اس بات پر فور کریگی۔ کہ ایسے احکم جاری کئے جائیں جن کی رو سے ان مسلمانوں پر جو کہ اپنی جائدادیں فروخت کرنا چاہیں یہ لازمی ہو جائے کہ فروخت کرنے سے پہلے وہ اس بارے میں Custodian of Evacuees Property سے اجازت حاصل کریں۔

Giani Gurmukh Singh Musafar: Is the Honourable Minister aware that the Muslims to whom their properties and factories are restored on return to this place are selling these; and the responsibility for getting the transaction confirmed devolves on those who purchase these? In view of this, will the Government kindly consider over the issue of such orders as would make it obligatory on the Muslims desiring to sell their properties to obtain previous approval of the Custodian of Evacuees Property in this respect?

The Honourable Shri K. C. Neogy: Actually, under the law that operates now at Delhi, all such transactions require to be confirmed by the Custodian. Without such confirmation they have no validity.

گھائی گورنمنٹ سٹیک مسافر : کیا گورنمنٹ کو واقفیت ہے کہ اس وقت دہلی میں ایک آرمی پریس کا سودا ہو رہا ہے اور اس کا مالک جو کہ پاکستان کا citizen ہے اس کو فروخت کر کے پاکستان واپس جانا چاہتا ہے۔ اور اس نے وہاں پر بھی اپنا پریس کھول دیا ہے؟ کیا گورنمنٹ اس معاملہ میں دخل دیکھی؟

Giani Gurmukh Singh Musafar: Is it within the knowledge of the Government that at present negotiations for the sale of a press named 'Army Press' are going on in Delhi and its Proprietor, who is a citizen of Pakistan, wants to go back after selling this? He is also running a press there. Will the Government look into this matter?

The Honourable Shri K. C. Neogy: I have no information about the specific instance mentioned by my Honourable friend, but I will make enquiries into the matter.

Shri H. V. Kamath: Is the Honourable Minister aware that thousands of Muslims who left India for Pakistan last year are now, for some reason or other slowly wending their way back to India?

The Honourable Shri K. C. Neogy: Some of them appear to be doing so.

Shri H. V. Kamath: In spite of the policy of Pakistan Government in regard to non-Muslim refugees returning from India to Pakistan do Government propose to keep an open-door policy for these refugees coming from Pakistan to India?

The Honourable Shri K. C. Neogy: As I said, the original question is under consideration.

The Honourable Pandit Jawaharlal Nehru: I should like to remind the House of certain pledges that we have given in regard to this matter to Mahatma Gandhi just before his death. We shall abide by those pledges, whatever the Pakistan Government might or might not do.

FORCIBLE SALE OF INDIAN MERCHANT'S GOODS IN KARACHI

923. *Shri Deshbandhu Gupta: (a) Will the Honourable Minister of Commerce be pleased to state whether the attention of the Government has been drawn to a resolution passed by Muslim dealers in Karachi under the presidency of Mr. Qureshi saying that nobody should pay any profit to any Hindu dealer or purchase goods direct from any Hindu dealer except through the Association?

(b) Are Government further aware that Indian merchants still living in Karachi are being forced to sell out their goods in Pakistan at a great loss?

(c) Is it a fact that the Government of Sind are not giving licences to Indian merchants for moving their goods from Pakistan, on the ground that there is shortage of the same in Pakistan?

(d) What steps do Government propose to take to meet the situation?

The Honourable Dr. B. R. Ambedkar: (a) and (b). Government has no information on the subject.

(c) and (d). The Honourable Member's attention is invited to my answer given on the floor of the House on the 18th March 1948 to parts (b) and (c) of starred question No. 844 by Shri Jaspat Roy Kapoor.

Shri Deshbandhu Gupta: Does the Honourable Minister mean to say that the Government's attention was not drawn to the Press Reports in this connection?

The Honourable Dr. B. R. Ambedkar: That is the answer.

Shri Deshbandhu Gupta: Will Government now go into the matter and find out whether it is a fact?

The Honourable Dr. B. R. Ambedkar: Yes, they will.

DEVELOPMENT OF COASTAL NAVIGATION ON EASTERN COAST OF ORISSA, ANDHRA AND TAMILNAD

924. *Prof. N. G. Ranga: Will the Honourable Minister of Commerce be pleased to state:

(a) whether any steps are being taken to provide State coastal shipping service between different parts on the Eastern coast of Orissa, Andhra and Tamilnad;

(b) whether any efforts are being made in co-operation with the Provincial Governments to open and develop new ports; and

(c) whether Government have any plan for the rapid development of coastal navigation on that coast to ease the pressure on railways?

The Honourable Dr. B. R. Ambedkar: (a) and (c). No, Sir. The requirements of trade on the East coast are now being catered for by the existing private shipping and sailing vessels services and several new companies are being floated which propose operating additional services. While Government are rendering and will render all assistance possible to private interests in augmenting the existing services, they do not at present contemplate operating a State-owned service.

(b) The Central Waterpower, Irrigation and Navigation Commission are making preliminary enquiries in connection with the Mahanadi multi-purpose development scheme which may be useful in considering the question of developing new ports in Orissa. Provincial Governments will be consulted in due course if necessary.

†Answer to this question laid on the table, the questioner being absent.

FUNCTIONS OF CENTRAL WATER POWER, IRRIGATION, AND NAVIGATION COMMISSION AND ITS RELATION WITH PROVINCES

†925. *Prof. N. G. Ranga: Will the Honourable Minister of Works, Mines and Power be pleased to state:

(a) what are functions of the Central Waterpower, Irrigation and Navigation Commission;

(b) what are its relations with the Provincial Governments; and

(c) whether it is proposed to run an Institute under this Commission to do research and also to provide higher education for irrigation officers of the Provinces?

The Honourable Dr. Syama Prasad Mookerjee: (a) The functions of the Central Waterpower, Irrigation and Navigation Commission are contained in the Labour Department's Resolution No. DW. 101(2), dated the 5th April 1948 and the more recent resolution of Government No. DW. XVI-1(1), dated the 16th January 1948, copies of which have already been placed on the table of the House.

(b) The Commission gives advice and assistance to Provincial Governments in the investigation, surveys and preparation of river valley development schemes.

(c) An institute to carry out research is already being run at Poona under the Commission. There is at present no proposal to provide higher education at the Station for irrigation officers of the Provinces.

PROPOSED NEW GOVERNMENT OF INDIA PRESS

†926. *Seth Govinddas: (a) Will the Honourable Minister of Works, Mines and Power be pleased to state whether it is a fact that there is a scheme before Government for starting a new Government of India Press?

(b) If so, what would be the total expenditure for carrying out the scheme?

(c) Is there any trained person in the office of the Controller of Printing and Stationery to scrutinize the proposals in respect of purchase of plants, machinery, etc.?

The Honourable Dr. Syama Prasad Mookerjee: (a) Yes; Government of India propose to set up a new Press.

(b) The total cost of the scheme would be about Rs. 70 lacs, out of which the cost of machinery would be about Rs. 33 lacs.

(c) Yes; there are Managers of Government of India Presses to scrutinise requirements of plant, machinery, etc.

TECHNICAL PERSONNEL IN HEADQUARTERS OFFICE OF CONTROLLER OF PRINTING AND STATIONERY

†927. *Seth Govinddas: Will the Honourable Minister of Works, Mines and Power be pleased to state whether there are technical hands in the Headquarters Office of the Controller of Printing and Stationery, having technical knowledge and direct experience of handling labour?

The Honourable Dr. Syama Prasad Mookerjee: The reply is in the negative.

REPRESENTATION BY INDIANS IN INDO-CHINA *re* HARDSHIPS DUE TO TAXATION PROPOSALS BY FRENCH AUTHORITIES

928. *Shri M. Ananthasayanam Ayyangar: (a) Will the Honourable the Prime Minister be pleased to state whether Government are aware of the hardships to which the Indian Nationals in Indo-China owning properties and business interests are subjected, by the taxation proposals recently published by

†Answer to this question laid on the table, the questioner being absent.

the French authorities in Indo-China, whereas the Chinese Nationals in Indo-China are, by virtue of a Special Treaty arrangement between the Governments of France and China, exempt therefrom?

(b) Has any representation been made by the Indian Nationals in Indo-China in this behalf?

(c) If so, what action have Government taken so far or propose to take to safeguard the interests of Indians?

(d) Do Government propose to consider the advisability of making suitable representations to secure just and equitable treatment to the Indians in Indo-China?

The Honourable Pandit Jawaharlal Nehru: (a), (b), (c) and (d). The Government of India have received representations in the matter from the Indo-China Indian Association, Karaikudi. A report has been called for from the Indian Consul in Saigon and as soon as this is received the Government will consider what steps should be taken to protect Indian interests.

Shri H. V. Kamath: Have these proposals hit only Indian nationals or other nationals too, barring of course China?

The Honourable Pandit Jawaharlal Nehru: I have just pointed out that we have asked for information on the subject.

Shri M. Ananthasayanam Ayyangar: May I ask the Honourable Minister whether the non-official Goodwill Mission which was sent to Indo-China and which has now returned and is in Delhi at present, has submitted any Report to the Honourable Minister?

The Honourable Pandit Jawaharlal Nehru: I believe the members of the Mission have met officials of the External Affairs Ministry and I am not sure whether they have submitted any written report or not.

Shri M. Ananthasayanam Ayyangar: Will the Honourable the Prime Minister call for a report as to what they did and what inconveniences they are labouring under, so that action may be taken?

The Honourable Pandit Jawaharlal Nehru: No doubt we welcome a report, but we can hardly demand a report from these people; we are trying to find out what is the information they have gathered there, but we welcome a report from them.

Shri M. Ananthasayanam Ayyangar: Will the Honourable the Prime Minister give an interview if they seek an interview?

The Honourable Pandit Jawaharlal Nehru: Certainly.

Shri H. V. Kamath: What is the total number of our nationals in Indo-China?

The Honourable Pandit Jawaharlal Nehru: I am afraid, I cannot answer that without enquiry.

Shri H. V. Kamath: To what class do they belong mostly—rentier, or labour or trader or petit-bourgeois class?

The Honourable Pandit Jawaharlal Nehru: Well, if my Honourable friend will kindly define all these classes to me precisely, then I will be able to give an answer. As far as I know they are more as traders.

Shri H. V. Kamath: That is what I wanted.

ENQUIRY INTO RATES OF SCINDIA STEAM NAVIGATION COMPANY PLYING FERRY STEAMERS ON WESTERN COAST

929. *Shri Rohini Kumar Chaudhuri: (a) Will the Honourable Minister of Commerce be pleased to state whether the Scindia Steam Navigation Company ply ferry steamers from Bombay to Goa on the Western Coast?

(b) Do the said Steam Navigation Company send ferry steamers to Shrivardhan, Harnai, Dabhol and Ratnagiri?

(c) What is the distance of Harnai, Dabhol and Ratnagiri from Bombay?

(d) What is the steamer-fare to Shrivardhan, Harnai, Dabhol and Ratnagiri from Bombay?

(e) What is the principle on which the said Steam Navigation Company have fixed these fares?

(f) Is it a fact that there is a special steamer service for Harnai and Dabhol only?

(g) Are Government aware that passengers for Harnai have to pay almost the same fare as the passengers for Ratnagiri?

(h) If so, do Government propose to make inquiries into the matter and have the steamer-fares fixed according to the distance that passengers have to travel?

(i) Is the Scindia Steam Navigation Company the only steam company that ply ferry service between Bombay and Ratnagiri?

(j) How many steamer companies were plying such services between these ports prior to 1938?

(k) What were the fares for these ports when there were steamers of other steam navigation companies?

The Honourable Dr. B. E. Ambedkar: (a), (b) and (i). Ferry steamers between Bombay, Panjim (Goa), Shrivardhan, Harnai, Dabhol and Ratnagiri are run by the Bombay Steam Navigation Co., Ltd., the Indian Co-operative Navigation and Trading Co., Ltd., and the Ratnagar Steam Navigation Co., Ltd.

(c) Bombay to Harnai, 78 miles; Bombay to Dabhol, 95 miles; Bombay to Ratnagiri (direct), 120 miles; Bombay to Ratnagiri (coasting via ports of call), 136 miles.

(d) Bombay to Shrivardhan—Rs. 3, Bombay to Harnai—Rs. 4, Bombay to Dabhol—Rs. 4, Bombay to Ratnagiri—Rs. 5.

(e) Fares are generally fixed by all the shipping companies engaged in the trade at such rates as would secure them an economic return on their investments.

(f) No Sir, there is a daily service between Bombay and Dabhol, which calls at Harnai both on up and down voyages, the other ports of call being Janjira and Shrivardhan.

(g) The fare to Ratnagiri is Rs. 5 whereas the fare to Harnai is only Rs. 4.

(h) There is no need for any such enquiry as the present fares take into consideration the distances covered.

(j) Only the three steamship companies referred to in (a) above were operating between these ports prior to 1938.

(k) The fares in 1938 were as follows:

Bombay to Harnai—Rs. 2-8-0, Bombay to Dabhol—Rs. 2-12-0, Bombay to Ratnagiri—Rs. 3.

Haji Abdus Saitar Haji Ishaq Seth: What was the reply to (i)?

The Honourable Dr. B. R. Ambedkar: It was a combined reply to (a), (b) and (i).

Haji Abdus Sattar Haji Ishaq Seth: That is all right.

SHORT NOTICE QUESTION AND ANSWER

VACATION OF GOVERNMENT QUARTERS ALLOTTED ON MEDICAL GROUNDS

Giani Gurmukh Singh Musafar: (a) Will the Honourable Minister of Works, Mines and Power be pleased to state whether it is a fact that a number of Government servants who were allotted accommodation (Government quarters) temporarily on medical grounds have been served with notices by the Estate Officer to vacate them?

(b) Are Government aware that most of these allottees belong to the West Punjab and that each one of them is sharing accommodation with his refugee relatives and that they have no other alternative accommodation where they could go?

(c) If the answers to parts (a) and (b) above be in the affirmative, do Government consider the desirability of allowing them to continue to reside in the Government quarters till the accommodation problem is eased in Delhi?

The Honourable Dr. Syama Prasad Mookerjee: (a), (b) and (c). Temporary allotments have been made to certain officers on medical grounds for specified periods. In some cases the period of allotment has been extended while in a few cases notices have been served to vacate the quarters on the expiry of the period of allotment. It is possible that some of these allottees are sharing accommodation with other people. Each case is separately considered on merits before a decision is taken whether to extend the period of allotment or not.

MOTION FOR ADJOURNMENT

Mr. Speaker: I understand that Mr. Deshbandhu Gupta who has given notice of an adjournment motion, does not propose to move it.

Shri Deshbandhu Gupta (Delhi): No. I will raise the question by way of a short notice question.

Mr. Speaker: So. I need not put it to the House then.

INDIAN FINANCE BILL

PRESENTATION OF REPORT OF SELECT COMMITTEE

The Honourable Dr. B. R. Ambedkar (Minister for Law): Sir, I beg to present the report of the Select Committee on the Indian Finance Bill.

PAPERS LAID ON THE TABLE

CONVENTIONS AND RECOMMENDATIONS CONCERNING CHILDREN AND YOUNG PERSON ADOPTED BY INTERNATIONAL LABOUR CONFERENCE

The Honourable Shri Jagjivan Ram (Minister for Labour): Sir, I beg to lay on the table:

†(1) a copy of the Conventions and Recommendations concerning Children and Young Persons adopted by the International Labour Conference at its twenty-ninth session held in Montreal in 1946; and

†(2) the statement indicating the action which the Government propose to take on those Conventions and Recommendations.

†Not printed in these Debates. Copy placed in the Library of the House.

INDIAN AIRCRAFT (AMENDMENT) BILL

The Honourable Shri Jagjivan Ram (Minister for Labour): Sir, I move for leave to introduce a Bill further to amend the Indian Aircraft Act, 1934.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Indian Aircraft Act, 1934."

The motion was adopted.

The Honourable Shri Jagjivan Ram: Sir, I introduce the Bill.

CONTROL OF SHIPPING (AMENDMENT) BILL

The Honourable Dr. B. R. Ambedkar (Minister for Law): Sir, I beg for leave to introduce a Bill to amend the Control of Shipping Act, 1947.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill to amend the Control of Shipping Act, 1947."

The motion was adopted.

The Honourable Dr. B. R. Ambedkar: Sir, I introduce the Bill.

BANKING COMPANIES BILL

The Honourable Dr. Syama Prasad Mookerjee (Minister for Industry and Supply): Sir, I move for leave to introduce a Bill to consolidate and amend the law relating to banking companies.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill to consolidate and amend the law relating to Banking Companies."

The motion was adopted.

The Honourable Dr. Syama Prasad Mookerjee: Sir, I introduce the Bill.

ESTATE DUTY BILL

The Honourable Dr. B. R. Ambedkar (Minister for Law): Sir, I move for leave to introduce a Bill to provide for the levy and collection of an estate duty in the provinces of India.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill to provide for the levy and collection of an estate duty in the provinces of India."

The motion was adopted.

The Honourable Dr. B. R. Ambedkar: Sir, I introduce the Bill.

TAXATION ON INCOME (INVESTIGATION COMMISSION) (AMENDMENT) BILL, 1948

Mr. Speaker: The House will now proceed with further consideration of the Bill to amend the Taxation on Income (Investigation Commission) Act, 1947, as reported by the Select Committee.

Mr. Naziruddin Ahmad (West Bengal: Muslim): Sir, I beg to move:

"That after clause 1 of the Bill, the following new clause be inserted:—"

'A. Definition.—In this Act, the word 'prescribed' means prescribed by the Central Government under section 10.'"

[Mr. Naziruddin Ahmad]

This seems to be a lacuna here which should be cured. The word prescribed has been used in this Bill in clause 5, proposed section 7, line 4 of the proviso. I think it is advisable to define the word.

The Honourable Dr. Syama Prasad Mookerjee (Minister for Industry and Supply): I do not think it is necessary, because wherever the word 'prescribed' occurs, it is followed by the words "by rules made under this Act".

Mr. Speaker: The longer phraseology is used everywhere in this amending Bill wherever the word 'prescribes' comes in. Does the Honourable Member mean that I should place his amendment before the House?

Mr. Naziruddin Ahmad: No, Sir, I do not want to press it.

Mr. Speaker: Then, we shall proceed with the next amendment.

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That in clause 2 of the Bill, before the word 'sub-sections' the word 'new' be inserted."

