

Friday,  
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THE  
CONSTITUENT ASSEMBLY OF INDIA  
(LEGISLATIVE) DEBATES

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of the

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)  
1948



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# CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)

Friday, 19th 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

### (a) ORAL ANSWERS

#### COLLECTORS OF CUSTOMS AT MADRAS, CALCUTTA AND BOMBAY

865. \*Mr. R. K. Sidhva: (a) Will the Honourable Minister of Finance be pleased to state whether the Collectors of Customs at Madras, Calcutta and Bombay are Indians or non-Indians?

(b) How many non-Indians are still in India on the cadre of Collector of Customs?

The Honourable Shri R. K. Shanmukham Chetty: (a) The Collectors of Customs at Bombay and Calcutta are Indians, the Collector at Madras is a non-Indian.

(b) One.

Mr. R. K. Sidhva: May I know whether the Collector of Bombay, who is said to be an Indian, is an Indian Jew or a European Jew?

Mr. Speaker: The Honourable Member will be permitted to ask permissible questions. He is entering into details of administration.

Mr. R. K. Sidhva: I wanted to know whether he is an Indian or a foreigner.

Mr. Speaker: He is an Indian: the answer is there.

Mr. Tajamul Hosain: How long does the Honourable Minister intend to keep the non-Indian Collector in Madras?

The Honourable Shri R. K. Shanmukham Chetty: As a matter of information I may tell the Honourable Member that this gentleman will be proceeding on leave preparatory to retirement by the middle of May this year.

#### REVISION OF CANTONMENT LAND ADMINISTRATION RULES, ETC., IN VIEW OF CHANGED SITUATION IN INDIA

866. \*Mr. R. K. Sidhva: (a) Will the Honourable Minister of Defence be pleased to state whether Government have taken any steps to revise the Cantonment Land Administration Rules, Cantonment Executive Officers Service Rules, Cantonment Funds Service Rules, Cantonment Accounts Code, and Cantonment Electoral Rules to fit in with the changed situation in the country?

(b) If not, do Government intend to take steps in this direction?

The Honourable Dr. Syama Prasad Mookerjee: (a) No, Sir.

(b) The question will be examined.

Mr. Tajamul Hosain: How long will Government take? When will the question be examined?

Mr. Speaker: Order, order. Next question.

**PAY, LEAVE AND ACCOMMODATION FOR SWEEPERS EMPLOYED BY CANTONMENT  
BOARDS**

**867. \*Mr. R. K. Sidhva:** (a) Will the Honourable Minister of Defence be pleased to state whether sweepers employed by Cantonment Boards in India are not allowed leave with pay for service of eleven months and over?

(b) Is it a fact that under the Cantonment Servants Rules framed by Government they are not allowed any leave with pay?

(c) If so, do Government propose to revise these Rules?

(d) Are the sweepers entitled to Provident Fund maintained by Cantonment Boards?

(e) What is the monthly pay of sweepers in all Cantonment Boards in India?

(f) How many Cantonment Boards give free quarters or house rent allowance in lieu thereof to the sweepers?

**The Honourable Dr. Syama Prasad Mookerjee:** (a) The rules provide that sweepers like other inferior servants in Government employ may get leave with pay if a substitute is not required.

(b) For purposes of leave, Cantonment Fund Servants are governed by Fundamental Rules and Revised Leave Rules, 1933, under which they are treated as inferior servants.

(c) Revision of these rules is being considered by Government in accordance with the recommendations of the Central Pay Commission on this subject.

(d) Yes, if their basic pay is not less than Rs. 20 per month.

(e) and (f). Information is being collected and will be laid on the table of the House in due course.

**INFILTRATION OF MUSLIM TROOPS OR ITTEHAD-UL-MUSLEMIN RAZAKARS OF HYDER-  
ABAD STATE INSIDE INDIAN TERRITORY**

**868. \*Pandit Mukut Bihari Lal Bhargava:** (a) Will the Honourable Minister of States be pleased to state whether it is a fact that there has been repeated infiltration of Muslim troops or Ittehad-ul-Muslemim Razakars, during the last two months inside the Union territory and inside the provinces of Madras, Bombay and Central Provinces?