This is only a formal amendment. In the amended form the clause will read like this:

"the following new sub-sections shall be added....."

Mr. Speaker: The Honourable Minister will note that the figures 3 and 4 in brackets are already there.

The Honourable Dr. Syama Prasad Mookerjee: It is not at all necessary, Sir.

Prof. K. T. Shah (Bihar: General): Sir, I beg to move:

That in clause 2 of the Bill, to the proposed sub-section (3) of section 4 of the Taxation on Income (Investigation Commission) Act, 1947, the following Provisos be added:

'Provided always that the term of appointment of the Commission, whether in the first instance or as extended, shall not be deemed to have expired so long as any case or point already submitted to or being enquired into by the Commission remains undisposed of finally by the Commission:

Provided further that it shall be incumbent upon the Commission to use every despatch in disposing of the business placed before them.'

Sir, in presenting this amendment to the House I would like to point out that though I understand that this is a special machinery designed for a particular evil that has crept in during the war years and the laxity introduced in those days, it is a matter which has drawn public attention that it ought to be statutorily provided that once a case is referred to the Commission, or once the Commission has started enquiry into any particular matter that has aroused its attention, it should not be prevented from completing that enquiry whether the term of two or three years assigned to it has been completed or not. It is possible, Sir, that in so far as the work of the Commission would be of a judicial character, parties may prolong, cause delay, adopt dilatory tactics, demand adjournment and what not, with the result that the work may be prolonged. As I conceive it, the nature of the work itself involves considerable enquiries perhaps over a number of years of which material may or may not be available, or other obstacles may be created, or may exist. In view of all those factors, I think it inadvisable to prescribe an absolute time limit of the kind suggested in the clause and therefore I am suggesting an amendment of this section. There are considerations, for instance, like what may be called an act of God or calamities of nature. For instance, about two or three years ago there was a serious explosion in Bombay harbour which destroyed a number of houses and shops and it is said a number of account books have been lost or burnt. It is commonly known that many people had taken advantage of this great calamity to falsify or to present accounts which bore no relation whatsoever to reality. The fact of the explosion was no doubt known, but the fact that the explosion was availed of by some people to save themselves of the tax burden may not be so quite well known and if the Commission is to do its duty properly and if the enquiry is to be conducted successfully and thoroughly then I believe that it

would be improper for us by law to lay an absolutely fixed term of office and the period in which the enquiry should be completed. It may not be that in every case such an unanswerable excuse may be found by those who are suspected of having evaded the tax. But even otherwise I fear the inquiries which would have to be conducted, if the Commission really desires to do its work thoroughly, would be necessarily such and the amount of papers, documents, persons, etc. that would have to be examined or called into evidence would be so heavy that the task would necessarily be prolonged beyond the time limit that is mentioned here. The other day we had an assurance in this House from the Finance Minister that it is not the intention of Government to place more than a limited list of people who are on fair grounds believed to have been guilty of some such thing as this and that they will not do anything to make this an instrument of harassment for the middle class. I entirely concur with that view though I am not quite prepared to say that even in the middle class there may not be people who may be practising evasion which in the aggregate may amount to a very serious and large amount. But in any case even if these investigations are confined to a limited number with very large sums involved. I fancy that the inquiry necessarily would be—if it is to be both fair and judicially correct as well as economically productive—so long and so varied that the time-limit absolutely fixed in advance would be undesirable. I do not know what the length of that list is; I cannot say the nature of the business of the parties who may be required to be in evidence before this Commission, whose books, accounts, vouchers, papers, friends, etc., may have to be called in evidence. But I do believe that whatever the list and whatever the kind of business, the more exalted these personages may be or the more varied their business is or the more immense the ramifications of their business, the greater would be the time and the closer would be the attention necessary for unravelling these mysteries and getting at the bottom of the thing, if you do not wish to do injustice on the one hand and if you do not want the State to suffer on the other. In these circumstances I think it would be absolutely necessary for us to leave a relatively free margin of time to the Commission; and if it appears to necessitate the embodiment of this machinery into some permanent form in the entire income-tax legislation and administration, it would be quite possible for this House to have another amending Bill and make this machinery one of a permanent character. I have therefore proposed in my amendment that the work will not be deemed to be finished until all the cases referred to the Commission have been finally disposed of by this body. I have seen to it at the same time that the Commission itself on its part may not be guilty of unduly prolonging the inquiry by methods open to them. The kind of people who will be placed in charge will, I presume, be of a recognised status who will not easily be suspected to any designs needlessly to prolong their work merely to earn their salaries. And in that regard I think the suggestion made in the second paragraph of my amendment, namely, that it would be incumbent on the Commission to use every dispatch in concluding their business, would be more than sufficient to assure the House that on the side of the Commission the work will not be needlessly prolonged. On these grounds, therefore, I commend my amendment to the House.

Mr. Speaker: Amendment moved:

"That in clause 2 of the Bill, to the proposed sub-section (3) of section 4 of the Taxation on Income (Investigation Commission) Act, 1947, the following Provisos be added:

'Provided always that the term of appointment of the Commission, whether in the first instance or as extended, shall not be deemed to have expired so long as any case or point already submitted to or being enquired into by the Commission remains undisposed of finally by the Commission:

Provided further that it shall be incumbent upon the Commission to use every despatch in disposing of the business placed before them."

Shri M. Ananthasayanam Ayyangar (Madras: General): Sir, the object of the amendment is quite laudable but it will serve no purpose. The cases referred to relate to cases which have arisen since 1947 and before 1947 and we have extended the date of reference to 30th June, 1948. These are therefore important cases alone which will be placed before them. About 200 or 300 was my estimate. The other day the Finance Minister said that the top cases will be about twelve. I think they will be much more, about 150 or 200 at the most. With respect to these cases on account of the period or time that has already elapsed Government are in possession of particular material that they have been able to gather. Wherever with the special powers that are given to the Commission under this Act it was not possible to get any evidence or any further material, only those cases have been left off. In individual cases also such additional material alone may be available. Therefore in the nature of things that additional material must be very small. Now after so many years we have given three more years. Before the 30th June 1948 for all cases to be referred and in further cases to be referred to them they have full three years,—in the first instance two years and if necessary the period may be extended by one more year. And if any particular assessee is recalcitrant and is not prepared to produce his documents, you can search his house in one, two or three years. But if in three years you cannot get anything and he has buried everything in the bowels of the earth, it is open to the Commission to report that it is impossible to get those things and therefore it would report on the materials available. I think three years is a sufficiently long period for the investigation to make up its mind and to make a report. I do not suspect the *bona-fides* of any of the gentlemen who constitute this Commission; they would not prolong, but at the same time there will be a tendency on the part of persons to go on asking for time. If it is an indefinite period it will be equally difficult for them to yield to such things. It is common knowledge of every lawyer that on account of various circumstances there is law's delay. Should we place an emergency commission also in the same position and allow this delay? Above all, how long are we to have this Sword of Damocles dangling over the head of these men? The justification for the emergency powers that we have given is that in a period of three years we will be able to lay our hands on tax-dodgers. No one has any sympathy with tax-dodgers. But they must also carry on their business without being in perpetual tremor. There may be an honest man who may be proceeded against and a dishonest man may escape. But amongst a hundred dishonest men that escape let not one honest man be punished. Therefore three years is a very long period if we have come to the conclusion that in three years there is no chance of any additional evidence coming in; it will be fabricated evidence. We considered this in the Select Committee and I wish the Honourable Member would not press his amendment but withdraw it.

Again we will assume that one or two cases remain at the end of three years. It is not as if Government have not got that right. They can proceed with further investigation; the Commission will not do so, that is all. In these circumstances I do not see any justification for extending the period or making it indefinite as the amendment seeks to do.

The Honourable Dr. Syama Prasad Mookerjee: The position has been explained by Mr. Ayyangar. It is unnecessary to have the amendment as proposed by Prof. K. T. Shah. The Government is giving time till 31st March 1950. It has also taken upon itself the power to extend the time by another year. It is therefore expected that all the proceedings will be terminated by 31st March 1950 at any rate. If, however, it happens that there will be one or two cases which are yet undisposed of, obviously the Government which has taken all the steps to constitute this Commission will not allow those cases to lapse, but will take such action as necessary. For this reason it is not necessary to say this amendment and I hope the Honourable Member will withdraw it.

Mr. Speaker: Does the Honourable Member wish to go on with his amendment?

Prof. K. T. Shah: I am satisfied with the explanation given and I beg leave of the House to withdraw.

Mr. Speaker: Has the Honourable Member leave of the House to withdraw his amendment?

The amendment was, by leave of the Assembly, withdrawn.

Mr. Naziruddin Ahmad: Sir, I move:

"That in clause 2 of the Bill in the proposed sub-section (4) of section 4 of the Taxation on Income (Investigation Commission) Act, 1947, for the words 'may be', the words 'it may consider' be substituted."

The sub-clause says that the Central Government may appoint a Secretary to the Commission and such other staff as may be necessary. I want to make it "such other staff as it may consider necessary". The original clause leaves it open to a Court to consider whether the appointment was really necessary. But under the proposed amendment it will be entirely unnecessary to consider this. If the Central Government considers it necessary, then the question of its real or actual necessity will not arise.

The original clause lays down an objective standard but in the proposed amendment the standard is subjective. In fact the amendment makes it sure that you need not consider the real necessity of the appointment. That is why this expression is safer.

The Honourable Dr. Syama Prasad Mookerjee: I do not consider it necessary and I therefore oppose it.

Shri M. Ananthasayanam Ayyangar: There is a danger in accepting it. The Central Government may appoint a Secretary to the Commission and such other staff as it may consider necessary. My Honourable friend thinks that the words "as it" refer to the Commission.

Mr. Naziruddin Ahmad: As the Central Government may consider necessary.

Shri M. Ananthasayanam Ayyangar: That is exactly the danger. We will assume that the Commission wants a particular staff. The Central Government may no doubt appoint a Commission and give a Secretary but refuse to give hands and feet to the Commission. It may not supply the necessary staff. So why do you give the exclusive discretion to the Central Government? As it stands the Central Government may provide staff as necessary. At present the Central Government itself will come to the conclusion and it will provide the staff. This is much wider in scope. My friend unnecessarily restricts matters.

Mr. Naziruddin Ahmad: That is not really the point, but I do not wish to press my amendment.

Mr. Speaker: The question is:

"That Clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Mr. Naziruddin Ahmad: Sir, I move:

"That in clause 3 of the Bill, in sub-section (1) of the proposed section 5 of the Taxation on Income (Investigation Commission) Act, 1947, for the word 'reason', the word 'reasons' be substituted."

This is a formal amendment. I think the plural is more appropriate in the context.

Mr. Speaker: Amendment moved:

"That in clause 3 of the Bill, in sub-section (1) of the proposed section 5 of the Taxation on Income (Investigation Commission) Act, 1947, for the word 'reason', the word 'reasons' be substituted."

The Honourable Dr. Syama Prasad Mookerjee: I think the singular includes the plural.

Mr. Naziruddin Ahmad: I am aware of that but the practice is that where the plural is indicated in the context we use the plural and *vice versa*. But the initial choice must depend on the context.

The Honourable Dr. Syama Prasad Mookerjee: I can accept it.

Mr. Speaker: The question is:

"That in clause 3 of the Bill, in sub-section (1) of the proposed section 5 of the Taxation on Income (Investigation Commission) Act, 1947, for the word 'reason', the word 'reasons' be substituted."

The motion was adopted.

Mr. Naziruddin Ahmad: I move:

"That in clause 3 of the Bill, in sub-section (1) of the proposed section 5 of the Taxation on Income (Investigation Commission) Act, 1947, for the word 'material', the word 'materials' be substituted."

The word in the plural has been used elsewhere. In fact, it is not one material that the Central Government will ordinarily put to the Commission but materials. Ordinarily the plural is indicated by the context. Therefore our selection should be for the plural and not for the singular. If it turns out to be singular in a particular case, there is no harm because the plural includes the singular.

The Honourable Dr. Syama Prasad Mookerjee: It is not necessary.

Mr. Naziruddin Ahmad: Sir, I move:

"That in clause 3 of the Bill, in sub-section (1) of the proposed section 5 of the Taxation on Income (Investigation Commission) Act, 1947, the words beginning with the words 'and may with the concurrence' to the end, be omitted."

I think this is an important amendment. The sub-clause can be divided into two parts. With regard to the first part, I have no quarrel. The second part which I want to delete gives power to the Central Government to withdraw any references made to the Commission. There is a dangerous consequence in that withdrawal—that if it is done with the concurrence of the Commission then no further steps could be taken on the points referred or in the case referred. I submit, Sir, this would not be the proper thing to allow. In fact, it allows the Central Government first of all to carefully consider a case, and then for some reasons, which will not be explained, the Government may withdraw. If the Government withdraws and if there is concurrence by the Commission then there is complete *res judicata*. Supposing the Government withdraws under a mistake or any new matter is brought to light. Then the reopening of the case would be absolutely barred. On the other hand the Commission has the power under sub-section (2) and if they find that the case is weak or unsubstantial, then the Commission under that sub-section can report to the Government that no further action need be taken.

Under these circumstances, if we delete the condition in sub-section (1), still the Commission would be fully empowered to deal with the matter under sub-section (2). In fact the very consideration, which may weigh with the Government in withdrawing, may be placed before the Commission and the Commission may under sub-section (2) report that nothing need be done. In fact the deletion of these words is very necessary for various reasons. It may be said that there has been some undue influence or undesirable influence behind a withdrawal. If the Government withdraws, all that is necessary for the Commission is to concur. Concurrence is not a very serious act. If a party withdraws, concurrence is generally given as a matter of course. But if the same materials which may induce the Government to withdraw are placed before the Commission, the Commission will apply its mind judicially to the matter. And if the reasons are substantial, then it will be for the Commission just to report

to the Government that no action need be taken. Sub-section (2) fully covers the case and the withdrawal is unnecessary and may be mischievous. In these circumstances if the case is withdrawn by the Government many things might be said. It may be said as has been done in other cases that some official was corrupt and so on. Then again supposing there is very good reason for the withdrawal. The very fact that it was withdrawn at the instance of the Government will leave a stain upon the party's character. So from every point of view this power of withdrawal seems to be unnecessary and undesirable. In the interest of the party himself it is not necessary. It is far better to leave the Commission to take action on the very materials which the Government might think sufficient. With these remarks I submit that this drastic power should not be allowed to Government. This is a kind of judicial power and may be more properly exercised by the Commission. The Commission consists of persons of the highest ability and integrity there is no point in shortcircuiting the Commission and giving the initiative to the Government. In these circumstances I submit that this condition should be withdrawn and the Commission alone should be allowed full scope to exercise their own discretion. No harm will be caused. At least this course will prevent the attribution of motives to the Government or the making of comments.

Mr. Speaker: Amendment moved:

"That in clause 3 of the Bill, in sub-section (1) of the proposed section 5 of the Taxation on Income (Investigation Commission) Act, 1947, the words beginning with the words 'and may with the concurrence' to the end, be omitted."

Shri M. Ananthasayanam Ayyangar: Sir, I shall explain the circumstances under which this clause was introduced. In the original clause allowing the power to withdraw in the Central Government was split up. In the previous Bill of which this Bill is an amending measure all cases had to be placed before the Commission by the Government before the 31st day of December, 1947. The Commission for various reasons was not prepared to proceed with the enquiry. In making up their minds it was represented that the Government had to rush through the enquiry into the various cases. They placed about 200 and odd cases before the Commission. The time for placing some more cases before the Commission was extended up to the 30th June 1948. In the meanwhile if any cases had been hastily placed before the Commission which it was not worthwhile pursuing they can withdraw the cases before the time limit. The withdrawal must be done only before the 30th June, 1948 with the concurrence of the Commission. It is open to the Commission to take a different view regarding the cases. *Prima facie* the Commission will see whether there is a case to go through. The Government may take a different view but ultimately it is the Commission's view that is to prevail. Without the Commission certifying that a case is fit for withdrawal it will not be withdrawn. That might apply to cases where a case has been placed before the Commission without much of material and the Government think that is not necessary to take up the time of the Commission by making them plough the sands in proceeding with the investigation. There may be other cases where after the cases have been filed there may be some evidence available which may not fit for a civil court of law but will be sufficient to bring the man to book in a criminal court. That method may also be utilised. While a case is pending before the Commission criminal proceedings may not be taken against a man. He may have committed fraud and the Government still have the chance of recovering their money. This Commission is not a permanent court of justice. It is meant to deal with cases where assesses have dodged payment of taxes. It is for that purpose that the Investigation Commission has been appointed. It is a quasi judicial body. If the Government have some other better method of recovering their dues than through the Commission what is the use of pursuing a case through the Commission. It was after careful consideration that a restriction on withdrawal was put in.

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vis., that it should be done before the 30th June and also that it must have the concurrence of the Commission. Before the 30th June the Government may with the concurrence of the Commission withdraw certain cases. After the 30th June the Commission itself may look into the cases and ascertain if there is any good in pursuing the investigation. The third stage is where the Commission will go on and come to a conclusion. It cannot be said that all the cases are of the same seriousness and magnitude. I hope the Honourable Member will see this point of view on account of which this provision was inserted. This amendment does not seem to be necessary.

Mr. Naziruddin Ahmad: I made the point that the Commission is not required to look into the merits of the case at all. They merely exercise their concurrence.

Shri M. Ananthasayanam Ayyangar: How can they do it without looking into it?

The Honourable Dr. Syama Prasad Mookerjee: Sir, this clause serves a double purpose. Withdrawal can be effected only if both the Government and Commission agree. It is a very salutary safeguard. The date for such withdrawal is also mentioned. It must take place before the 30th June. I do not understand the object of the mover of the amendment. What is provided for here will certainly serve the purpose well. The Government itself cannot take any action unless and until the Commission concurs. The Commission must agree to the withdrawal.

Mr. Naziruddin Ahmad: They need not go through the papers at all. They may take the Government on trust and may agree without giving reasons.

Prof. K. T. Shah: Sir, I have another amendment, on my own name which is slightly different from that of the Honourable Member who has preceded me. If this amendment is disposed of and if that amendment is allowed I will reserve my remarks for that occasion. However, I would be guided by you, Sir.

Mr. Speaker: The effect of both the amendments seem to be the same.

Prof. K. T. Shah: Except that I have added a positive injunction; whereas the Honourable Member who preceded me merely dropped the words about withdrawal I have stated it more clearly that once a case is referred it cannot be withdrawn.