(b) If so, how many incidents of this nature were reported and what was the extent of the loss caused to person and property of the subjects of the Union?

(c) What steps, if any, have Government taken so far, to check the repetition of such incidents?

(d) Have Government made any protest to the Nizam's Government on the point, and if so, with what result?

**The Honourable Shri R. K. Shanmukham Chetty:** (a) Yes.

(b) The number of incidents in the Central Provinces and Berar during January and February 1948 is 16, involving loss of life of one person and estimated loss of property worth about Rs. 16,000. Information from the Madras and Bombay Governments has not yet been received.

(c) The matter is under discussion with the Hyderabad Government and I would invite the Honourable Member's attention to Mr. Gadgil's speech in reply to the debate on the question of Hyderabad on the 15th March 1948.

(d) Yes. The Hyderabad Government have promised to do their best to prevent these border incidents.

**Seth Govinddas:** Who is going to give the compensation to the sufferers? Is the compensation to come from the Hyderabad Government or from anywhere else?

**The Honourable Shri R. K. Shanmukham Chetty:** These matters are still under discussion with the Government of Hyderabad and it will be for us later on in the light of those discussions to decide whether we should press on the Hyderabad Government to pay compensation for these losses.

**Seth Govinddas:** Have Government of India written specifically to the Hyderabad Government that they should compensate the sufferers?

**Mr. Speaker:** Has not the Honourable Minister said that the matters are under negotiation?

**Seth Govinddas:** I am asking whether the Government of India have specifically written to the Hyderabad Government about compensation.

**The Honourable Shri R. K. Shanmukham Chetty:** The question whether we should really press the Hyderabad Government for compensation will depend upon the course of the negotiations.

**Prof. N. G. Ranga:** In the case of these raids that are being made from Hyderabad State into our territory by Ittehad-ul-Muslemn, Razakars and communists have Government experienced any co-operative spirit on the part of the Hyderabad State to get hold of the perpetrators of these raids and also to recover as much of the looted property as possible?

**The Honourable Shri R. K. Shanmukham Chetty:** Recently as a result of the talks between our Agent General at Hyderabad and the Prime Minister of Hyderabad it has now been arranged that there will be a joint inspection of these border areas of Hyderabad and the provinces concerned and we are hoping that as a result of this joint inspection the conditions will improve.

**Prof. N. G. Ranga:** Is it not a fact that in spite of the promised strengthening of our own border areas by the formation of border protection forces and so on, even today the people on the side of our own borders are suffering from a great sense of nervousness on account of the inadequacy of these forces?

**The Honourable Shri R. K. Shanmukham Chetty:** We are fully alive and the Provincial Governments are fully alive to the need of protecting these border areas. In fact to enable the provincial Governments concerned to arm the police in these areas request has been made to the Central Government for the supply of arms and we have also taken steps for the supply of arms to the provinces. The tactics of these raiders has been just to rush in and then immediately disappear and unless there is wholehearted co-operation on the part of the authorities of the Hyderabad State there cannot be any effective stoppage of these raids and we are taking up this matter very strongly with the Hyderabad Government.

**Dr. P. S. Deshmukh:** Should this not be taken as inability on the part of the Government to protect the nationals of this Union?

**The Honourable Shri R. K. Shanmukham Chetty:** There is no warrant for any such inference at all.

**Dr. P. S. Deshmukh:** Is it not a fact that right up to this moment news about killing and looting is coming in every day and would not the Government under such circumstances be prepared to admit that the steps which they have been taking are most ineffective?

**The Honourable Shri R. K. Shanmukham Chetty:** I would not admit that the steps are ineffective. After all it will take time before the steps become completely effective. Certainly the Hyderabad authorities know that there is a limit to the patience of the Government of India.

**Shri H. V. Kamath:** Has it come to the notice of Government that some of these so called communists who are creating trouble are in reality Razakar wolves masquerading in communist clothing?

**The Honourable Shri R. K. Shanmukham Chetty:** Quite possible.

**Shri Mohan Lal Saksena:** May I know whether the Government have considered the desirability of arming our nationals on the Hyderabad border?

**The Honourable Shri R. K. Shanmukham Chetty:** We will certainly consider that if things become really so serious as all that.

**Shri M. Ananthasayanam Ayyangar:** In view of the fact that one particular Muslim organisation is responsible for all this trouble have any steps been taken by the Government of India to represent to the Hyderabad Government that this organisation should be banned or, at any rate, must be disbanded as early as possible?

**The Honourable Shri R. K. Shanmukham Chetty:** We are impressing upon the Hyderabad Government that even in the interests of the Hyderabad State itself there should be responsible government in the State if these irresponsible and violent forces are to be suppressed, and we are still hoping that the Hyderabad Government will accept our advice in the matter.

**Dr. B. V. Keskar:** Is the Government satisfied that there is no complicity between the Hyderabad Government and the Razakars?

**The Honourable Shri R. K. Shanmukham Chetty:** I do not think we have got any reason to suspect that the Hyderabad Government is in league with this organisation.

**Shri M. Ananthasayanam Ayyangar:** Has any time limit been fixed within which responsible government should be introduced in the State or in regard to the controversy between India and Hyderabad?

**The Honourable Shri R. K. Shanmukham Chetty:** Fixing of a time limit will not really help the solution of these difficult problems.

**Shri S. V. Krishnamurthy Rao:** Have the Government of India asked the Hyderabad Government to ban this organisation in Hyderabad?

**The Honourable Shri R. K. Shanmukham Chetty:** We have not asked them to ban any such organisation. We have impressed upon the Hyderabad Government the urgent need of that Government exercising a proper control over the irresponsible elements in their own State.

**Shri S. V. Krishnamurthy Rao:** Has the fact come to the notice of the Government, what has appeared in today's newspapers, that in Warangal District about 20 persons have been burnt alive by the Razakars?

**The Honourable Shri R. K. Shanmukham Chetty:** On account of heavy pressure of work I was not able to read this morning's papers.

**Shri Deshbandhu Gupta:** Has there been any change in the attitude of the Hyderabad Government?

**Mr. Speaker:** That is a matter of opinion.

**Prof. Shibhan Lal Saksena:** Is the Honourable Minister aware that the real power in the State is in the hands of the Ittehad-ul-Muslemin and not in the Government?

**The Honourable Shri R. K. Shanmukham Chetty:** I am not aware.

#### BREACH OF STANDSTILL AGREEMENT BY NIZAM'S GOVERNMENT

869. **\*Pandit Mukut Bihari Lal Bhargava:** (a) Will the Honourable Minister of States be pleased to state whether it is a fact that the maintenance of a private army of armed Muslim Razakars by the Nizam amounts to a breach of the Standstill Agreement?

(b) If so, what steps have been taken by Government to secure its liquidation?

(c) Have the negotiations between the Government of India and the Nizam's Government, regarding the breach of the Standstill Agreement by the Nizam's Government caused by the investment of Rupees twenty crores in Pakistan securities and the promulgation of the Currency Ordinance, led to any material results and if so, what?

(d) If not, what steps do Government propose to take against the Nizam's Government and if not, why not?

**The Honourable Shri R. K. Shanmukham Chetty:** (a) and (b). The whole position of the Razakars' Organization is under discussion with the Nizam's Government and I regret it would not be in the public interests to disclose Government's views on these matters at this stage.

(c) The negotiations are being continued.

(d) Does not arise.

**Seth Govinddas:** Is it not a fact that just the other day the Honourable the Minister for States while replying to a supplementary question from me admitted that there has been a breach of the Agreement as far as Hyderabad State is concerned; and may I know, when the recent deputation came here from Hyderabad, whether specific instances about the breaches of this Agreement were brought before it?

**The Honourable Shri R. K. Shanmukham Chetty:** Is the Honourable Member asking about the entire Agreement between the Government of India and the Hyderabad Government?

**Mr. Speaker:** That is what it appears to be.

**The Honourable Shri R. K. Shanmukham Chetty:** Then does it arise out of the question?

**Mr. Speaker:** The question of breach relates to the investment of Rs. 20 crores and the Honourable Member may restrict himself to that.

**Seth Govinddas:** Part (a) of the question refers to the breach of the Standstill Agreement.

**Mr. Speaker:** But then the Honourable Minister has stated that he cannot disclose the information in public interests.