Mr. Speaker: I cannot understand these other words. The whole amendment seems to be a little self-contradictory. The Honourable Member says that "any case or point once submitted to the Commission shall not be withdrawn at any time by any authority" and then after that he says "until the Commission finally disposes of the matter". If the Commission disposes of the matter there is no question of withdrawal. I am not quite clear on that point. His idea seems to be that there shall be no power of withdrawal with the Government. That seems to be the substance of his amendment. The Honourable Member, instead of moving his amendment, may have his say on the question now.

Prof. K. T. Shah: Sir, I would point out two or three considerations which seem to me not to have received proper attention at the hands of Government. As I read the clause, it provides that any case can be referred to the Commission up to the 30th June, with reasons or grounds which Government have for thinking that a given person has evaded payment of income-tax. And yet the same clause provides that within the same period, after having referred the case to the Commission, the same authority may within the same date withdraw it.

I realise that a proviso is added that such withdrawal cannot be allowed unless the Commission concurred. Whereas in the preceding part of the clause it is laid down that Government will give the grounds on which they entertain the belief for the evasion, in the latter part of the clause regarding concurrence of the Commission no such condition is made. If they ask that a certain case already referred is to be withdrawn, as I read the clause, it seems to me that their suggestion for withdrawal is final and they are not required to give any reasons for doing so. I am open to correction in case my reading of the provision is wrong; if that is so, namely that Government may withdraw any case or any point without giving reasons to the Commission and the Commission's concurrence is sought only on their own estimate of the previous reference, then I think it is self-contradictory. Government should have known their mind when they first made their reference at any time before June 1948. What could have happened between that date when the reference was made and any date up to June 1948 that they should without giving any reasons withdraw the case and ask the Commission to concur in the withdrawal? The withdrawal will be so complete that no further proceedings can be taken by the Commission thereafter. I fear that this is liable to be misinterpreted and misunderstood by the public and I would give my reasons for entertaining such a fear in my mind. In the first place how would Government act in making the reference or in seeking a withdrawal? It is true that the responsibility is on the Ministers who are present in this House and that every action of Government is technically from the point of view of the statutory responsibility or the constitutional responsibility with the Ministry. But while recognizing that, we should also realize that they act on the advice of their officers or subordinates or advisers who advise them in the matter. The other day I had the misfortune to refer to certain rumours prevalent in the country regarding influential personages who are able to get their names withdrawn or who might be able to get their names withdrawn from the list of people who are to be submitted to the Commission on such grounds as these. I never had in my intention to suggest for a moment that any of the Honourable Ministers would be involved or would be a party to such a withdrawal for such reason or by such influences. While not suggesting for a moment that a Minister of the Union of India would be liable to any such consideration I am afraid I am not prepared to say that every officer in the Department, or every adviser or assistant that the Ministers may be consulting, would be equally immune from any fear of this kind. The talk is going round commonly—and I think the Honourable Member who took me to task himself mentioned that people do go about as brokers, or whatever you may call them, saying 'I shall get you relieved from this responsibility'. How far they are able to achieve their objective I do not know. Still they do go about saying this kind of thing. Lest this kind of injustice or needless blackmailing should go unchecked I suggest that cases once referred, and once referred with good reasons as required by this very section, should not be withdrawn by any authority from the jurisdiction of the Commission. The fact may not be possible to prove by evidence admissible in a court of law or even before such a Commission that X, Y or Z has been guilty of such evasion. But there

13 Noon would have been no occasion for making such a legislation; there is a machinery in the Income-tax Department for making such investigation. Unless there was a *prima facie* case and some reason to believe that there are people who do escape, who have escaped in the last few years, and that it is necessary for us to enquire into their cases, there would have been no necessity for this Commission. This is a necessity therefore which enjoins a further necessity that you shall not allow anybody to get their case withdrawn after it has been once referred to the Commission by the Government themselves, and presumably on very good grounds, within the same period. There is no

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bar, as far as I can see, for example for high-placed income-tax officers to go into private service expressly with a view to advising those private merchant princes and others to enable them to avoid income-tax payment. It has been openly boasted in many cases that the advice and assistance of X, Y or Z has enabled a person to avoid so much income-tax that the entire salary of the adviser has been paid in a single year out of that amount. If our service regulations are such that no bar is placed upon experienced income-tax officers to go and help those liable to such taxation to evade their burden, then I think it is important and necessary that some such provision of the kind that I am suggesting in this amendment should be made. If for no other reason, I for one would venture to submit to the House that we should at least see to it that our Ministers are, like Caesar's wife, above suspicion and that their advisers and officers should similarly also be exempt from any such suspicion in any part of this House or outside. For these reasons I think it is very necessary that this amendment should at least be carefully considered by the House and its decision should be that no case, or even a point whether of law or of fact, once referred to the Commission should be permitted to be withdrawn by any authority, from the purview of the Commission.

Mr. Speaker: I may point out to the Honourable Member who just spoke that he is importing into the language of the section some additional words such as 'without reason'. The section is silent on that point.

Prof. K. T. Shah: The reasons are there in the first part of the section, but not in the second part as I read it.

Mr. Speaker: It does not follow that the Government is entitled to withdraw a reference without stating reasons.

Prof. K. T. Shah: In that case my reading of the provision is wrong.

Pandit Thakur Das Bhargava (East Punjab: General): Sir, according to the original provisions of the Act the rule was that the Government went into the question of tax evasion in regard to a particular person and after it made some enquiry and had *prima facie* reasons for believing into the truth of the allegation, then it ordered the case to be sent to the Commission. The fact that *prima facie* reasons had to be expressed before the case was sent, with all the material at the command of the Government, shows that the Government and its law officers or income-tax officers had bestowed all the attention that the case deserved before it was sent to the Commission. Any provision in law which would make it possible for the Government to lightly send such cases in which they have not gone deeply into the question would be contrary to public policy. By the words '*prima facie* reason' we usually understand that the case has come to such a stage that a charge can easily be preferred against the person. After the Government has gone to that stage that there was a good case in which a Commission should go into the question and find out if there has been tax evasion, I do not see any reason why the Government should be allowed to withdraw that case. You will be pleased to see another amendment sought to be made in the section which is the subject matter of paragraph 3 where it is said that the sufficiency of the material on which such a reference has been made shall not be investigated in any manner by any court. I quite admit that there should be a provision like this and that no court should be allowed to go into the question. But the very fact that a court cannot go into the question makes it easy for the Government to send doubtful cases in which it has not itself made up its mind. I therefore wish that it should be taken out of the power of the Government to withdraw a case, which it has once finally decided to send to the Commission.

Moreover here the words are "with the concurrence of the Commission". Now either the Commission has gone into the question or has not gone into the question before it has given its opinion. If it has not gone into the question, the concurrence is futile, and if it has gone into the question and then finds that the case is not worth further enquiry or the case is one on which no reference should have been made, my humble submission is that the original assessee should be allowed to be vindicated and the assessee should have the satisfaction of showing his face to the public that as a matter of fact the government was wrong and there was nothing so far as he was concerned on which he could be charged with the offence of evasion of income-tax. Therefore my submission is such withdrawal if allowed would leave the stain on the assessee and not allow him to vindicate himself. So it is wrong in this manner also.

Now, Sir, in regard to the other provisions of this section which I shall have to discuss subsequently, I may submit one thing. My own idea is that it will be proper to have the policy of leaving the right of complaint to the government alone. It is the Government alone who is the accuser and if the government finds there is no case, then it should not send the case. If the government finds there is a case, then it should send it and the case should be allowed to be finally disposed of. It should not be in the power of any person light-heartedly to bring up a case before any Commission because if you go further into the provisions of the Bill, you will find that there are provisions which protect all the officers so that the assessee or the private citizen against whom this law shall have effect has got no remedy whatsoever. He cannot proceed against the government, he cannot proceed against the commission, he cannot proceed against the income-tax officer, and they are allowed to commit mistakes with impunity to the detriment of the assessee in such an important matter. I would submit there should be no *locus poenitentiae* given to the Government so that the man who has his case sent may know that if it is once sent, it is irrevocable he may not bother the Government officials any more and the door of corruption may thereby be shut.

Shri T. T. Krishnamachari (Madras: General): Sir, I am afraid the House is between two stools, on the one side my Honourable friend, Professor K. T. Shah, who wants Government should not have power to withdraw on the other side my Honourable friend Pandit Thakurdas Bhargava says Government shall not use those powers because it would mean there is no vindication of the assessee's position who has been drawn into the investigation proceedings by the government but is not given a chance of vindicating his position. Sir, to me it seems that the time period that exists between now and the time when the government can either file a charge or withdraw a charge is so short and the provision as it is, is merely as a matter of convenience, convenience which would undoubtedly aid the assessee. After all what is the point in what Pandit Bhargava says? Does he think there are many assesseees who would like to go on with the enquiry in spite of the fact that Government would not like to proceed with it merely for the right of vindicating his rights? Withdrawal means waiver of all charges that are levelled against an assessee and to that extent I think the assessee's rights are completely vindicated. In any event, so long as there is the phrase 'with the concurrence of the Commission', I think there is nothing wrong in the government withdrawing any case, particularly in view of the fact that the period given for the government to withdraw is so short. I think there is no substance in the amendment moved and the amendment should therefore be rejected.

The Honourable Dr. B. E. Ambedkar (Minister for Law): I confess, Sir, that the section as it stands has a certain amount of odour about it, rather smells badly. There are of course certain snags in it, which I am prepared to admit. It might be said that Government, after having made up its mind, has

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sent the cases to the Commission for investigation. After having made up their mind, the Government ought to have nothing to do with it. Why should Government claim the power to withdraw? It may be that political influences, financial influences come into play, and the cases might be withdrawn on that account. There is also another snag which I noticed myself although it has not been referred to by any speaker in the House. For instance the Commission is not like the Federal Public Services Commission the members of which are subject to certain disabilities—for instance one of the provisions relating to the constitution of the Federal Public Services Commission is that no member shall, after retirement, be entitled to an office under the Crown for five years. No such disability is applicable to the members of this Commission. It may be perfectly possible—I do not suggest it would be a fact—for people to apprehend that the Finance Department and the investigating commission may collude together. One may submit a case for withdrawal and the other may concur because of certain other considerations. Undoubtedly those are snags. But I ask the House to take into consideration this fact, which I think is a very important thing and which it is necessary to take into account in order to see actually the reasons why the government have made this proposal. Now, Sir, the House will realise that the original investigation Act was passed in April 1947. The date fixed for submitting cases was the 31st of December 1947. There were hardly six months for the Government to investigate into possible cases of tax evasion and to come to a definite conclusion whether the person who has been placed on the list has been as a matter of fact an evader of income-tax. The House ought to take into consideration the fact that after the passing of the original Act, which fixed the six months limitation, there came in the partition of India, and as a result of that, the Finance Department as well as most of the departments of the Government were fully engaged in the Partition Council's business. Consequently they had not more than two months' time to investigate and put up their cases. Now, Sir, what I submit to the House is this, that the Government Department, namely the Finance Department, was really limited to two dates practically extending to not more than two months. If there was a case which they wanted to be investigated, that case had to be put before the Income-tax Commission before the 31st of December 1947. After that no case could be put up at all. Consequently, if I may say so, the Finance Department took the precaution of submitting all possible cases, whether there was any substance in them or not, for the fear that if a case was not put up before the 31st December 1947, it could not be put up at all. Consequently many cases have gone before the Tax Evasion Commission which have not been properly investigated. I think there is nothing wrong in making that confession. Now I do not think it is desirable that a case which Government put up before the Tax Investigation Commission merely on the ground that if they did not put it before the 31st of December, no case could be put up at all, that the Government should be restricted and bound down, so to say, to the decision that they have taken, which decision I am prepared to confess was taken merely on the ground that they should not suffer from the bar of limitation. Having regard to that fact, Sir, I think the House will agree that this provision, namely the power to government to withdraw and that power being limited and subjected to the concurrence of the court, contains a salutary provision which enables government to revise a hasty decision made on inadequate reasons and gives the power to the Commission to withhold or not to withhold their concurrence. I think it is a provision which, in the circumstances which I have explained, is a necessary and salutary circumstance. I quite agree that if the Government had a longer period—say a period of one year, untrammelled by any other requirements of administrative business—to investigate into the matter, to prepare a complete brief a complete dossier

against every assessee who has evaded the tax, there would certainly be no justification for permitting any such provision to stand in the law.

Sir, I hope that with the explanation that I have given, the House will reject the amendment and allow the clause to stand as it is.

Pandit Lakshmi Kanta Maitra (West Bengal: General): Sir, may I ask one question of the Honourable Minister? I want to know from him—I do not know if he is in a position to answer it—whether, in view of the fact that many cases had to be put up simply because there was the bar of limitation, it is in the contemplation of Government to review these cases and proceed only with those which are *prima facie* cases of tax-dodging. The Honourable Member has admitted that owing to the hurry and fear of the bar of limitation, all manner of cases had to be put up; but it is sure to have a very undesirable effect on the minds of the people. I would like to know whether it would be possible for the Government of India to review once again all these cases and pursue only those which are *prima facie* cases of tax-evasion.

The Honourable Dr. B. R. Ambedkar: That is exactly the reason why this clause has been put in the way in which it stands now. It gives the power to Government to revise the cases and to submit for withdrawal, and the final withdrawal will be subject, under the law, to the concurrence of the Court.

Pandit Lakshmi Kanta Maitra: Does Government really contemplate to exercise that power of thorough revision and review?

Some Honourable Members: Oh, yes.

The Honourable Dr. B. R. Ambedkar: For instance a report has been made by an Income-tax Officer in which he subsequently says that the statement which he made earlier, on which Government had included the name of a particular assessee, was derived from hearsay. Undoubtedly such a case will have to be withdrawn, and I have no doubt that when the Government submits it to the Income tax Investigation Commission they would undoubtedly see that the case was made from hearsay accounts, and I have no doubt that the Income-tax Investigation Commission will also have the power to examine the particular Income tax Officer who made the report that he made the case on hearsay.

Shri T. A. Ramalingam Chettiar (Madras: General): Does it mean that the Government is going to take new evidence and look into fresh records again?

The Honourable Dr. B. R. Ambedkar: For the moment they have called for reports from their Income-tax Officers. They have not yet had time to examine the statements made by the Income-tax Officers as to whether they were correct, whether they were founded on facts or whether they were merely hearsay evidence which they heard from somebody that so-and-so had made a large amount of money and had not paid his tax. Obviously, within the time permitted between now and the 30th of June 1948, Government will call upon their Officers to give substantial evidence for the statement that they have made; and if they came to the conclusion that the officers' evidence was purely hearsay, they will in that case refer the matter to the Commission; they will refer to the Commission the statements made by the officers, for their assistance. So far as I can see there is no bar for the Income-tax Investigation Commission to call the officer to investigate and find out whether the subsequent statement that he has made is a correct statement or whether he is also colluding with somebody. All these possibilities are perfectly open.

Mr. Naziruddin Ahmad: May I point out that if the Commission has to enquire into the matter they can act under sub-section (2), namely themselves report that there is nothing further to be done in the case?

Pandit Thakur Das Bhargava: Why should the assessee be harassed?

Shri B. P. Jhunjhunwala (Bihar: General): If Government has sent a case to the Commission, Government is at liberty to put up another report regarding the same assessee. What difference will it make to the Commission if another additional report by the Government comes before the Commission, and it considers it under sub-clause 2 of sec. 3; and why the Government should insist on withdrawing the case under sec. 3 sub-clause 1?

Mr. Speaker: I wanted to be clear on one point in this Section as it stands. Is it intended that the concurrence of the Commission should also be obtained before the 30th of June? It appears to be so; if that is so, then, in all the cases sought to be withdrawn the Commission also should apply its mind to these cases before the 30th June. Is that the idea?

Mr. Naziruddin Ahmad: That would mean a great deal of hurry.

Mr. Speaker: The charge may be made that, that would perhaps affect the fuller consideration of the cases by the Commission.

Shri M. Ananthasayanam Ayyangar: If they are not able to do so, if the Commission is not able to come to any decision, then *prima facie* they will keep all the materials and under sub-clause (2) they have got the right to reject a case at any time.

Mr. Speaker: That defeats the arguments advanced till now. I was just considering as to whether it is intended that an application for withdrawal should be made to the Commission before the 30th June, though the Commission may take whatever time it requires to go into all the materials—I wanted to know whether that was the idea. I wanted to be clarified on the point—namely that I wish to suggest anything. That would have been, to my mind, a clearer position.

The Honourable Dr. Syama Prasad Mookerjee: We will consider this and if necessary table a short notice amendment after Lunch.

Mr. Speaker: Then we will keep over the matter for the time being.

Shri Ramnarayan Singh (Bihar: General): Sir, supposing the Government lose some cases, what will be the harm? This has not been explained.

Mr. Speaker: The position has been explained by the Honourable Minister. Government have filed all cases. It is not proper and just even to the assessees that they should be put to the harassment of coming before the Commission and defending themselves—that seems to be the whole idea. However, we will keep over the whole matter.

Prof. Shah's amendment may not be moved now; the matter is practically the same.

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That in clause 3 of the Bill, in sub-section (1) of the proposed section 5 of the Taxation on Income (Investigation Commission) Act, 1947, the words and figures, 'before the 30th day of June 1948' be omitted."

Shri M. Ananthasayanam Ayyangar: I want clarification. The words occur twice here—once in the earlier part, in the second line, and then at the end in the last but two line. Which one does the Honourable Member wants to refer to—the later one or the earlier one or both?

Mr. Naziruddin Ahmad: The later one.

Shri M. Ananthasayanam Ayyangar: 'At any time before' means that he wants power to withdraw at any time without any limitation.

Mr. Speaker: This amendment is in the alternative.

Mr. Naziruddin Ahmad: That position arises only if my first amendment is rejected.

Mr. Speaker: This also may be kept over for further consideration.

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That in clause 3 of the Bill, in sub-section (2) of the proposed section 5 of the Taxation on Income (Investigation Commission) Act, 1947, for the word 'material', the word 'materials' be substituted."

I may refer here to the proposed Section 6, sub-section(8). There the word "materials" occurs in lines 1 and 2. The context is the same. I think for the sake of uniformity plural is indicated in this Clause also. If we use the plural in one case and singular in another, that would not be conducive to uniformity.

Shri M. Ananthasayanam Ayyangar: We have already accepted 'material'. When we come to the particular clause we, shall convert the plural into singular.