**Seth Govinddas:** I wanted to ask whether the Honourable the Minister for States has accepted that there have been breaches of the Agreement as far as the Hyderabad Government is concerned and I wanted to know whether those specific instances of the breach were brought before the deputation which waited recently upon the Minister for States.

**Mr. Speaker:** It comes to this that, the Honourable Member wants a disclosure as to what points were discussed, which the Honourable Minister says he is not going to disclose.

**Pandit Mukut Bihari Lal Bhargava:** May I ask what time Government will take to arrive at a final decision in this matter?

**The Honourable Shri R. K. Shanmukham Chetty:** It is not possible to indicate a time-limit in this matter. As Honourable Members know the Standstill Agreement will come to an end in the next few months and we will see, so far as it lies in our power, before the termination of this Agreement that a more satisfactory relationship is established between our Government and the Government of Hyderabad.

## INCIDENCE OF VENEREAL DISEASE IN INDIA BEFORE AND DURING WAR

**870. \*Shri H. V. Kamath:** Will the Honourable Minister of Health be pleased to state:

(a) the incidence of venereal disease in India, in 1938, 1939, and in each year during World War II;

(b) the steps taken by Government to combat the scourge; and

(c) the results so far achieved?

**The Honourable Rajkumari Amrit Kaur:** (a) No accurate estimate of the incidence of venereal disease is available, but it is estimated that 37 persons per thousand of the population are infected by it.

(b) and (c). Schemes for combating venereal disease in Delhi and in the coal-fields of Bihar, Bengal and Orissa have been drawn up and steps will be taken to implement them as soon as possible. A Specialist in venereal diseases has been appointed in the Directorate General of Health Services. His services are available for advice to all Provinces which are, of course, primarily concerned in the matter.

**Shri H. V. Kamath:** Did venereal disease show an increase during the war years?

**The Honourable Rajkumari Amrit Kaur:** From such figures as I have, I do not think one can say that they showed very much increase.

**Shri H. V. Kamath:** Is it a fact that venereal disease was not known in India till the advent of Europeans here?

**Mr. Speaker:** Order, order.

**Shri B. Shiva Rao:** Is it not a fact that the Bhore Committee on Public Health has pointed out that lack of adequate housing facilities in the industrial areas is a major factor in the spread of venereal diseases?

**The Honourable Rajkumari Amrit Kaur:** That is so.

**Shri H. V. Kamath:** How many V. D. clinics are there in India?

**The Honourable Rajkumari Amrit Kaur:** I would like to have notice of that question, but there are treatment centres in different Provinces and the Military have their own hospitals and centres.

**Shri H. V. Kamath:** Is it a fact that many patients do not take advantage of the treatment centres because of the social stigma attached to the disease?

**Mr. Speaker:** It is a matter of opinion.

**Shri H. V. Kamath:** Will Government consider the desirability of completely abolishing or prohibiting prostitution here as in the Soviet Union, or at least compulsorily registering prostitutes and having them medically examined at periodical intervals?

**Mr. Speaker:** All these are suggestions for action.

**Dr. B. Pattabhi Sitaramayya:** Are bachelors allowed to discuss such matters?

**Mr. Speaker:** That is a good suggestion. I am calling the next question.

**Shri Deshbandhu Gupta:** Just one question, Sir. May I know the extent of the student world affected by this disease?

**The Honourable Rajkumari Amrit Kaur:** I have not got that information.



PLACE OF MUSIC IN PROPOSED CULTURAL TRUST OF GOVERNMENT

871. \*Seth Govinddas: (a) Will the Honourable Minister of Education be pleased to state whether music is proposed to be given any place in the proposed Cultural Trust of Government?

(b) Do Government propose to give any scholarships to suitable candidates for training in music?

(c) Do Government propose to organize an academy of music and dance on the lines of the Royal Academy of Music in the United Kingdom or any other country?

آنریبل مولانا ابوالکلام آزاد : (a) ہاں

(b) چونہی اسکا موقعہ آیا گورنمنٹ اس سوال پر پوری طرح دھیان دیگی۔

(c) نیشنل ٹرسٹ کے تین حصہ ہونگے۔ ایک میوزک ڈراما اور ناچ کے لئے ہوگا

The Honourable Maulana Abul Kalam Azad: (a) Yes.