Mr. Speaker: We shall convert it, if we think it is necessary.

Mr. Naziruddin Ahmad: I leave it to you, Sir, with the remark that it is an important amendment which should be considered.

Prof. K. T. Shah: Sir, I beg to move:

"That in clause 3 of the Bill, in sub-section (2) of the proposed section 5 of the Taxation on Income (Investigation Commission) Act. 1947, the following be added at the end:

'Every such report together with the reasons of the Commission for holding the opinion expressed in the report, shall be placed upon the table of the House within three months from the date on which the report was made to the Government.'

Sir, in this amendment I have sought to make the House acquainted with the ways and means by which taxation could be evaded or enquiries into such methods may reveal that much material of the kind or much evidence of the kind on which such material is founded is not dependable. The House, I fear, is at a disadvantage in that most members may be laymen and may not be familiar with the technical skill and mysterious ability by which taxation may be evaded. Most of us may not be either income-tax payers or income-tax payers to such an extent as would require the assistance of experts in helping us to pay the just dues or to avoid paying the just dues. The House, however, is the legislative authority. The House provides the powers to the administrators of such legislation to enable them to issue proper direction and to get hold of proper persons or the right persons for bringing them to book for evading payment of taxes or excusing them or exonerating them from any suspicion. If the House does not come to know of the Report of this special Commission, if the House has no material on which to judge the working of this exceptional legislation, then I am afraid the real purpose of such legislation would be lost and the authority of this House to put the proper responsibility on Government would also, to a great extent, be limited. This legislation is admittedly exceptional. The provisions are admittedly extraordinary because of the evasion of the law in the period coincident with the war during which a considerable laxity in application of laws had inevitably resulted. That being so, I think for the education of the House and the information of the members, it is necessary that the Commission's investigation be reported to the Government and also be placed on the table of the House. How the House will deal with it, I am not prepared to say just now, but I do think that like many other documents placed upon the table of the House for the information of the Honourable Members this also should statutorily be placed upon the table of the House, so that any member who is studious may be able to see what ways have been found, what reasons the Commission have found for Government making enquiries, or abandoning enquiries or giving the result of all enquiries. For these reasons, Sir, I have tabled this amendment, which I trust will commend itself to the House.

Mr. Speaker: There are certain amendments to this amendment but we shall see to them later on, if the House seems to be inclined to accept this amendment.

Amendment moved:

"That in clause 3 of the Bill, in sub-section (2) of the proposed section 5 of the Taxation on Income (Investigation Commission) Act, 1947, the following be added at the end:

'Every such report together with the reasons of the Commission for holding the opinion expressed in the report, shall be placed upon the table of the House within three months from the date on which the report was made to the Government.'

Shri Ran narayan Singh: Sir, without any speech, I strongly support the amendment.

Mr. Naziruddin Ahmad: I also support the amendment. The House should certainly be kept closely in touch with what is going on behind the scenes, as to what are the ways by which tax is evaded, and how people succeed in doing so in spite of the vigilance of Tax Officers. This will be extremely interesting information for honest citizens.

Shri M. Ananthasayanam Ayyangar: Sir, I entirely agree with the principle that the House must be kept informed of what happens in regard to particular cases which have been referred to such a big body as the Investigation Commission. But it will be premature and will defeat the purpose. Even though the Commission reports, under sub-clause (2), the Commission may after examining the material submitted by the Central Government with reference to any case or points in a case and making such investigation as it considers necessary report to the Central Government than in its opinion further investigation is not likely to reveal any substantial evasion of taxation on income and on such report being made the investigation shall be deemed to be closed. That is the second stage. But at any time before the 30th June 1948 the Government may with the concurrence of the Commission withdraw any case and the Commission itself on the basis of the material placed on record, should it find that there is no case, it may not report. From that time the case will be closed. But there is a provision later on, on page 6, sub-clause (4). The Commission is not a judicial body. The Commission may come to that conclusion and for the purposes of the Commission the case may be closed. Notwithstanding the closing by the Commission or not further proceeding with this case, it is open to the Income-tax authorities in the usual course under section 34 of the Income-tax Act to pursue this matter and if it is immediately placed before the House, it becomes such an open affair and all the material will be known to the other side. Then there is no need to pursue that matter. Therefore, within the three years, let us not be in a hurry. The object of my Honourable friend is served in another manner. The Commission was appointed not only to investigate into particular cases referred to them, but the more important one for which the Commission was appointed, according to me is the Commission has been requested after gaining experience with respect to 200 and odd cases placed before them to say how tax evasion ought to be prevented and we eagerly await that report. In that report certainly they will refer to all these cases and when that report is available, the Legislature will be in a position to call for any particular details with respect to any other cases that have been reported under sub-section 2. However desirable the object might be, the very object in view will be frustrated for which the Bill has been brought before the House. I therefore request that Government might give an assurance that in considering that report all these matters—by which time all these will be dead or alive or would have been disposed of somehow—will come certainly before the House and some such assurance could be given. If

the amendment is accepted at this stage, it might tie the hands of Government from proceeding further or taking action under section 84. If such an assurance is given, I am sure my Honourable friend will be satisfied with that.

Mr. Naziruddin Ahmad: I do not see how the further actions under the sub-section be affected by a publication.

The Honourable Dr. Syama Prasad Mookerjee: As has been explained by Mr. Ananthasayanam Ayyangar, this amendment is really unnecessary. Apart from the reason which he has given that it may prevent the Income-tax Department to pursue the matter later on if necessary we must remember that after all, the House must agree to trust somebody. You are appointing a Commission which consists of persons of unimpeachable character and integrity. So far as withdrawal is concerned, you have laid down that withdrawal will be possible only if both the Government and the Commission agree. After that to suggest that the reasons for the Commission's decision with regard to these cases are to be placed before the House, I do not think, Sir, is at all necessary.

So far as Prof. Shah's general remarks are concerned, namely that such revelations might help honest citizens, I do not know how it is going to help them—unless it helps honest citizens to become dishonest. But so far as general questions are concerned, obviously the other Committee which is going to be appointed, will take into consideration the general principles involved in the matter and any lessons which may have been learnt from the experiences of the Commission will be incorporated in their report and that report will be placed before the House in due course for full consideration and such action as the House may advise Government to take. But so far as these particular cases are concerned, we are fortified by the position that no withdrawal will be possible unless both the Government and the Commission agree that such withdrawal is necessary. I therefore think that will be sufficient.

Mr. Speaker: So I will put the amendment to the vote of the House.

Mr. Naziruddin Ahmad: Before that my amendments will require consideration; they are simply verbal.

Mr. Speaker: But then if the original amendment, as appears likely, is not going to stand, then of course, it is no use taking up amending that amendment, which is going to be lost. So I shall ask the Honourable Member (Prof. Shah) if he wishes to put the amendment to the vote of the House.

Prof. K. T. Shah: Sir, I am not convinced at all by the arguments of both the Honourable Members.

Mr. Speaker: Then I will put it to vote of the House.

The question is:

"That in clause 3 of the Bill, in sub-section (2) of the proposed section 5 of the Taxation on Income (Investigation Commission) Act, 1947, the following be added at the end:

'Every such report together with the reasons of the Commission for holding the opinion expressed in the report, shall be placed upon the table of the House within three months from the date on which the report was made to the Government.'

The motion was negatived.

Pandit Thakur Das Bhargava: Sir, I beg to move:

"That in clause 3 of the Bill, in sub-section (3) of the proposed section 5 of the Taxation on Income (Investigation Commission) Act, 1947, for the words and figures 'whether before, on, or after the 31st day of December 1947', the following be substituted:

'at any time before the 30th day of June, 1948.'

Sir, this is a formal amendment.

The Honourable Dr. Syama Prasad Mookerjee: I am prepared to accept it.

Mr. Speaker: The question is:

"That in clause 3 of the Bill, in sub-section (3) of the proposed section 5 of the Taxation on Income (Investigation Commission) Act, 1947, for the words and figures 'whether before, on, or after the 31st day of December 1947', the following be substituted:

'at any time before the 30th day of June, 1948'."

The motion was adopted.

Pandit Thakur Das Bhargava: Sir, I beg to move:

"That in clause 3 of the Bill, in sub-section (3) of the proposed section 5 of the Taxation on Income (Investigation Commission) Act, 1947, the following be added at the end:

'unless it be on the ground that it relates to evasion of payment of taxation on income accrued, arisen or received in India, between the 3rd September, 1939 and the 15th August, 1947.'"

Sir, the reason why this Bill has come into being is that there has been tax evasion due to the war. The Government have never submitted for the consideration of the House that there was any other reason for bringing in a Bill of this nature. Sir, according to the amendment which I seek to move "taxation on income accrued, arisen or received in India between the 3rd September", that is, the date at which the war broke out "and the 15th of August, 1947," when we came into Independence as between these two periods if there is any tax evasion, I say that is a very good ground why the Commission should enquire and gather the tax. But if any evasion occurred before 1939, I think it will be extending the period too indefinitely and extending our tentacles where we should not tread. We do not want to limit the powers of the Commission to get at the incomes which accrued or arose after the 3rd September 1939 and similarly, Sir, after the 15th August 1947, if there has been any evasion, then the remedy is that you remedy the Act altogether and devise some more efficient machinery for collecting income-tax. This commission is a temporary machinery and a measure of emergency and therefore, its power should not be extended beyond the necessities of the case.

Mr. Speaker: Amendment moved:

"That in clause 3 of the Bill, in sub-section (3) of the proposed section 5 of the Taxation on Income (Investigation Commission) Act, 1947, the following be added at the end:

'unless it be on the ground that it relates to evasion of payment of taxation on income accrued, arisen or received in India, between the 3rd September, 1939 and the 15th August, 1947.'"

Shri M. Ananthasayanam Ayyangar: I believe the object was this: that under section 34 of the Income-tax Act power was given to Income-tax authorities to re-open assessment for 8 years before the date of the assessment (Concealment is 8 years). What is it that my Honourable friend is giving to this Commission? Now let us not put restrictions. The existing law was not found sufficiently strong to empower ordinary methods of the ordinary authorities to catch hold of these tax dodgers. It is not as if whatever taxes were evaded 50 years ago there is absolutely no chance of cases being kept. I know of a case in my part of the country where a person was running a fleet of buses. Some objection was raised and therefore it was kept pending. He went up to another court, and for six or seven years he was evading. In the end a new man came in and he caught hold of the assessee and found that he was due to the extent of 20 lakhs of rupees. By that time he allowed those buses—50 or 60 in number—to be sold away in auction. He made a company in the name of his daughter, another in the name of his son-in-law and so on, and these buses were purchased for Rs. 20 or 50, or 200, etc. They are still carrying on whereas for 20 lakhs we have not got even Rs. 20,000. That is the complaint; there are various modes of evasion. We have neither the money nor any official idea about these tricks. Therefore this Commission comes in for the purpose of catching hold of these dodgers. After all if it is impossible they are not going to have a roving Commission of that kind;

we can safely trust them. There is a limit in the existing Act and that we want to extend so that the real evaders may be got hold of. I feel that it is unnecessary and we need not impose that restriction.

The Honourable Dr. Syama Prasad Mookerjee: Sir, Government oppose any proposal for restricting the powers of the Commission; and if this proposal is accepted, obviously cases coming within the stated period can be re-opened by a court of law, which will defeat the very object which Government and the House have in view. We do not want that the preliminary objections of the kind which are mentioned here should be allowed to be raised. When we are having a Commission we are prepared to trust them and give them powers as enunciated in the Bill. Sir, I therefore oppose the amendment.

Pandit Thakur Das Bhargava: Sir, I beg leave of the House to withdraw the amendment.

Mr. Speaker: Has the Honourable Member leave of the House to withdraw his amendment?

The amendment was, by leave of the Assembly, withdrawn.

Pandit Thakur Das Bhargava: Sir, I move:

"That in clause 3 of the Bill, for sub-section (4) of the proposed section 5 of the Taxation on Income (Investigation Commission) Act, 1947, the following be substituted:

"If in the course of investigation in to a case referred to it under sub-section (1), the Commission has reason to believe that some person other than the person whose case is being investigated has himself evaded payment of taxation on income, it may make report to the Central Government stating its reasons for such belief, and on receipt of such report the Central Government may at any time refer the case of such other person to the Commission for investigation and report."

The clause I have just read is the original clause of the Act of 1947. The main difference between the proposed amendment and the original section is that according to the amending Bill the Government's powers of discretion are taken away, and in a case in which the Commission reports that a certain person has evaded payment of taxation Government is bound to refer the case to the Commission, which in ordinary parlance means that Government have abdicated their powers and given those powers to the Commission. According to the original idea of the Bill Government had the last word on the subject. Much has been made of the note which was sent by the Commissioners appointed by Government in regard to the amendments which are before the House, and we have been told that the Commission wants these changes if this investigation is to bear any fruit. Now, Sir, I take this occasion to complain before the House that the proper thing has not been done by Government in calling for a report from this Commission; according to the provisions of the original Bill this Commission had no such function. the words in the Preamble of the Act of 1947 are:

"Whereas it is expedient, for the purpose of ascertaining whether the actual incidence of taxation on income is and has been in recent years in accordance with the provisions of law, and the extent to which the existing law and procedure for the assessment and recovery of such taxation is adequate to prevent the evasion thereof, to make provision for an investigation to be made into such matters."

According to the provisions of the section, this Commission had two powers, (1) of investigation into certain cases of evasion and (2) of investigating into the fact whether the law was enough or not. Now the investigation has no such business to send comments in regard to this Bill so that the Bill might be made effectual; that was the business of this House and of the Law and Finance Ministry of Government.

Sir, the whole mischief has been done in this way. First of all they appoint a Commission and then they ask the Commission how their efforts will bear fruit. If the question was put to the members of the Commission about

[Pandit Thakur Das Bhargava]

the efficacy of the proposed measures before they were appointed Commissioners and they were asked to give an opinion I think they would have agreed with me in principle that the investigating authority should be different from the deciding authority, both being parts of the investigation Commission. But when the Commission was appointed they only looked at the question from the point of view of the existence of the Commission and then providing a remedy. And therefore the recommendations which were made by them were such as affected the integrity of the judicial system of this country. Even this Commission when the matter was referred to them did not have the courage or did not like to say that this power of Government should be taken away. Even in this report which has been circulated to us it has not been suggested that the words "shall forthwith" be put in the section and Government shall not have the last word in relation to certain cases of evasion. What is the effect of it? In the first place when a person makes a complaint and finds that a certain person has evaded taxation, these are the words in the amending Bill:

"When the Commission has reason to believe that some person other than the person whose case is being investigated has evaded payment of taxation," etc.

The Commission have come to believe this and then send in a report. If you will compare the provisions you will find that so far as Government is concerned, Government must have *prima facie* reason to believe that a person has to a substantial extent evaded payment; whereas in the case of the Commission the words are "that some person other than the person whose case is being investigated has evaded payment of taxation". The words "to a substantial extent" are not found here. But the real gravamen of my charge is that the person who complains, the person who has come to the conclusion that a certain person has evaded payment should not be allowed to deal further with the case. If you will see the provisions of section 191 of the Criminal Procedure Code you will find that what I am saying is based upon a very well established judicial principle. Section 191 says:

"When a Magistrate takes cognisance of an offence under sub-section (1), clause (c), of the preceding section, the accused shall, before any evidence is taken, be informed that he is entitled to have the case tried by another Court, and if the accused, or any of the accused if there be more than one, objects to being tried by such Magistrate, the case shall, instead of being tried by such Magistrate, be committed to the Court of Session or transferred to another Magistrate."

This is not the only section in which this principle has been accepted as right. If you refer to Section 556 you will be pleased to see that the principle has been extended further and it has been held that:

"No Judge or Magistrate shall, except with the permission of the Court to which an appeal lies from his Court, try or commit for trial any case to or in which he is a party, or personally interested, and no Judge or Magistrate shall hear an appeal from any judgment or order passed or made by himself."

It may be said that the Judge is not personally interested. But may I submit that the rulings on this point of personal interest go much further than appears on the surface.

According to Sohoni's Code of Criminal Procedure, page 1090—it is said:

"But if in his capacity as Collector he has directed the prosecution, he is disqualified from trying the case, not by reason of the fact that he is the Collector, but by reason of the further fact that he has constituted himself the prosecutor. Where, therefore, the Magistrate presided at a meeting of the Municipal Board which directed, the prosecution held, that he was disqualified from making an order for further inquiry against the accused under section 436. It may be that the Magistrate did not speak or vote at the meeting—but the fact remains that he attended a meeting where the question was debated and the prosecution ordered and he had therefore placed himself personally to some extent in the position of a prosecutor.

"A Magistrate, who himself ordered the prosecution of the accused in his capacity as Tahsildar and further ordered the search of the accused's house, not on the complaint or report of a Collector or Excise Officer, but on that of an opium contractor, is incompetent to try the offence. The illustration to the section almost exactly covers such a case."

Further on it says:

"The illustration simply embodies the principle that a man cannot be both prosecutor and Judge in the same cause."

Once having found that a person has evaded payment, his further action in directing the investigation and hearing witnesses at the back of the assessee is simply one which is astoundingly unjudicial.

If the point was that the enquiry was made by another Commission and this Commission reported that certain evasions had taken place, then I could understand that there was something to be said in favour of the charge. If you kindly see the previous Act and the main provisions of this Act also, it appears that the entire responsibility for the prosecution is that of the Government. The Commission should not be allowed to become the complainant itself. Now if the Government want to withdraw they have taken that power. Why should they give that power to the Commission. Even if the Commission reports the Government should have the last word. The Commission may have been mistaken and it may have reported that an evasion of Rs. 1,000 or Rs. 10,000 may have taken place. The Government may take the view that it is not a substantial evasion and the Government may be helpless. Therefore looking to the principle on which the entire Act is based, it is not proper to arm the Commission with such powers that it can take powers away from the Government and the Government will be obliged to refer all cases in which the Commission makes a report.

Mr. Speaker: I think it is time for adjourning for Lunch.

There was one point I was considering and to which I invite the Honourable Members' attention. The sub-clause contemplates the reference of cases of other persons for report to the Commission. Such a report may or may not come after 30th June. It may come after 30th June 1948. Is it contemplated that the reference of such other person could be made after 30th June?

Shri M. Ananthasayanam Ayyanger: There is no limitation of time. It is not intended.

Mr. Speaker: If that is intended it seems the matter is not clear, because sub-clause (1) says that Government may make a reference at any time before 30th June. What about these further references of "other persons" arising from reports of the Commission? So far as "points" are concerned that is made clear.

The Honourable Dr. Syama Prasad Mookerjee: These references will be obviously after 30th June.

Mr. Speaker: But the section itself is not clear.

The Honourable Dr. B. E. Ambedkar: The cases that arise out of investigations taking place by the Commission are really not references by Government. These are acts by the Commission.

Mr. Speaker: I may say that it is a possible argument, but the language here used is "if in the course of investigation" into any case or points. So far as points are concerned, there is no doubt. If "points" arise in a particular case already referred to, those points can be placed before the Commission.

But "if in the course of investigation.....the Commission has reason to believe that some person other than the person whose case is being investigated has himself evaded payment It may make a report to the Central Government," and the Central Government shall, "forthwith refer to the Commission for investigation". It is a case of reference.

[Mr. Speaker]

As we are adjourning for Lunch, I think this point also, instead of its being considered in the House, may be considered during the lunch interval.

The Honourable Dr. Syama Prasad Mookerjee: I thank you, Sir, for your suggestion. We shall consider it.

The Assembly then adjourned for Lunch till Half Past Two of the Clock.

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. Speaker (The Honourable Mr. G. V. Mavalankar) in the Chair.

The Honourable Dr. Syama Prasad Mookerjee: Sir, the point raised by Pandit Bhargava is that if in the course of investigation by the Commission it appears that some other person has evaded payment of income tax, then that case may be brought to the notice of the Central Government and the Central Government shall then refer that case to the Commission for further investigation. What Pandit Bhargava says is that so far as this reference by the Central Government to the Commission is concerned that should not be absolutely obligatory but some discretion should be left in the hands of the Government to decide whether it is a fit and proper case which should be referred to the Commission or not. In fact the Bill as originally drafted gave this discretion to the Central Government but the Select Committee made this alteration and thought that if in a particular case the Commission was satisfied that there was some other person whose case should be investigated, then no discretion should be left in the hands of the Central Government but that case should forthwith come back to the Commission. Government thought it fit to accept this amendment in the select committee. In view of that I am unable to accept the amendment of Pandit Bhargava which is meant to take away certain powers which the Select Committee has thought it fit to vest in the Commission.

Sir, an amendment is going to be moved, with your leave, on this point that notwithstanding anything contained in clause 3 this second reference will be quite in order and valid.

Pandit Thakur Das Bhargava: Sir, I am withdrawing my amendment.

Mr. Speaker: I have not placed the amendment before the House.

The Honourable Dr. B. R. Ambedkar: Sir, I beg to move:

"That in clause 3 of the Bill, in sub-section (4) of the proposed section 5 of the Taxation on Income (Investigation Commission) Act, 1947, the following shall be inserted after the word 'shall' in the penultimate line:

'notwithstanding anything contained in sub-section (1)''

Mr. Speaker: The question is:

"That in clause 3 of the Bill, in sub-section (4) of the proposed section 5 of the Taxation on Income (Investigation Commission) Act, 1947, the following shall be inserted after the word 'shall' in the penultimate line:

'notwithstanding anything contained in sub-section (1)''

The motion was adopted.

The Honourable Dr. B. R. Ambedkar: Sir, I beg to move:

"That in clause 3 of the Bill, in sub-section (1) of the proposed section 5 of the Taxation on Income (Investigation Commission) Act, 1947, for the words 'and may with the concurrence of the Commission withdraw at any time before the 30th day of June 1948 any case or points thus referred and no proceedings shall' occurring in lines 7 to 9, the following shall be substituted:

'and may at any time before the 30th day of June 1948 apply to the Commission for the withdrawal of any case or points in a case thus referred, and if the Commission approves of the withdrawal, no further proceedings shall.'"

As the House will see the new amendment makes a distinction between application to the Commission for withdrawal and the actual withdrawal. All that the new amendment does is to require that the application for withdrawal shall be made before the 30th June but the disposal may take place at any time subsequently thereafter.

Mr. Speaker: Amendment moved:

"That in clause 3 of the Bill, in sub-section (1) of the proposed section 5 of the Taxation on Income (Investigation Commission) Act, 1947, for the words 'and may with the concurrence of the Commission withdraw at any time before the 30th day of June 1948 any case or points thus referred and no proceedings shall' occurring in lines 7 to 9, the following shall be substituted:

'and may at any time before the 30th day of June 1948 apply to the Commission for the withdrawal of any case or points in a case thus referred, and if the Commission approves of the withdrawal, no further proceedings shall.'"

This amendment means that the Commission will take its own time to look into the case and then allow or not allow the withdrawal; and that may be after the 30th June, 1948.

Mr. Naziruddin Ahmad: Sir, the amendment is open to this objection. While the Commission is not prevented from looking into the matter judicially, the clause does not at all require them to look into the matter from the judicial point of view. If that is attempted to be ensured by an understanding then sub-section (2) does the work. If they are at all required or expected to give a judicial consideration to the points raised after applying their judicial mind to it, that is ensured by sub-section (2). The words even as changed are open to the same objection as I submitted to the House earlier.

The Honourable Dr. R. R. Ambedkar: My Honourable friend has entirely misunderstood sub-section (2). The sub-section deals with a case where Government refuses to withdraw and the Commission quashes it on the ground that no material has been obtained. Sub-section (1) deals with a case where Government itself is convinced that there is no case and applies to the Commission for not proceeding with it. The two are different.

Mr. Naziruddin Ahmad: I did not misunderstand the sub-section at all. The Honourable Minister has not followed me.

Mr. Speaker: Does the Honourable Member, **Mr. Naziruddin Ahmad** propose to press his amendment?

Mr. Naziruddin Ahmad: Yes, Sir

Mr. Speaker: The question is:

"That in clause 3 of the Bill, in sub-section (1) of the proposed section 5 of the Taxation on Income (Investigation Commission) Act, 1947, the words beginning with the words 'and may with the concurrence' to the end, be omitted"

The motion was negatived.

Mr. Speaker: I shall now put the amendment moved by the Honourable **Dr. Ambedkar**. The question is:

"That in clause 3 of the Bill, in sub-section (1) of the proposed section 5 of the Taxation on Income (Investigation Commission) Act, 1947, for the words 'and may with the concurrence of the Commission withdraw at any time before the 30th day of June 1948 any case or points thus referred and no proceedings shall' occurring in lines 7 to 9, the following shall be substituted:

'and may at any time before the 30th day of June 1948 apply to the Commission for the withdrawal of any case or points in a case thus referred, and if the Commission approves of the withdrawal, no further proceedings shall.'"

The motion was adopted.

Mr. Speaker: The next amendment is the alternative amendment of **Mr. Naziruddin Ahmad** wherein he wishes to omit the words 'before 30th day of June 1948'. Does he press it?

Mr. Naziruddin Ahmad: I do not want to press it.

Mr. Speaker: The question is:

"That clause 3, as amended, stand part of the Bill."

The motion was adopted.

Clause 3, as amended, was added to the Bill.

Mr. Naziruddin Ahmad: I move:

"That in clause 4 of the Bill, in sub-section (1) of the proposed section 6 of the Taxation on Income (Investigation Commission) Act, 1947, after the words 'specified date', the words 'or within such extended time as it may allow' be inserted."

This is intended to give the Commission power to grant further time to file written statements. I think this is a necessary power and it will be within the discretion of the Commission; there will be no harm in giving them this power because they will exercise it only in proper cases.

The Honourable Dr. Syama Prasad Mookerjee: 'Specified date' obviously means that. If an extension is given that will also be covered under this.

Shri M. Ananthasayanam Ayyangar: May I make one suggestion? In the Consolidated List of Amendments there is an amendment by Mr. Subramaniam suggesting the insertion of the proviso "Provided that the Commission may for just and sufficient reasons enlarge the time given to furnish the written statement".

The Honourable Dr. B. R. Ambedkar: There is no prohibition and there is nothing to prevent a party from making an application for extending the date.

Mr. Naziruddin Ahmad: If it is implied it is not necessary and I do not press my amendment.

Mr. Speaker: So I am not putting it. That disposes of also amendment by Mr. Subramaniam.

Mr. Naziruddin Ahmad: I move:

"That in clause 4 of the Bill, in sub-section (1) of the proposed section 6 of the Taxation on Income (Investigation Commission) Act, 1947, for the words 'written statements', the words 'a written statement' be substituted."

A large number of statements are incorporated in a document which in the aggregate is called a written statement. The fact that it contains several subordinate statements does not make it a plural; it is only one written statement containing a large number of allegations. That is contained in the Civil Procedure Code and in many other Acts.

Shri M. Ananthasayanam Ayyangar: I have a doubt about the Civil Procedure Code. When once a statement is filed, an additional statement can also be filed. Does my friend want to prevent successive statements by saying 'a statement'? The statement relates to accounts and affairs. Affairs are different from accounts. There may be a statement of matter that is asked. I do not know why he is very particular about this.

Mr. Naziruddin Ahmad: I am not particular about anything. A written statement is to be filed by a specified date. It refers to one statement—not subsequent statements. My friend Mr. Ananthasayanam Ayyangar is perhaps missing the point.

Shri M. Ananthasayanam Ayyangar: We have already accepted the definition of the words 'specified date'.

Mr. Speaker: The expression 'written statement' is not used here in the sense of a written statement to a plaint. It means a statement committed to paper. I understand that the Honourable Member is not very particular, as he said, at least about this amendment. So I am not putting the amendment.

Mr. Speaker: As regards the amendment of Mr. Naziruddin Ahmad—No. 24 in Supplementary List No. 1—I shall refer it to the Draftsman. Does Mr. Lakshminarayan Sahu propose to move his amendment to clause 4? I think his amendment is covered by what has already been stated by the Law Minister.

Shri Lakshminarayan Sahu (Orissa: General): I do not propose to move it.

Mr. Naziruddin Ahmad: I move:

"That in clause 4 of the Bill, in sub-section (3) of the proposed section 6 of the Taxation on Income (Investigation Commission) Act, 1947, for the words beginning with 'it appears' and ending with the words 'from any person', the following be substituted:

'the Commission is of opinion that any accounts or documents should be examined or that any person should be interrogated or that the statement of any person should be obtained.'

The Bill clause is round about. My amendment is simple and straight-forward. The Bill clause says.

"it appears to the Commission to be necessary to examine any accounts or documents or to interrogate any person or obtain any statements from any person....."

Instead of saying "it appears to the Commission to be necessary to examine any accounts", the simple thing would be to say "the Commission is of opinion that any accounts or documents should be examined or that any person should be interrogated", and so forth. I have attempted to make it more simple.

Shri M. Ananthasayanam Ayyangar: The Honourable Member wants to use passive voice for active voice.

Mr. Naziruddin Ahmad: I am using the simple for the round about.

The Honourable Dr. Syama Prasad Mookerjee: It is not necessary.

Mr. Speaker: Shall I put it to the House?

Mr. Naziruddin Ahmad: No, I am not pressing my amendment.

I beg to move:

"That in clause 4 of the Bill, in sub-section (3) of the proposed section 6 of the Taxation on Income (Investigation Commission) Act, 1947, after the word 'as' occurring in line five, the word 'the' be inserted."

I think, Sir, this should be accepted unless it is said that 'it is unnecessary'. Nothing is absolutely necessary. It depends on the standard of approach. If the Commission is required to stretch their imagination a little further and find out a meaning which is not apparent, then of course the amendment is unnecessary. The text reads like this: hereinafter referred to as "authorised official" I should say "hereinafter referred to as the authorized official". The word "the" is not part of the official designation, but is an article and is required in the interest of good grammar.

The Honourable Dr. Syama Prasad Mookerjee: The dispute is over the word 'the'.

Mr. Naziruddin Ahmad: "The" is no part of the name. "The" is merely an article.

The Honourable Dr. Syama Prasad Mookerjee: We may accept the amendment.

Mr. Speaker: "The" will not be in inverted commas. That may be clarified. The Honourable Minister is inclined to accept the amendment. I will put it to the House.

The question is:

"That in clause 4 of the Bill, in sub-section (3) of the proposed section 6 of the Taxation on Income (Investigation Commission) Act, 1947, after the word 'as' occurring in line five, the word 'the' be inserted."

The motion was adopted.

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That in clause 4 of the Bill, in sub-section (3) of the proposed section 6 of the Taxation on Income (Investigation Commission) Act, 1947, for the words 'such directions as may be issued by the Commission', the words 'the directions of the Commission' be substituted."

Sir, the Bill clause is extremely round about. It uses a large number of words 'such directions as may be issued by the Commission'. My substitution would be 'the directions of the Commission'. In that case it would read very simple—'subject to the directions of the Commission from time to time' and so on.

Shri M. Ananthasayanam Ayyangar: Where is the need?

The Honourable Dr. Syama Prasad Mookerjee: We may adhere to the usual form. I am not for accepting the amendment.

Mr. Naziruddin Ahmad: In that case, I do not press it.

Sir, I beg to move:

"That in clause 4 of the Bill, in sub-section (3) of the proposed section 6 of the Taxation on Income (Investigation Commission) Act, 1947, the words 'from time to time' be omitted."

These words have come before the House many a time. They are already provided for in the General Clauses Act. Sometimes they have been accepted, sometimes they have not been accepted. It depends for the time being on the temper of the Minister concerned. These words are unnecessary. The General Clauses Act really provided for it.

Shri M. Ananthasayanam Ayyangar: My own request to my Honourable friend is that he need not move such amendments from time to time. There is no harm if 'from time to time' is there. Nobody refers to the General Clauses Act or carry the General Clauses Act as he carries Gem Dictionary in his pocket.

Mr. Naziruddin Ahmad: Every lawyer has to do it.

The Honourable Dr. Syama Prasad Mookerjee: When we say as we say here "the Commission may give such directions", it obviously means such directions as may be given from time to time.

Mr. Naziruddin Ahmad: Of course this is implied.

The Honourable Dr. Syama Prasad Mookerjee: Also I understand the intention was that it should be ensured that the Commission can exercise continuous supervision and control over the authorized officials, and that is why 'from time to time' was inserted.

Mr. Naziruddin Ahmad: I have no objection as to the purpose.

The Honourable Dr. Syama Prasad Mookerjee: Then accept my interpretation.

Mr. Naziruddin Ahmad: Then I do not press it.

Mr. Speaker: So I need not put it. The point has been before the House before.

Pandit Thakur Das Bhargava: I am not moving any of the amendments to this clause.

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That in clause 4 of the Bill, in sub-section (5) of the proposed section 6 of the Taxation on Income (Investigation Commission) Act, 1947, for the words 'if satisfied', the words 'if it is satisfied' be substituted."

The words "if satisfied" is an abbreviated expression. It may be used in telegrams where economy of words is the first consideration, where we have to pay for every word. In this case I submit that the proposed additions, if introduced, would make the sense absolutely complete.

The Honourable Dr. Syama Prasad Mookerjee: The Honourable Member was extremely anxious that superfluous words should be omitted. Why should he ask for the addition of these words now?

Mr. Naziruddin Ahmad: I am not keen about the amendment if the Honourable Minister is not inclined to accept it.

Mr. Speaker: So I am not putting it to the House. The Honourable Member is not keen that it should be placed before the House.

Mr. Naziruddin Ahmad: I was keen that it should be pointed out only.

Sir, I beg to move:

"That in clause 4 of the Bill, in sub-section (5) of the proposed section 6 of the Taxation on Income (Investigation Commission) Act, 1947, for the words 'the Income-tax Officer', the words 'an Income-tax Officer' be substituted."

Sir, we have not got a particular Income-tax Officer in view; therefore, the word "the" will not be proper. "An" Income-tax Officer is any Income-tax Officer; that is why the amendment is more proper. But if it is argued that the amendment is not necessary, and that everybody will understand it, that is a different matter. But I think this is a better expression, because there may be more than one Income-tax Officer having jurisdiction.

The Honourable Dr. Syama Prasad Mookerjee: I think, Sir, here "the" is necessary because the words are 'by the Income-tax Officer having jurisdiction to assess the person; ...'.

Mr. Naziruddin Ahmad: There may be more than one.

The Honourable Dr. Syama Prasad Mookerjee: But obviously it refers to that Income-tax Officer who has the jurisdiction.

Mr. Speaker: So I need not put it to the House.

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That in clause 4 of the Bill, in sub-section (7) of the proposed section 6 of the Taxation on Income (Investigation Commission) Act, 1947, for the words 'who is considered likely', the words 'whom it considers likely' be substituted."

Sir, the context will make this amendment clear.

The Honourable Dr. Syama Prasad Mookerjee: Sir, I do not accept it.

Mr. Speaker: Then we pass on further?

Mr. Naziruddin Ahmad: Yes, Sir.

Sir, I move my next amendment; this amendment is important but may not be accepted. I beg to move:

"That in clause 4 of the Bill, in sub-section (7) of the proposed section 6 of the Taxation on Income (Investigation Commission) Act, 1947, for the words beginning with 'is in the opinion' and ending with the words and figure 'of section 5', the following be substituted: 'which the Commission thinks may be necessary for the purpose of a reference by it under sub-section (3) of section 5.'"

Sir, the context is extremely round about although, if it is argued that the round-about will do, certainly it will do. A gentleman once said a wooden cat would do if it can kill rats; so this is a wooden cat and the question is whether the Honourable Minister will have the wooden cat or the live cat. The text says:

"or in the opinion of the Commission likely to be reported by it to the Central Government for reference under the provisions of sub-section (3) of section 5."

In fact, Sir, I have hardly found anything more circumspect, more indirect, than this. What is wanted is that:

"which the Commission thinks may be necessary for the purpose of a reference by it under sub-section (3) of section 5."

[Mr. Naziruddin Ahmad]

I think it is more direct, to the point, and absolutely straightforward; the other is needlessly circumspect. In fact it seems to have been written once or twice with corrections made, without an attempt to re-write it; that is why it is so indirect. I may refer to a very great authority on drafting, that circumspection should be avoided, that directness should be accepted. That is by Sir Alisson and Russell in the book 'Legislative Drafting and Forms'.

Pandit Thakur Das Bhargava: Sir, with your permission may I point out that in this clause in sub-section (7), I think instead of 'sub-section (3) of section 5', it ought to be 'sub-section (4) of section 5'.

Mr. Speaker: Obviously it should be '(4)'.

The Honourable Dr. Syama Prasad Mookerjee: It apparently escaped the eagle eyes of Mr. Naziruddin Ahmad also.

Mr. Naziruddin Ahmad: My eagle eyes are so much occupied they were blurred for the time!