(b) The question will receive consideration when the proposed Indian Cultural Trust is set up.

(c) The proposed Trust will have three Academies, one of which will be for Music, Drama and Dancing.

سےٹھ گیوینداس : क्या गवर्नमेण्ट इस बात का ध्यान रखेगी कि जहां तक म्यूजिक, ड्रामा और नाच का सम्बन्ध है वहां तक प्राचीन भारतवर्ष में जिस प्रकार का म्यूजिक, ड्रामा और नाच प्रचलित था वही सिखाया जायगा ।

Seth Govinddas: Will the Government consider over the desirability as far as possible of imparting training in the arts of Music, Drama, and Dance on the lines of ancient India?

آنریبل مولانا ابوالکلام آزاد : ہاں اس ٹرسٹ کا ایک بڑا مقصد یہی ہے۔

The Honourable Maulana Abul Kalam Azad: Yes. This is one of the main objects of this trust.

श्री एच० वी० कामत : क्या हकूमत के पेशेजर मशरकी और मगरबी फन-ए-मोंसोको तालीम की कोई तजवीज है ।

Shri H. V. Kamath: Have the Government under consideration any scheme for imparting training in the arts of Western and Eastern Music?

آنریبل مولانا ابوالکلام آزاد : یہ صرف مشرقی موسیقی کے لئے ہوگا۔

The Honourable Maulana Abul Kalam Azad: This will apply to eastern music only.

## MENTAL HOSPITALS IN INDIA

872. \*Shri H. V. Kamath: Will the Honourable Minister of Health be pleased to state:

- (a) the number of mental hospitals in India and where they are situated;
- (b) the number of patients, Indian and foreign, admitted in each of these hospitals during the years 1945, 1946 and 1947, and the number discharged as cured, and
- (c) whether Government have any plan, educational, psychic or otherwise, for the prevention of serious mental diseases?

The Honourable Rajkumari Amrit Kaur: (a) and (b). A statement giving the required information is laid on the table.

(c) It is not possible for Government to prevent serious mental diseases which depend upon various factors outside their control. It is however intended to study some of these factors at the Ranchi Mental Hospital whose reorganisation for making it an up-to-date centre for treatment, research and training is under consideration.

Serial No.	Name of Province	Name of Mental Hospital	Admission						Discharged as cured						Re-marks
			Indians			Foreigners			Indians			Foreigners			
			1946	1947	1948	1946	1947	1948	1946	1947	1948	1946	1947	1948	
1	Madras	Mental Hospital, Madras Mental Hospital, Walkair Mental Hospital, Calicut	542 204 166	743 186 229	27 2 2	37 1 2	29 1 1	167 6 14	230 38 83	16 .. ..	16 .. ..	13 .. ..			
2	Bombay	Central Mental Hospital Yerrada N. M. Mental Hospital, Thana Mental Hospital, Ahmedabad Mental Hospital, Bathagiri Mental Hospital, Dharwar	391 409 133 37 65	687 476 185 67 76	14 .. .. .. ..	11 .. .. .. ..	6 .. .. .. ..	63 97 18 20 24	107 99 42 9 42	115 124 20 9 15	2 .. .. .. ..	4 .. .. .. ..	1 .. .. .. ..		
3	U. P.	Mental Hospital, Agra Mental Hospital, Bareilly Mental Hospital, Banaras	182 86 40	169 67 62	1 .. ..	.. .. ..	.. .. ..	53 25 23	45 42 30	73 42 24	.. .. ..	.. .. ..	.. .. ..		
4	Bihar	Indian Mental Hospital, Kanke, Ranchi European Mental Hospital, Kanke, Ranchi	160 41	184 56	24 24	25 ..	14 ..	26 15	68 19	58 26	10 10	15 10	10 10		
5	Assam	Tespar Mental Hospital, Darrang, Assam	140	127	..	..	..	9	39	20	..	..	..		
6	-C. P. and Berar	Mental Hospital, Nagpur	134	163	128	163	163	71	59	76	..	..	..		