Mr. Speaker: What is the position of Mr. Naziruddin's amendment?

The Honourable Dr. Syama Prasad Mookerjee: No, Sir, it is not necessary.

Mr. Speaker: So I am not placing it before the House. But the other amendment may be moved.

The Honourable Dr. Syama Prasad Mookerjee: Sir, I beg to move:

"That in clause 4 of the Bill, in sub-section (7) of the proposed section 6 of the Taxation on Income (Investigation Commission) Act, 1947, for the figure and brackets '(3)' where they first occur, the figure and brackets '(4)' be substituted."

Mr. Speaker: The section will then read as 'sub-section (4) of section 5' in place of 'sub-section (3) of section 5'.

The question is:

"That in clause 4 of the Bill, in sub-section (7) of the proposed section 6 of the Taxation on Income (Investigation Commission) Act, 1947, for the figure and brackets '(3)' where they first occur, the figure and brackets '(4)' be substituted."

The motion was adopted.

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That in clause 3 of the Bill, in sub-section (9) of the proposed section 5 of the Taxation on Income (Investigation Commission) Act, 1947, for the words 'made in this behalf under the Act', the words 'made by the Central Government in this behalf' be substituted."

Sir, the words 'Central Government' are necessary. Sub-section (9) does not make it clear as to who will make the order 'on this behalf'. The expression 'under the Act' is unnecessary. If it is said 'rules made by the Central Government in this behalf, it must mean 'rules made under this Act'. If the Central Government makes any rules, it must be under this Act. So, the words 'under this Act, are not necessary and the words 'Central Government' seem to be absolutely necessary.

Mr. Speaker: Will the Honourable Member refer to Section 10 of the original Act? If he refers to it he will find that it gives power to the Central Government.

Mr. Naziruddin Ahmad: But here the matter is left obscure. In every Bill, if a rule making power is given in the body of the Bill, it is also clearly stated who will make the rule—the Central Government, the local Government or the Commission.

Mr. Speaker: The Honourable Member will see that this is an amending Act and this Section will form part of the original Act; and the original Act provides by Section 10, that the rules will be made by the Central Government. Here are the exact words: "The Central Government may, by notification in the official gazette, make rules for carrying out the purposes of this Act." Perhaps the Honourable Member has lost sight of the original Section 10.

Mr. Naziruddin Ahmad: I have not lost sight of it Sir, but the question is whether it should also appear here.

The Honourable Dr. Syama Prasad Mookerjee: As you have explained, Sir, it is not at all necessary to incorporate this amendment. The Central Government alone can frame rules and that is provided for in the comprehensive Section 10 of the original Act. If we have to refer to the Central Government here, then we shall have to do it in every place where there is reference to rules.

Mr. Naziruddin Ahmad: That is always done.

Mr. Speaker: Order, order. The Honourable Member is explaining. Let us proceed now. I hope the Honourable Member is not keen to have his amendment put to the House. So we shall go on to the next amendment.

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That in clause 4 of the Bill, in sub-section (9) of the proposed section 6 of the Taxation on Income (Investigation Commission) Act, 1947, for the words 'to proceedings' the words 'to the proceedings' be substituted."

The word 'the' has been neglected. It should be resurrected and given its proper place.

The Honourable Dr. Syama Prasad Mookerjee: This may be accepted, Sir.

Mr. Speaker: The question is:

"That in clause 4 of the Bill, in sub-section (9) of the proposed section 6 of the Taxation on Income (Investigation Commission) Act, 1947, for the words 'to proceedings' the words 'to the proceedings' be substituted."

The motion was adopted.

Pandit Thakur Das Bhargava: Sir, in regard to this clause, which is the very basic clause of the amending Bill, I beg very respectfully to submit that the amendments made herein are not satisfactory. You will be pleased to see that I gave notice of amendments to many of these Clauses, for the omission of some and the substitution of a new clause 4A, which I have not moved. But though I have not moved them, yet I cannot restrain myself from expressing my very great dissatisfaction of the provisions of Section 4. According to me, Sir, the powers of the Commission should be confined to 6(i) and 6(ii) and the rest of the matters should have been so regulated that the powers of an investigation authority should have been defined. Sir, I maintain that the High Court Judge or the Commission as it is constituted, will not be the proper instrument to investigate cases of this kind. As I submitted before, the High Court Judges and the Honourable Members of this Commission are certainly very impartial people. We have got full faith in them, but as my Honourable friend Prof. K. T. Shah said, you have to set a thief to catch a thief. Those persons who are trained in the art of finding out defalcations, those persons who know how these tax-evaders behave, if those persons are set after them, I think we shall get more fruits.

Dr. B. Pattabhi Sitaramayya (Madras: General): They may share the booty!

Pandit Thakur Das Bhargava: Sir, I maintain that the Income-Tax Department is not so barren as not to produce one or two Assistant Commissioners of Income-tax who could be put on this duty. If that is so, if as Dr. Pattabhi remarked, those persons are not reliable, then may I humbly submit for his consideration the following extract from the note circulated to us by the Commission itself: "The matter requires the closest scrutiny and it is the Income-Tax Officers alone who will be able to do their duty by it." My humble submission is that a High Court Judge will be a very fair-minded person and during this investigation it is not fair-mindedness which counts. It is something

[Pandit Thakur Das Bhargava]

else which counts. Those who have had something to do with investigation of cases in the Police and other cases know fully that curious methods are employed by the Police to explore the truth. I therefore submit, Sir, that the provisions of this Bill, in so far as they authorise the Commission to take the initiative and take the initiative from those who are trained to dig out these tax-dodgers, are not satisfactory. I know that. Because I have the courage of pointing this out, my friends Mr. Mohanlal and Mr. Ananthasayanam took me to task and called me friend of the tax-evader.

Shri M. Ananthasayanam Ayyangar: No, no. I am sorry.

Pandit Thakur Das Bhargava: That was the implication, but I do not mind. I still maintain, in all humility, that we are playing with the judicial system of this country in so far as we are just taking down from the high pedestal in which the High Court judges should sit,—that of judging and assessing,—we are bringing them to the level of those who are to be in charge of the investigation, so that we are not doing both things rightly. I think if the Investigation Commission was divided into two parts—No. 1 the Judges of the Commission who would have assessed the man, judged the evidence and also directed further enquiry if it was necessary and No. 2 investigation by the most reliable of the Income-Tax Officers and Assistant Commissioners of Income-Tax—in that case, it would have been more satisfactory.

Now, Sir, if you would kindly look into part (v) of clause 4 of the proposed Section 6, such a great innovation has been made that I do not know, as far as my knowledge goes, if any parallel is to be found in the criminal or civil law of this country. If an accused does not answer a question or does not behave in the manner which is indicated in Section 5, he can be punished with fine in an indefinite amount. The whole of the property may be taken. I have no sympathy with the tax-evader—I want that every tax-evader should be caught and I yield to none in my desire so far as that is concerned—but at the same time, I do not want that even the worst criminal, even the murderer should not have the right which is his due according to the accepted principle of civil and criminal jurisprudence. Even in the Civil law if a person keeps mum, the court may draw an inference that it likes. Even the judges of the Commission who gave this note did not propose this suggested change that a person can be fined in this way and pressure can be brought upon him in any way in which the authorized official or the Commission likes. In the year of Grace 1948, the Select Committee is not right in putting such a restriction upon the person who is after all in the nature of an accused person. I know under the Criminal Procedure Code even the worst criminals and the worst defaulters are tried but even then there is no such provision. This amending Bill gives such wide powers, such ample powers that it takes one's breath away when he reads the words "that in any manner the enquiry may be made and statements can be taken by the Commission at the back of the person." We know the provisions under section 164 and the rulings of the Honourable Judges of the High Court in relation to statements under 164. We know about the investigation made by the magistrate and the Income-tax officer whose power are in the matter not less drastic than those of the police officer we further know what value is to be attached to these statements. I suggest that statements were taken by the Officers of the income-tax department charged with the investigation. They will have no difficulty in using these powers of investigation at the back of the tax evaders but I do not want that the Commission itself should also take the evidence at the back and be impressed by that. I want that whatever may be done by the Income-tax authorities may be done and after it is done the whole thing may be placed before the Commission and the everything will be fair and square.

Every person may appoint a counsel and he should be allowed to appear before the Commission at all stages of the enquiry. Even now a criminal is not entitled to take the pleader while the investigation is going on. Here at the back of the accused the Commission will examine witnesses and then pin them down to certain statements and at the same time the Commission is given the power to report against the witness also. Thus undue pressure upon the witnesses will not fail to be brought in some cases. I do not want to take more time than necessary and I have already submitted that these provisions are very unfair. You will be pleased to see, Sir, from the amendments that I have moved that I wanted to give more powers to the investigating agency so that the agency, if efficient can find out how and in what manner these evasions have taken place. These powers are not sufficient to catch the tax evaders. I wanted that the investigating authority should be given even more powers. I submitted, Sir, when the original Bill was on that this Commission will not be able to do anything. I repeat that but for this amending Bill, the Commission would have been absolutely futile. Now this amending Bill gives certain powers to the Commission and with these powers the Commission's efforts will be fruitful. I submit, Sir, they will be fruitful as they will bring some money to the Exchequer. But if the Government accepted the scheme envisaged in my amendments they would succeed in getting perhaps more money from the tax evaders and the position will be more satisfactory in this sense that the tax-evaders themselves will feel that they have been fairly dealt with. I only want that all the tax-payers should be mulcted fully, but at the same time I want them to feel satisfied that they have been dealt with fairly and in a legal manner under this Act.

Now again, Sir, when you examine the other provisions, you will be pleased to see that so far as the judicial system of the country is concerned, if this act is allowed to be passed, we do not know in what other ways these provisions will be ploughed back in our system on other occasions and tamper with it. I submit, that so far as these provisions to clause 4 are concerned, the House may be pleased to agree that it is not right to have such provisions in the Bill.

Shri M. Ananthasayanam Ayyangar: I have the greatest respect and regard for my Honourable friend, Mr. Thakur Das Bhargava. It has never been my intention to accuse him. All I need say it is as clear from his speech that he has made today that he is anxious as any other person and I cannot pretend to be more anxious than my Honourable friend that the tax-dodgers ought to be booked and sufficient money ought to be collected. There is only one difference between him and me regarding the procedure, i.e., in the method of the agency by which these persons can be caught. He also agrees that he can easily use the words 'set the thief to catch the thief' and our esteemed friend Dr. Pattabhi intervened and said "that man may get himself induced" Now there is a hierarchy of officials who are competent. Mr. Bhargava said a person who is in the line is much better than these three Commissioners. I must inform him that of the three persons one is a retired High Court Judge.

Pandit Thakur Das Bhargava: Suppose these persons die, retire or accept other offices?

Shri M. Ananthasayanam Ayyangar: The other is a judge of the Bombay High Court and the third person has been a member of the Income-tax Tribunal, that is the highest authority. He is also the Judiciary in the sense that a number of cases, contested cases come before him; he knows the details of that administration. That man has been associated along with two eminent judges. Now we will assume this composition that the Commission is entirely composed only of the officials in the Department. That is exactly evidently what he wants.

Pandit Thakur Das Bhargava: I do not say that the Honourable Judges will not be just or they should belong to the Income-Tax Department. I only want that the investigating authority actually may be different; they may be men of the Income-Tax Department.

Shri M. Ananthasayanam Ayyangar: We have come to this position. Nearly 100 crores are still due. Our expectation is 500 crores. How long can we afford the loss. The authority itself has moved the Government and then says we are unable to do this for various reasons and if he proceeds far enough, the people attribute motives to an officer and then it is said: "This man is over-zealous. Transfer him to some other Department". If he is indifferent, of course we do not get the revenue. In either case the arrears have accumulated. It was said that the power of withdrawal ought not to be given to Government. It is a Minister of the State that has to withdraw and we are not prepared to trust even the Minister of State.

Mr. Narizurrin Ahmad: There is no imputation against the Minister.

Shri M. Ananthasayanam Ayyangar: Against whom? Is it against this wall, against the pillar in the Ministry Office? The Ministry it is that has to pass and the Central Government. The Government must be given the power to withdraw. So the question is whether we should give the power to the Government or not and in such normal cases who is the ultimate authority? It must be the Central Government who will be clothed with the power to withdraw. Some of my friends feel that a number of political influences may be brought to bear even on such a minister in whose hands the future and present prosperity of 200 odd millions is entrusted. We are not prepared to entrust him with this responsibility. We look askance and there is so much agitation and discussion and debate and we do not want the Central Government be given power to withdraw. In certain cases we have hedged it in; we have given a particular date before which alone he should withdraw, after which he ought not to withdraw. Under those circumstances is it at all right to leave it to the officials of the Department, however big they might be. There is the Commissioner of Income-Tax and the Assistant Commissioners they have not been able to do this and therefore it is that Government thought it necessary to create a tribunal. If the officers are not able to do that we say somebody must be appointed who is above reproach. When persons are appointed, we immediately go back and then say, the Department is sufficient. The test of the pudding is in the eating. We must get this money. My Honourable friend wants judges to be absolutely above reproach. We are setting a judicial branch to investigate into this matter and then it is said that facts that they have arrived at are final. I ask my Honourable friend with all his experience how many judges sit in a bench of the High Court? Even the second appeal is heard by a single Judge. A munsiff hears it in the first instance; then a district judge hears it and then it comes to the High Court. We are perfectly satisfied with that procedure. In the Privy Council three out of five Judges may pass a judgment. But when it comes to some of our eminent men we are dissatisfied with them. We smell a rat anywhere and every where where there is no possibility of any rat.

Sir, after all we must realise that this is a quasi-judicial body; it does not profess to be an absolutely judicial body. So the normal principles of jurisprudence do not apply in this case. We do want to get the money due to Government. At the same time we want to see that an over-enthusiastic official is not allowed to bring all and sundry to book and thus place impediments in the way of the business community on whom much of the progress depends. There is nothing hard and fast about this provision. We are, for instance, framing a constitution for this country; there is nothing to prevent us changing it; if it is found to be necessary. Today we pass this Bill; tomorrow, if necessary,

it will be amended. We have seen amending Bills after amending Bills. Therefore, Sir, I say that all these objections are academic. They do not touch the realities of the problem.

Let me now come to the penalty provisions. What is it? Is not my Honourable friend aware that under the Indian Companies law if a Director does not submit a statement by a particular date, for each day of default a penalty of Rs. 500 may be imposed on him. Likewise you can lay down a penalty of Rs. 10,000. But I tell you this Rs. 10,000 is nothing for him—it is after all a flea-bite. It all depends on circumstances. Rs. 10,000 may be too much for me, but to a businessman it is nothing. Possibly it may be suggested that they may be put in jail for two months. But have we come across cases where ordinary offences are punished with imprisonment.

I, therefore, feel that it is no good suspecting our own men at every stage. After all they are men who have put in 30 years of service and will not do any wrong. In these circumstances there is nothing wrong in clothing them with powers and I am sure that they will exercise their powers quite properly.

Prof. Shibban Lal Saksena: Mr. Speaker, Sir, I was very much surprised that any member of this House should have taken objection to clause 4 of this Bill. I think that the guarantees contained in this Bill to ensure that no injustice is done are quite adequate.

I have had experience of one industry, which is probably the second largest industry in the country, and I can make bold to say that a very large amount of income-tax is evaded. Last year in the agreement between capital and labour there was a provision that the millowners shall give 25 per cent of their profits to labourers as bonus. What happened actually was that though they made huge profits, they manipulated their balance-sheet in such a way that the State has lost a very huge sum of money. I think the House will agree with me when I say that we should have no sympathy whatsoever with those who evade taxes and I would appeal to my Honourable friend, Mr. Bhargava that his sympathy is misplaced. Anyway what I suggest is that this Bill as it has been drafted goes only a small way towards catching those who evade taxes and deprive the public exchequer of dues legitimately due to it. I hope that my Honourable friend will withdraw his opposition and that this clause will be passed unanimously.

Mr. Speaker: The question is:

“That clause 4, as amended, stand part of the Bill.”

The motion was adopted.

Clause 4, as amended, was added to the Bill.

Mr. Speaker: I understand that Pandit Thakur Das Bhargava is not moving his amendments.

[At this stage, Mr. Speaker vacated the Chair, which was then occupied by Pandit Thakur Das Bhargava (one of the Panel of Chairmen).]

Mr. Naziruddin Ahmad: Sir, I beg to move:

“That in clause 5 of the Bill, in sub-section (1) of the proposed section 7 of the Taxation on Income (Investigation Commission) Act, 1947, for the words ‘in private’, the words ‘in camera’ be substituted.”

Sir, the clause reads that the Commission “shall.....have the power to regulate its own procedure.....and deciding whether to sit in public or in private.....” Taking the analogy of a court, when it does not sit in public it sits in camera. That is the expression for not sitting in public. I therefore feel that the words “in camera” is more appropriate.

The Honourable Dr. Syama Prasad Mookerjee: I do not accept this amendment. “Private sittings” is quite a public expression.

Mr. Naziruddin Ahmad: Then I do not want to press my amendment, Sir.

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That in clause 5 of the Bill, in sub-section (2) of the proposed section 7 of the Taxation on Income (Investigation Commission) Act, 1947, after the word 'compel' occurring on line six, the word 'the' be inserted."

The Honourable Dr. Syama Prasad Mookerjee: It is really not necessary.

Mr. Naziruddin Ahmad: If it is 'not necessary' it should be ignored altogether.

Sir, I move:

"That in clause 5 of the Bill, in sub-section (2) of the proposed section 7 of the Taxation on Income (Investigation Commission) Act, 1947, for the word 'court' the word 'Court' be substituted."

I find that in this case our Courts have been receiving very scant courtesy from the Draftsman. Even the words "Sub-inspector" or "Inspector" of Police are used with capitals. Therefore courts also should be treated with the same consideration. In the Civil and Criminal Procedure Codes and Acts like the Evidence Act and other Acts the word is always written with a capital letter. Sir, I move.

The Honourable Dr. Syama Prasad Mookerjee: I do not think any amendment is necessary; it will be corrected while printing.

Mr. Naziruddin Ahmad: Sir, I move:

"That in clause 5 of the Bill, in sub-section (2) of the proposed section 7 of the Taxation on Income (Investigation Commission) Act, 1947, for the words 'legal proceedings' the words 'to be deemed legal proceedings' be substituted."

With the amendment the sense of the sub-section becomes complete.