**Shri H. V. Kamath:** What is the basis on which the admission of patients into mental hospitals is regulated?

**Pandit Balkrishna Sharma:** The Honourable Member may apply for it.

**Mr. Speaker:** The question does not appear to lie within the special cognizance of the Honourable Minister.

**Shri Ramnath Goenka:** May I know whether the members of this House will be given preference in this matter?

**Mr. Speaker:** I am going to the next question.

**Shri H. V. Kamath:** I want to put a question, Sir. Are all the patients suffering from mental disease accommodated in these hospitals, or due to lack of accommodation are there still many of them at large?

**The Honourable Rajkuamri Amrit Kaur:** I am afraid there are many at large.

**Mr. Tajamul Hosain:** Is the Honourable Minister aware that in the Ranchi Mental Hospital the European mental patients are kept separated from the Indian mental patients and that the food given is also different?

**Mr. Speaker:** That question has been answered already on the floor of the House.

**Pandit Balkrishna Sharma:** Is there a lunatic asylum in the Central Provinces?

POLITICAL PENSIONS TO DESCENDANTS OF PERSONS WHO HELPED EITHER SIDE DURING WAR OF INDEPENDENCE, 1857

**873. \*Seth Govinddas:** (a) Will the Honourable Minister of Home Affairs be pleased to state the policy of Government regarding the pensions being given to the descendants of those who helped the British during the War of Independence of 1857?

(b) Are Government aware that meagre pensions are being given to the descendants of persons whose states had been confiscated because they helped the Indians in their War of Independence of 1857?

(c) Do Government propose to stop payment of all these pensions to the former and to give an equitable compensation to descendants of those who helped the Indians in the War of Independence of 1857?

**The Honourable Shri R. K. Shanmukham Chetty:** (a), (b) and (c). Government are collecting information in regard to individual recipients of political pensions with a view to deciding whether in any individual case these pensions should be continued or otherwise dealt with. Each case will be considered on its own merits.

**Seth Govinddas:** Has the Government any lists of these pensioners and through the list can the Government know who are the pensioners who are getting pension for working against the independence movement of 1857 and who are not getting anything because they did not help the British Government?

**The Honourable Shri R. K. Shanmukham Chetty:** The question was a bit involved. Would the Honourable Member mind repeating it?

**Seth Govinddas:** Has the Government any list of these pensioners who helped the British Government during the War of Independence in 1857, and of those who were against the British Government in that War?

**The Honourable Shri R. K. Shanmukham Chetty:** The Honourable Member wants to know whether we have got a list of the persons who helped the British Government and those who helped the Indian Independence Movement. I am afraid we have not got any such list.

**Dr. B. Pattabhi Sitaamayya:** Is the Honourable Minister aware that the State of the Nawab of Jujjar who helped the people against the British Government in 1857 was broken up and divided and was given away as prize to the Maharajas of Patiala, Nabha, Jmd and Jaipur; and if so, will steps be taken to restore the properties to the heirs of the original owner?

**The Honourable Shri R. K. Shanmukham Chetty:** I am prepared to accept the version of history from my Honourable friend though I must confess that I am not so familiar with that period of India's history. But as I said in my reply, with regard to these persons who are getting pensions from the Government, we have called for a list, and we are going to review the list to find out and make up our mind as to whether we should continue these pensions or not. With regard to the question of giving any compensation to people who helped the Indian Independence Movement, so far as Government's information goes, this category of people must be very small—even if anybody exists at all—and if the Honourable Member has got any definite information about the existence of such persons, the Government will be glad to receive such a list.

**Shri Deshbandhu Gupta:** Is it not a fact that a representation has been made by some people living in the Delhi Province claiming a part of the land as being descendants of the rebels of 1857, and if so, have Government taken any action on that?

**The Honourable Shri R. K. Shanmukham Chetty:** I am not aware of that.

**Dr. P. S. Deshmukh:** Will the Government be pleased to consider the case of the Bhonsles of Nagpur and the Angrias of Colaba?

**Mr. Speaker:** Individual questions are not permitted.

**Mr. Tajamul Hosain:** Are Government aware that a ruling chief in C. P. fought against the British in 1857 and on that account his state was confiscated and that his sole descendant is alive and is nearly starving? Do Government propose to do something for him?

**Mr. Speaker:** I do not propose to allow any individual question.

**Seth Govinddas:** Will the Government appoint a committee of certain historians who will go into the matter and find out who are the persons who helped the movement of 1857?

**Mr. Speaker:** It is not a question: It is a suggestion.

**Shri T. T. Krishnamachari:** May I ask on the general question of political pensions if the Government, before making a final decision, is making interim payments to those people who have been in receipt of these pensions in the past?

**The Honourable Shri R. K. Shanmukham Chetty:** I do not know exactly what the position is.

#### HELP TO NON-SCHEDULED BANKS SUFFERED DURING COMMUNAL DISTURBANCES

874. \***Shri Kishori Mohan Tripathi:** (a) Will the Honourable Minister of Finance be pleased to state:

(i) the number of non-scheduled banks registered under the Indian Companies Act;

(ii) the names of non-scheduled banks that went into liquidation in 1947; and

(iii) the names of non-scheduled banks that have been given protection under Section 153 of the Indian Companies Act and have consequently stopped making payments to their depositors?

(b) In view of the fact that depositors in the case of non-scheduled banks falling under category (iii) of part (a) above, are mostly middle class men, peasants and labourers and that these banks suffered greatly as a result of disturbances in the country, do Government propose to help the banks to revive their business? If so, how?

**The Honourable Shri R. K. Shanmukham Chetty:** (a) Up to date information in respect of non-scheduled banks is not available as their administration is under the Provincial Registrars of Joint Stock Companies. The information readily available is, however, given in the statement which is laid on the table of the House.

(b) The disturbances had an adverse effect on banking in general but they alone were not responsible for the difficulties of non-scheduled banks. The non-banking practices followed by certain non-scheduled banks in Bengal had already undermined their financial position. The slump on the Calcutta Stock Exchange towards the end of 1946 brought about by a combination of political and economic factors and labour troubles therefore created a difficult situation for some of these banks. The result was that banks which had made large advances against shares or had heavily invested in them were adversely affected and in the panic that prevailed some of the banks were subjected to heavy withdrawals. A few banks had to suspend payments and obtain interim moratorium from the Calcutta High Court. The disturbances merely aggravated their difficulties and the Government of India promulgated an Ordinance on the 20th September 1947 amending Section 18(3) of the Reserve Bank of India Act to enable the Reserve Bank to grant advances to scheduled and non-scheduled banks against such form of security as it may consider sufficient.

In the Punjab, a few middlesized and small banks with registered offices in the East Punjab and Delhi had most of their assets in West Punjab while the bulk of their deposit liabilities had been transferred to their branches in India. With a view to enable these banks to tide over their difficulties, the Government of India promulgated on the 27th September 1947 the Banking Companies Ordinance 1947 which, *inter alia* empowered the Central Government to make advances to the banks to which a moratorium was granted. Arrangements were also made by the Government of India in consultation with banks and the Governments of East and West Punjab for facilitating resumption of business by banks which have closed their offices owing to disturbances. The rehabilitation programmes of East Punjab Government and the Rehabilitation Finance Administration about to be set up should afford the necessary stimulus to sound banks.

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*Statement*

- (a) (i) Number of non-scheduled banks registered under the Indian Companies Act. Approximately 789.
- (ii) Names of non-scheduled banks that went into liquidation in 1947.
- |                              |
|------------------------------|
| Allied Exchange Bank Ltd.    |
| Aryan Bank Ltd.              |
| Bogra City Bank Ltd.         |
| Central Commercial Bank Ltd. |
| Commercial Bank Ltd.         |
| Hanuman Bank Ltd.            |
| Incorporated Bank Ltd.       |
| Jayalaxmi Bank Ltd.          |
| Kanya Kubja Bank Ltd.        |
| National Security Bank Ltd.  |
| Pacific Bank Ltd.            |
| Sarhad Bank Ltd.             |
| Sunlight Bank Ltd.           |
| Superior Bank Ltd.           |

(44) Names of non-scheduled banks given protection under Section 153 of the Indian Companies Act and which subsequently stopped making payments to their depositors.