The Honourable Dr. Syama Prasad Mookerjee: That is obvious and it is not necessary.

Mr. Naziruddin Ahmad: Sir, I move:

"That in clause 5 of the Bill, in sub-section (4) of the proposed section 7 of the Taxation on Income (Investigation Commission) Act, 1947, for the word 'proceedings' the word 'proceeding' be substituted."

I submit that the plural is unnecessary.

The Honourable Dr. Syama Prasad Mookerjee: I think it is all right. We need not change.

Mr. Naziruddin Ahmad: Sir, I move:

"That in clause 5 of the Bill, in the Proviso to sub-section (4) of the proposed section 7 of the Taxation on Income (Investigation Commission) Act, 1947, for the word 'Rules' the word 'rules' be substituted."

There is no reason why 'rules' should begin with a capital letter. If an amendment can be accepted outside the House I see no reason why it should not be accepted inside the House.

Mr. Chairman: The Honourable Member is aware that punctuation mistakes and conversions of small letters into capital ones will all be set right when the Bill is printed.

Shri M. Ananthasayanam Ayyangar: Even if the amendment is accepted the printer's devil may change it again. Will exception be taken in any High Court that a different meaning was intended by the use of small or capital letter?

Mr. Chairman: I think it need not be put.

The question is:

"That clause 5 stand part of the Bill."

The motion was adopted.

Clause 5 was added to the Bill.

Shri T. T. Krishnamachari: Sir, I move:

"That in clause 6 of the Bill, in sub-section (1) of the proposed section 8 of the Taxation on Income (Investigation Commission) Act, 1947, the words 'of the majority' be omitted."

Actually it reads: "The report of the Commission shall be based on the materials brought on record and made in accordance with the opinion of the majority of at least two of the members....." There are only three members on the Commission. So those words are not necessary.

Mr. Chairman: Amendment moved:

"That in clause 6 of the Bill, in sub-section (1) of the proposed section 8 of the Taxation on Income (Investigation Commission) Act, 1947, the words 'of the majority' be omitted."

The Honourable Dr. Syama Prasad Mookerjee: I accept it.

Shri M. Ananthasayanam Ayyangar: What we understood this. There are only three members in the Commission. We do want all these persons to sit together, discuss whatever evidence has been gathered and then two of them may decide ultimately and the report ought to be signed. If you say only two, then three need not sit. The difficulty is that two persons can do. A majority of two means that all the three must concur.

Shri T. T. Krishnamachari: If that is the intention it has not been brought out.

Shri M. Ananthasayanam Ayyangar: So instead of saying that two persons can decide without any notice to the third, we mean that two can sit together and decide this matter. Any decision is valid only if members have notice of the meeting and they are consulted. Some may agree and some may not. If it is not unanimous the decision of the majority is valid. But, on the other hand, if notice is not sent, then they do not bring their decision on this matter. But we want all the three must sit together and if two take one view and the other man takes another view, that is another man. This is different from saying that two persons alone can dispose of this matter. It is the substance that matters and not the form.

There is another provision which says that ordinarily ministerial affairs may be delegated by the Commission to any one or the other of the Commissioners, but in the matter of arriving at decisions, the opinion of the three must be obtained.

Shri T. T. Krishnamachari: I would like to point out that the amendment has been given notice of by Shri K. Santhanam and myself and Shri Santhanam was a member of the Select Committee. So far as we discussed it, he indicated to me that there was idea similar to what my friend now gives expression to. At any rate, if that was the object, it must have been stated in a different form.

Shri M. Ananthasayanam Ayyangar: Whatever might have been said in Select Committee, it is not open to us to say here what took place there, apart from what appears in the record. It may be that two of the Judges may have disposed of a case and the third Commissioner was not given an opportunity to discuss it. Let us not then give up the substance of it.

The Honourable Dr. Syama Prasad Mookerjee: Not being on the Select Committee, I could not appreciate what was the force of Mr. Ayyangar's amendment. But apparently what he has in mind has been put in words in the clause as provided. The language is: "The report of the Commission shall be based on the materials brought on record and made in accordance with the opinion of the majority of at least two of the Members of the Commission where its decision is not unanimous." If the words "of the majority" are dropped, it will mean if the decision is not unanimous, then whatever two members may decide must be accepted. So the point Mr. Ayyangar has in view is met by the amendment proposed.

Shri M. Ananthasayanam Ayyangar: Then, why should he move?

The Honourable Dr. Syama Prasad Mookerjee: If we say "and made in accordance with the opinion of at least two of the members of the Commission, where its decision is not unanimous" it suggests that all three must sit together and if all three cannot agree then the opinion of at least two shall prevail.

Shri M. Ananthasayanam Ayyangar: Does not the word "majority" imply that there must be three persons necessarily?

The Honourable Dr. Syama Prasad Mookerjee: "At least two" means the same thing.

Shri M. Ananthasayanam Ayyangar: Do not we say by a majority of at least one? If all three disagree, there is no question of a report. If we agree upon the substance I leave it to the Law Minister for his opinion.

Mr. Chairman: May I bring to the notice of the Honourable Member that clause 4 (2) reads:

"On the occurrence from any cause of a vacancy among the Commissioners, the Central Government may, if it thinks fit, appoint a person to fill the vacancy."

So it is within the power of the Government to fill a vacancy and it may be that only two gentlemen may make a report. Then there will be no question of a majority. So this is a question which requires great consideration. If it is within the mind of the Honourable Minister that all the three should sit, that should be made absolutely clear.

The Honourable Dr. Syama Prasad Mookerjee: If there is a vacancy, Government will see to it that that vacancy is filled up.

Shri M. Ananthasayanam Ayyangar: If they do not fill it up, then we will carry on with the others?

The Honourable Dr. Syama Prasad Mookerjee: The idea is that all three must sit if the three cannot come to an unanimous decision then the decision of two will prevail. That is what Mr. Ayyangar wants.

Mr. Naziruddin Ahmad: We might keep the word "majority" and delete the words "of at least two".

Prof. N. G. Ranga (Madras: General): Then when do you get a majority? Leave it as it is.

The Honourable Dr. B. R. Ambedkar: I would certainly like a fresh draft in place of the draft as it exists. If the idea underlying this clause is that the Commission should sit as a full Court in the investigation of every case, and that the report that would be binding would be the report of the majority of the full Court, although the minority member may have the right to express a separate dissenting opinion, then it would be desirable to make that quite clear by an amendment. But as it is, in the phrase "report of the Commission" is the Commission sitting in Division or sitting as one single body? I am not certain what the intention is. If it is as in the High Court when the Court sits in Division, then one Judge can exercise all the powers of the High Court in deciding cases. I personally think it might be desirable to keep this back for the moment and give a little time for drafting an amendment.

Mr. Naziruddin Ahmad: Sir, I move:

"That in clause 6 of the Bill, in sub-section (3) of the proposed section 8 of the Taxation on Income (Investigation Commission) Act, 1947, for the words 'copy of the report of the Commission, so far as it relates', the following be substituted:

'copy of such portion of the report of the Commission as relates.'"

The clause in the Bill states:

"On a direction being given under sub-section (2), and not otherwise a copy of the report of the Commission, so far as it relates to the case of the person concerned, shall be furnished to him."

For these words I propose:

"copy of such portion of the report of the Commission as relates."

Of course my amendment is open to this objection that the original clause will also do.

The Honourable Dr. Syama Prasad Mookerjee: Sir, you will see the language 4 P.M. in the Bill is "a copy of the report of the Commission so far as it relates". That obviously means that portion of the report which may be relevant and the Honourable Member suggests an amendment which means virtually the same thing, viz., "copy of such portion of the report of the Commission as relates". It is unnecessary unless it is changing for the sake of change.

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That in clause 6 of the Bill, in sub-section (5) of the proposed section 8 of the Taxation on Income (Investigation Commission) Act, 1947, for the words 'of proceedings', the words 'of the proceedings', be substituted."

This passage occurs in the proposed sub-section 5 line 1. It says "in respect of any order made in the course of proceedings". I think the word "the" would be appropriate.

Mr. Chairman: The question is:

"That in clause 6 of the Bill, in sub-section (5) of the proposed section 8 of the Taxation on Income (Investigation Commission) Act, 1947, for the words 'of proceedings', the words 'of the proceedings', be substituted."

The motion was negatived.

Mr. Naziruddin Ahmad: Sir, I move:

"That in clause 6 of the Bill, in sub-section (6) of the proposed section 8 of the Taxation on Income (Investigation Commission) Act, 1947, for the word 'Government', the words 'Central Government' be substituted."

The Honourable Dr. Syama Prasad Mookerjee: I am prepared to accept the amendment, so long as it refers to the Central Government.

Mr. Chairman: The question is:

"That in clause 6 of the Bill, in sub-section (6) of the proposed section 8 of the Taxation on Income (Investigation Commission) Act, 1947, for the word 'Government', the words 'Central Government' be substituted."

The motion was adopted.

Mr. Naziruddin Ahmad: Sir, I move:

"That in clause 6 of the Bill, in sub-section (6) of the proposed section 8 of the Taxation on Income (Investigation Commission) Act, 1947, for the word 'power' occurring in line seven, the word 'powers' be substituted."

The Honourable Dr. Syama Prasad Mookerjee: Sir, I accept the amendment.

Mr. Chairman: The question is:

"That in clause 6 of the Bill, in sub-section (6) of the proposed section 8 of the Taxation on Income (Investigation Commission) Act, 1947, for the word 'power' occurring in line seven, the word 'powers' be substituted."

The motion was adopted.

Mr. Chairman: I shall hold over Clause 6 for the time being and put clause 7 to the House.

The question is:

"That clause 7 stand part of the Bill."

The motion was adopted.

Clause 7 was added to the Bill.

Mr. Naziruddin Ahmad: Sir, I beg to move:

"That after clause 7 of the Bill, the following new clause be added :

"8. *Substitution of new section for section 10, Act XXX of 1947.*—For section 10 of the said Act, the following shall be substituted, namely :

"10. *Power of Central Government to make rules.*—(1) The Central Government may subject to the condition of previous publication, make rules, not inconsistent with this Act, to give effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :

- (a) access to books, documents and entry into buildings and places and other matters mentioned in sub-section (9) of section 6;
- (b) grant of certified copies of documents and fees payable for the same and other matters mentioned in sub-section (4) of section 7."

In moving this amendment I beg to submit that Section 6 sub-section 9 and Section 7, sub-section 4 make provision for making rules. It is usual to give a general power under sub-section (1). That is already in section 10. But it is also usual to specify the powers as far as may be possible. It is no good giving general powers and not specifying the powers again. It is usual to give general powers on the lines of sub-section (1) and sub-section (2) deals specifically with any power and what is left over is covered by sub-section (10).

Shri M. Ananthasayanam Ayyangar: Sir, on a point of order, may I know if this rule-making section is part of this section? It has not been touched.

Mr. Naziruddin Ahmad: We have touched under Section 6, sub-section (9) and section 7, sub-section (4). We are enacting new sections and therefore these words are mentioned. The power of making rules is mentioned.

Shri M. Ananthasayanam Ayyangar: It is true that on page 4 section (9) it is said "subject to any rules made in this behalf under this Act" but the rule-making power is also under Section 10. It is not a matter of mere form. My Honourable friend has said "subject to the condition of previous publication". The provision under the general clauses Act says "in three separate issues". For three months you have to issue notification and you must call for objections and at the end of 3 months, by that time out of 2 years 3 months would have elapsed. All this is unnecessary. The rule-making power is there. Let us not add more and complicate the issues. The rule-making power is there already.

Mr. Chairman: Does the Honourable Member, Mr. Naziruddin Ahmad, agree that his amendment need not be put to the House?

Mr. Naziruddin Ahmad: All right, Sir.

The Honourable Dr. B. E. Ambedkar: I suggest:

"That in clause 6, in place of sub-section (1) of the proposed section 8 the following be substituted, namely :

"Unless otherwise provided in this Act, all Members of the Commission shall sit as a full court to consider the materials brought on record, and the report of the Commission shall only be in accordance with the opinion of the majority."

I am sorry I have not got a copy of the amendment. The words "unless otherwise provided in this Act" are necessary for this reason. In this Bill there are certain clauses—for instance the new section 7(1)—where the Commission is entitled to assign duties to single Members to do certain things which are not really connected with the adjudication of the matter, such as in connection with rule-making powers, granting time etc. You do not want the full court to be brought into operation for these things. What we want is that where any material is placed which affects the assessee or on which the Commission has to make its report all Members should sit and give their judgment. The words "except in cases otherwise provided for in this Act" are necessary for this purpose.

Shri M. Ananthasayanam Ayyangar: I would like to know whether the expression "provided for in this Act" would mean also "provided for by the rules made under this Act".

The Honourable Dr. B. E. Ambedkar: Yes.

Shri M. Ananthasayanam Ayyangar: In that case is it open to the rule-making power to say that one judge alone can dispose of the cases?

The Honourable Dr. B. E. Ambedkar: The Rules cannot alter the substantial part of the section which is that in all cases where material has to be adjudicated upon the Commission shall sit in full. That provision will not be diluted or altered by the rule-making power.

Mr. Nasiruddin Ahmad: With reference to the expression that they sit as a full "Court". I want to say something. It has been conceded that they do not function as a Court at all. I would therefore suggest that instead of saying 'full Court' we should say that when they pass final orders they must sit together or dispose of the matter together.

The Honourable Dr. B. E. Ambedkar: I do not see what objection there can be to the word 'court'. It may be a court for certain purposes and it may not be a court for other purposes.

Prof. N. G. Ranga: We have been using the phrase 'Investigation Commission' throughout.

The Honourable Dr. B. E. Ambedkar: I only did it for the sake of grammar as the word is coming twice. If you like the word 'Tribunal' we can use it—'sitting as a full Tribunal'. But 'full court' is the proper expression. In the Draft Constitution also we have used the same words.

Shri M. Ananthasayanam Ayyangar: I suppose it is 'court' with a small 'c' and not the capital letter.

Mr. Chairman: Let us have the amendment. Will the Honourable Minister give it in writing?

The Honourable Dr. B. E. Ambedkar: Yes, Sir. I move:

"That in clause 6 of the Bill for sub-section (1) of the proposed section 8, the following be substituted, namely:

- (1) Save as otherwise provided in this Act, the materials brought on record shall be considered by all the three members of the Commission sitting together, and the report of the Commission shall be in accordance with the opinion of the majority."

Mr. Nasiruddin Ahmad: I would suggest the use of the words 'in this act, instead of 'in the Act'.

The Honourable Dr. B. E. Ambedkar: I would like to please the Honourable Member this time; I accept his change.

Mr. Chairman: May I enquire from the Honourable Member, Mr. T. T. Krishnamachari what happens to his amendment?

Shri T. T. Krishnamachari: I would like to have your permission for withdrawing it.

Mr. Chairman: Has the Honourable Member leave of the House for withdrawing his amendment?

The amendment was, by leave of the Assembly, withdrawn.

Mr. Chairman: Amendment moved:

"That in clause 6 of the Bill for sub-section (1) of the proposed section 8, the following be substituted, namely:

- (1) Save as otherwise provided in this Act, the materials brought on record shall be considered by all the three members of the Commission sitting together, and the report of the Commission shall be in accordance with the opinion of the majority."

Dr. Bakshi Tek Chand (East Punjab: General): The words 'Save as otherwise provided in this Act' are wholly unnecessary. When everything else is complete the report has to be considered. This is a provision dealing with that stage, and hence these words are redundant and may cause confusion and may nullify the provision which the Honourable Law Minister is making. The point is that we want is that whatever may be done in the preliminary or earlier

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stages when part of the functions may be taken by one Member, when we come to the stage when everything is complete, when the investigation is complete and when the report has to be made, all the Members should sit and consider it. We simply make it imperative that the materials collected during the course of the investigation shall be considered by all the three Members of the Tribunal sitting together—not individually, not by two Members sitting, not by all of them sitting separately. These words are unnecessary and may nullify the provision. I suggest that they be omitted.

The Honourable Dr. B. E. Ambedkar: I do not know. I certainly will say that it will not cause any confusion at all, because the second part of the clause that 'the materials shall be considered' is a distinct clause, quite separable from the rest; and therefore there could be no confusion. The reason why I am hesitant to omit the first few words 'Save as otherwise provided in this Act' is because I cannot say that I have studied this Act very carefully. I must say I was not connected with it at any of the stages. And if there are any provisions in this Act where, for instance, some such provision is made whereby functions are assigned to different members of the Commission to be performed individually, I think those clauses ought to be saved.

Mr. Chairman: There is clause 5.

The Honourable Dr. B. E. Ambedkar: The Finance Department has drawn my attention to the provisions of clause, particularly 5 the addition of new section 7(1) where, I think, functions are assigned to individual Members of the Commission. I do not think that at this stage I could with perfect conviction say that by omitting these words I was not going to create any difficulty in the way of the Finance Department. By keeping them there is not likely to be any injury at all. As I say, the last part is quite clear.

Mr. Nasiruddin Ahmad: We are proceeding on the theory that there will be only two sides to a question but there may be three sides. So the members of the Commission may go on three different ways. In fact one may think that an assessee should be assessed at 5 lakhs, another 6 lakhs, and another 7 lakhs. The proposed amendment or even the existing sub-clause does not cover that. The assumption is that there will always be two sides of a question—'yes' or 'no'; but it may be a question of assumption.

The Honourable Dr. B. E. Ambedkar: The reason for which the new section has been drafted is this. My Honourable friend will remember that no provision is made for the dissenting party and the dissenting commissioner to record his opinion. Nor is there an obligation to publish it. The reason is obvious. Supposing, for instance, there was a third opinion in favour of the assessee and the opinion of the majority were against it. To allow a third member to give an opinion and to have it published would probably give further ground for the assessee to carry on agitation that one member has decided in his favour and the opinion of the other two should not be accepted, and just as for instance in the case of the Privy Council the majority opinion is expressed as the unanimous opinion of the whole of the Privy Council with no permission for the dissenting opinion to be recorded, I think that is a salutary rule and in this case it should be adopted.

Shri M. Ananthasayanam Ayyangar: Mr. Nasiruddin Ahmad wanted to know what will happen if the three commissioners are of three opinions. I put the same question 'what will happen if the five members of the Privy Council give five different opinions?' The same thing will happen—there will not be any report. They will stultify themselves.

Mr. Chairman: The question is:

"That in clause 6 of the Bill for sub-section (1) of the proposed section 8, the following be substituted, namely:

'(1) Save as otherwise provided in this Act, the materials brought on record shall be considered by all the three members of the Commission sitting together, and the report of the Commission shall be in accordance with the opinion of the majority.'

The motion was adopted.

Mr. Chairman: The question is:

"That clause 6, as amended, stand part of the Bill."

The motion was adopted.

Clause 6, as amended, was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Dr. Syama Prasad Mookerjee: Sir, I move:

"That the Bill, as amended, be passed."

Mr. Chairman: Motion moved:

"That the Bill, as amended, be passed."

Prof. K. T. Shah: Sir, It is an irony that I have to stand up and make some remarks which might suggest as though I am against this Bill. I am against it not because it does not meet the occasion: I am against it because it does not go far enough, because as it has been now put forward before us, I say with the utmost humility and respect there will be every opportunity for the bigger rogues to escape and the smaller fry to get caught, perhaps with the result that the public might be hoodwinked that we have done something in the matter. I would however like the House to understand my reasons and the grounds on which I am opposing this Bill somewhat more fully. In the first place it is no secret to this House that our finances are in a position and our aims of a kind in which we should need every pie that we can obtain. It has been stated in this House by myself and by another Honourable Member that at least as much of the revenue due to the state on account of income-tax escapes being paid as is collected, and if you consider the figures now, you will see that the amount will be quite a respectable one if everything that is due to the state or ever a greater proportion of what is due to the state goes into the coffers of the state. The Planning Board had estimated that something like 5 crores should be given to the provinces to enable them to carry out their various schemes of reconstruction. It is admitted now that the Centre has no such resources to assist the provinces to the extent that it was once hoped they might be able to assist. The Centre, in my judgement, Sir, has ample resources if only the Centre would also make up its mind to see to it that those resources are not dissipated but brought up. May I in this connection, Sir, claim the great authority of the Honourable the Prime Minister of today who, before the cares of office had mellowed his judgement and the burden of state responsibility had moderated his tone, once spoke of profiteers in such a vein that if he could have an hour and if he was in that position and if he could get hold of them, he would hang them at the nearest lamp post. I do not know whether he would now entertain that opinion or express it in the same forcible language.

Shri H. V. Kamath (C. P. and Berar: General): Do not rake up the past?

Prof. K. T. Shah: Is it such a shameful past that I should not? I for one should honour him for holding such an opinion and presenting it in no unmistakable language. However if you do otherwise, you are welcome to that opinion.

In a round-about manner, while the profiteer takes advantage of a particular occasion or emergency, the regular systematic tax-evader makes it a business so to say, and therefore becomes, in my opinion, a seasoned hardened veteran against the social system and the social conscience, and as such I again say with all respect to this House that no mercy ought to be shown to the tax-evader if this nation desires that all the lee-way that has to be made,

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up in its economic development and social betterment and the standard of living of the people is to be made up within any measurable distance, if equality not only of opportunity, but equality also of material standard of living are to be fully available to all the people of this country, and if the real freedom for which we have been fighting for all these ages is to be real and enjoyed by everyone in this country and not to be the privilege of those who can fatten themselves by robbing the state of its just dues. Sir, let me now take the case of the procedure by which people who evade taxes are to be caught if they are to be caught at all. The cases are to be referred to the Commission by Government, and as I said on an earlier occasion Government would be advised mainly by their officers. I am not suggesting for a moment that a matter like this should be done by instituting a sort of individual espionage. I am not suggesting for a moment that we should all constitute ourselves in the sacred name of the national cause and the public purse as so many agents of the Secret Service and go on collecting information and presenting that to the Finance Minister or the Income-tax Commissioner, or whoever the authority may be. But, Sir, on an earlier occasion I referred to rumours prevailing in this matter, which it would not be possible in the ordinary course of things to specify, to make more definite. I am aware, Sir, that there are privileges of this House which would enable us to speak out far more openly than a sense of decorum, than a sense of what is due to this House and its dignity restrains many people from putting forward. But if this kind of sense, of being Honourable Members of this House, is to become a burden then I am afraid that people may be forced to take shelter under the privileges of this House and come forward with names and facts, which may be very difficult to establish legally perhaps outside but which for a Commission of the kind that is proposed to be set-up may be very useful. I am not going on this occasion to avail myself of this opportunity, to avail myself of the privileges of the House, to speak freely without fear of any proceedings being undertaken for what is said in this House, but I tell those who are responsible for placing people in a position in which some day they may have to take such a recourse, that we should not drive too hard those who suffer under a sense of respecting their dignity of this House, of being as decorous as would justly earn them the title of being Honourable Members of this House.....

Prof. N. G. Ranga: Who is preventing either this Honourable Member or any other Honourable Member from placing the information that he has in his possession at the disposal of the House, if he considers it in public interest? There is no Party, there is no Group at all in this House which prevents any honourable member from placing whatever information he has in his possession before the House!

The Honourable Dr. Syama Prasad Mookerjee: Or the Government!

Prof. K. T. Shah: I said there is a sense of decorum.....

Prof. N. G. Ranga: Nobody is coercing you!

Prof. K. T. Shah: I am not saying anybody is coercing me. But I am only saying that this is the condition of things under which we are working and acting. But a time may be reached when it may be necessary to take shelter under the privileges of the House and do bring forward the information that we have. It is also true that under the situation in which we are, such information is vague and indefinite, and therefore not in accordance with the dignity of this House to bring it forward. But it is quite possible, too, if one is challenged to say that it may be easy to obtain such information, or at any rate with some labour one can bring forward information that may be very difficult to deny. However, as I said already, I am not for the moment going to take shelter under such a privilege and make statements which may perhaps not quite be consonant with the policy I have followed so far in addressing myself to this Honourable House.

The point, however, that I was making was that the usual source of information of Government lies in their officers, and as I have already said these officers, or some of them, have shown themselves open to engagement by private individuals whether before the termination of their normal official career or even before such a career ended, and there have been cases in which high senior officials of the Civil Service or other services have left Government service and joined private firms or corporations where they had more tempting offers. For my part, I am aware that there is always a risk even for the private people in engaging such gentlemen especially in this matter of income-tax, as those who helped them to evade the income-tax may also, if they fall out with them, enable the Income-tax authorities to see to the ways and means by which those people used to be evading by their advice or without their advice. But in spite of this risk, there is a possibility that so long as there is no bar, so long as there is no restriction placed officially or by law upon people in Government service enjoying high places and in a position like those in connection with the Income-tax Department, so long in my opinion the risk remains, the danger is there, that the very advisers of Government may not be quite dependable or may not advise them to the extent and degree that it is necessary in the interests of the State that they should.

Sir, there have been cases in regard to the standard of public decency and public morals that ought to be followed, in England. For example, there in the last ten or fifteen years people have been caught, high officers of State—one or two—right up to a Minister in the Cabinet rank, who have been found guilty of improper behaviour, to say the least, and whose services have been summarily dispensed with. What other action has been taken I do not know, but the standards of public behaviour, the unwritten conventions of official etiquette which are prevalent in that country have also provided more than one occasion on which public servants of high eminence have had to make heavy sacrifices so that by their position in the public service they should not be able to make private profits for themselves. There was the case in regard to the first category I mentioned of a high public servant who in the course of his service was reported to have had dealings with the Imperial Airways—I believe it was called by that name in those days—as regards provision for him after his retirement from the public service, and just on that ground that public servant—almost a Secretary of a Department—was dispensed with summarily. On the other hand, the case is known of an Admiral of the Fleet who went to preside over a Commission of three people to advise Government in regard to changing the Navy from coal to oil; he had certain shares in an oil company, his views on the change from coal to oil were very well-known, and if that change was made then those shares would substantially improve in value. He went to the then Prime Minister or perhaps to the King to enquire the line of conduct he should follow and the person concerned, immediately advised him, before he took the Chair on the Commission, to dispose of those shares, which he did. The value of those shares rose 700 times when the report of his Commission was out.

I am giving this example just to show that the standards of character expected from high officials of the State in other countries are perhaps much higher than what we have here;—especially from this point of view that a public official is not barred from accepting engagements in private service where he has greater chances of enriching himself. The Honourable, the Law Minister I think referred to the lack of a provision in this Bill which would make it impossible for the members of this Commission to accept any posts in public service after their retirement from the post of the Commissioners. There is no provision, however, against accepting any post in private employ and so long as that risk remains I fear that the opportunity for allowing oneself to be deceived will be so great that the risk of loss to the State would, in my judgment, be very considerable. Sir, if and so long as this is there, I think there are several provisions of this Bill which render it unacceptable, which make

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it not go, as far as it should go, in the interests of the public exchequer. It has been suggested, for instance, that no case once referred to the Commission should be withdrawn. I am glad to note that reason has at last prevailed on the resoluteness of Government and they have accepted some modification of their original clause by which it is now provided that Government should apply to the Commission for withdrawing a case. I take it that that application would contain reasons, grounds, arguments, why such cases should be withdrawn, though no reference is actually made in the amendment so far as I have been able to follow it. There is, however, nothing said about the Commission—I think the word 'concurrence' has been changed into 'approval'—but nothing has been said as to whether the Commission would give their approval after further enquiry, after making such further investigation, after further considering what is submitted by Government to the best of their satisfaction and then only giving their approval or non-approval as the case may be. I am afraid this amendment, though welcome as far as it goes, is not all that it should have been and as such does not, in my opinion, serve the purpose which it was intended to serve.

I have no desire to trespass on the patience of the House. Here are reasons—I could give more and more—which make the Bill in my judgment not sufficiently strong nor sufficiently clear, whereby the purpose, the ultimate object of the Bill is to be secured. It has been said that not too many people, not too many names would be submitted. I welcomed that idea on a former occasion as likely to avoid needless harassment, but I feel, Sir, in regard to such matters the innocent are likely to be more strongly in a conspicuous minority—I was going to say, a minority of perhaps less than 1 per cent. or less. In one way or another, most of the parties likely to be on the advice of the officers of Government included in a list like this, not quite innocent and therefore allowing them to escape without reason or without the Commission fully investigating the whole matter would, in my opinion, not be fair.

Another ground on which also I had the honour to move an amendment which was not accepted by the House was in regard to the report of all cases in which the Commission may be satisfied that there was no ground and therefore the case may be dismissed. Now, Sir, I only wanted the report to be laid on the table of the House, so that those members of the House who feel inclined to study such a document—perhaps there are many, perhaps there are not—may have the benefit of all the labours of the Commission and educate themselves into the ways of such tax-evaders or the justice of their case. It was said that such matters might even teach honest men to become dishonest. Well, that was not my intention. If such a meaning was read by an Honourable Minister in a remark like that, then I am afraid my language must have been extremely ambiguous and I should have said something which I never intended to say. All that I wanted to say was that, here is a case of a perennial recurrence, here is a matter which is of common occurrence every day. I gave on a former occasion the example of a man, no less rich, no less eminent and distinguished as a former Secretary of the Treasury to the United States, Mr. Mellon, who was found guilty of having evaded taxes to the tune of several million dollars by a Senate Enquiry Committee. Now, this almost makes one think with the cynic who said that every man and every woman has a price; some have more and some have less but no one is above a price. But I hasten to add that I am not of that opinion. I believe that in spite of all evidence to the contrary there are people who are not going to be bought for any consideration that only wealth can offer, but still, dealing with the average world of mortals and having before us examples of this kind, I think it not unlikely that temptations may be there and people may not be able to resist them. Is it not therefore the mark of wisdom to prevent such temptations occurring? Is it not therefore wise and proper that we should offer the less

temptation and therefore I have suggested that, let the House know from the report of such cases, if any, what were the reasons, what were the grounds on which the Commission came to the decision to which it had done. On those grounds and others of the same kind and principally on the ground that if measures like this were tightened up sufficiently, those who are now indulging in the practice of tax-evasion, not always illegally, very often in accordance with the provisions of the law which provide sufficient loop-holes to escape, would give the very badly needed assistance to the Exchequer that we stand in need of today and we would not have fears of our credit, of our plans for development and reconstruction being thwarted or frustrated because we have not the where-withal to implement them. Both at home and abroad, we should have sufficient credit if we only know how to tap our resources. For these reasons, Sir, I oppose the Bill.

Mr. E. K. Sidhva (C. P. and Berar: General): **Mr. Chairman**, Sir, my friend Prof. K. T. Shah opposed this Bill on the ground that it does not go as far as he desires it to go. It is just possible that if it had been entrusted to him to prepare a Bill, he would have made a perfect Bill whereby no taxpayer would have been able to escape the payment of taxes. I do not dispute that, but let me say that I am quite satisfied with the provisions of the Bill. I am more than satisfied. The reasons are that Government have taken pains to say that they will not tolerate any more tax-dodgers and they have taken pains to constitute the Commission, the personnel of which are of the highest integrity. They are very able men and I have not the least doubt that they will work very honestly, justly and rightly and nobody would be able to escape from paying the just dues to the State, which they have all along dodged.

I stated, Sir, when this Bill was referred originally to the Select Committee that if the Income-tax Act was followed properly Government would have recovered 50 per cent. more tax even under the ordinary Act. But as we know, in the past the income-tax machinery was so wooden and rotten that both the tax-payer and the Department combined and brought a tremendous loss to the State. Particularly during the war, many efforts were made by the Government of those days in bringing proposals to levy taxes—super-taxes, business taxes, profit taxes, war taxes—and yet the tax-payer and the black-marketeer avoided the payment of taxes. They are so clever in doing that. Now, as the Honourable the Finance Minister stated the other day, he has appealed to the tax-dodgers to make a clean breast. This National Government is not going to tolerate any more tax evasion. If they make a clean breast of it, it will be to their advantage. Otherwise, this new Act will take its natural course and Government will not allow any one to escape, however high he may be or however small he may be. Sir, I do not understand why my Honourable friend Prof. Shah should have absolutely opposed the Bill. No Act is perfect; I have seen many Acts; you can never expect an Act to be perfect; no man is perfect; I am not perfect. Therefore, Sir, to say that an Act should be perfect is to say something which would not easily be achieved. What we should see is whether the Government have taken pains to see that the object is going to be fulfilled. That is the main point one has to remember when looking through the provisions of this Bill and I am convinced about it. The Government's sincerity cannot be doubted and the Government's intention as far as the provisions of this Bill cannot be challenged. It could have been made more stringent, no doubt. Several provisions of this Bill here and there could have been made more stiff, I do not dispute that. That may have been done, but the Bill as it has been framed has given ample scope to the Commission to come to the right decision, as they think best and as they think proper according to the evidence that will be placed before them by the Government. Under these circumstances, I do feel and I must say, Sir, that I congratulate the Government for having brought this Bill—a Bill which was presented to this House a year ago—but was never allowed to be operated upon. I stated in the House at the time the Bill was sent to the Select Committee that the

[Mr. R. K. Sidhva]

object with which the Bill was actually introduced and passed into law by this House in 1947, this month, was not given effect to. I therefore, Sir, cannot understand, unless I am led to believe—and I have every reason to believe—the tax-dodgers and the officials of the Department mixed themselves. There can be no doubt, Sir, that the Act should have been proceeded with. But the then Government, of course, was an interim Government; they were neither here nor there; they were neither national nor were they popular. After having come and sat in the office nationally and properly, they have done the first duty of catching these dodgers and I do feel that the money belonging to the people, that is, to the State can never be allowed to go scot-free and the wisest step in the initial stage that the Government have taken is by bringing this Bill and I am confident, Sir, knowing the views of the House, knowing the constitution of the Commission, the honesty and integrity of the Commission, the Department will also work honestly and if they do not work honestly, Sir, I am confident the Ministers will have to give them a walking ticket and if they do not give them a walking ticket, it will be bad days for everyone of us, particularly the Treasury benches. But I am sure that it is not going to come because they have brought such a popular bill and I do not think they will allow these tax-dodgers to go scot-free whosoever may be in the Department. Then again, times have changed and even if the same officials may be in the office—I do not know—anybody in the department here, who were there then and who are now—I am not going to accuse anybody, but the fact remains from my experience that in all the provinces they mixed up with the tax-dodgers, not only mixed up, but they suggested to them a method as to how to evade the payment of taxes; they devised many means and they allowed this Bill to be postponed. Under these circumstances, I strongly support this Bill; I welcome it; I congratulate the Government and I expect my Honourable friend, Prof. K. T. Shah even at this stage would kindly withdraw his opposition in the interest of the State. His opposition although from a different point of view will be much misunderstood and although he may be thinking that it will not be misunderstood, I fear that it will be misunderstood and therefore I request him to withdraw his opposition.

Shri T. T. Krishnamachari: I move:

“That the question be now put.”

Mr. Chairman: The question is:

“That the question be now put.”

The motion was adopted.

The Honourable Dr. Syama Prasad Mookerjee: I do not think I am called upon to give any long reply except to say just a few words. I can understand Prof. Shah's anxiety to see that everything is done by Government which does not arouse any suspicion from any quarter, but so far as this particular matter is concerned, what else Government could have done? Government decided to appoint the Commission. There were so many stories that Government wanted to postpone the appointment of the Commission or to abandon it altogether. The Government constituted the Commission in a way which commands the confidence of all sections of the people. The Commission itself suggested that it must be armed with additional powers if the Commission is to function properly. Much has been said about the officers and I think not with the amount of fairness and justice which was expected from members of this House. It should be remembered the officers themselves were anxious that larger powers should be given to the Commission if the results of the enquiry were to be what everyone wanted them to be. Then the Bill came and was referred to the Select Committee. It has been discussed here today elaborately. Prof. Shah had only one or two amendments to move and I believe, barring one all of them he withdrew.

Prof K. T. Shah: I withdrew only one.

The Honourable Dr. Syama Prasad Mookerjee: He withdrew one and he did not move many.

Prof K. T. Shah: Again I say I moved whatever I was able to move.

The Honourable Dr. Syama Prasad Mookerjee: I am not blaming him but the actual fact is one of the most important amendments he withdrew and some he did not press, but in respect of others he moved he did not get any support from any section of the House, for he could offer no constructive suggestions. Merely to appear in the role of a destructive critic with nothing constructive to offer neither helps him nor helps the dignity of the House. I hope, Sir, that the Commission will function properly and Government also has made an appeal to the persons concerned that they must come forward and behave as any strong national Government wants that the people should behave. Lastly, Sir, the Finance Minister was unable to be present today on account of sudden indisposition and he asked me to convey to the members of the House his apology that he was not here to pilot the Bill at this final stage.

Mr. Chairman: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Tuesday the 28th March, 1948.