Bengal Union Bank Ltd.  
Calcutta City Bank Ltd.  
East Bengal Bank Ltd.  
East India Commercial Bank Ltd.  
Federation Bank of India Ltd.  
Hazradi Bank Ltd.  
Indian Commonwealth Bank Ltd.  
Kuver Bank Ltd.  
Northern Bank Ltd.  
Sree Bank Ltd.

Payments are being made by these banks according to the terms laid down in the Schemes of arrangements.

**Shri Kishori Mohan Tripathi:** Do Government propose to bring in legislation to regulate Indian banking in such a way that depositors' interests are absolutely safeguarded in future?

**The Honourable Shri R. K. Shanmukham Chetty:** The Honourable Member knows, Sir, that a comprehensive Banking Bill is before the House.

**Shri Kishori Mohan Tripathi:** Do Government propose to abolish all distinction between scheduled and non-scheduled banks and place all of them on one and the same and yet a sound footing?

**The Honourable Shri R. K. Shanmukham Chetty:** It is not practically possible to abolish the distinction between scheduled and non-scheduled banks.

**Shri M. Ananthasayanam Ayyangar:** May I know from the Honourable Minister how many of the banks went into liquidation in East Punjab after the 15th August?

**The Honourable Shri R. K. Shanmukham Chetty:** I must have notice of that question.

**Shri M. Ananthasayanam Ayyangar:** Has any tangible help been given in pursuance of the representations made by many Punjab banks for resuscitation and rehabilitation by the Government of India, and if so what help?

**The Honourable Shri R. K. Shanmukham Chetty:** I mentioned in my answer Sir, the steps that have been taken by the Government of India with a view to helping these banks. We promulgated an ordinance and we fixed limits. They could represent their depositors and Government was prepared to advance money to the banks concerned up to those limits.

**Prof. N. G. Ranga:** But this applied only to scheduled banks?

**The Honourable Shri R. K. Shanmukham Chetty:** Yes.

**Prof. N. G. Ranga:** Why is it Government have not thought fit to extend some hand of protection to the non-scheduled banks also to the extent practicable?

**The Honourable Shri R. K. Shanmukham Chetty:** Because the scheduled banks have certain control exercised by the Reserve Bank and we know their position and with regard to the non-scheduled banks the Honourable Member must be aware of the fact that there are so many of them that it will be almost impossible for this Government to bring under their jurisdiction if any help to class of banks is given.

#### REPLACEMENT AND STOPPING OF CIRCULATION OF PRESENT SET OF COINS IN INDIA

875. **\*Shri Kishori Mohan Tripathi:** (a) Will the Honourable Minister of Finance be pleased to state the time when the Government of India would stop the circulation of the present set of coins in India, bearing marks of Crown?

(b) What arrangements if any, have the Government of India made to withdraw and replace the said coins?

**The Honourable Shri R. K. Shanmukham Chetty:** (a) and (b). The question of the future design of our coins is receiving attention. The minting of new coins takes time. There is a large number of coins at present in circulation and it will, therefore, be a long time before the present set of coins can be replaced by new design coins.

**Shri Kishori Mohan Tripathi:** Do Government propose to introduce the decimal system of Calculation in the new set of coins?

**The Honourable Shri R. K. Shanmukham Chetty:** Does that question arise out of this? It is only a question of issuing new coins.

**Prof. N. G. Ranga:** How much will Government have to spend or lose if they are to withdraw the present set of coins and introduce a new set of coins with new effigies?

**The Honourable Shri R. K. Shanmukham Chetty:** I do not think we have made any estimate of that, but the expenditure involved will be very very great and the time taken also will be very great because the minting of new coins takes a good deal of time. As a matter of fact we have got some commitments already to the Pakistan Government under the partition arrangements, under which we have to place the surplus capacity of our mint for the use of the Pakistan Government for minting their coins. In addition to this, some time back I was approached by the representative of the Chinese Government that we should help them to mint some silver coins to enable China to place their currency system on a better footing. As a friendly gesture to the neighbouring Government of China, we were very anxious to help the Chinese Government in this respect and when we examined that problem we found that the capacity of the mint is very limited and it is only to a very limited extent that we can give help to the Chinese Government also. So in view of these things I am afraid it will be a little while before we can really take steps for issuing a completely new set of coins. But I may tell Honourable Members, that the position is different with regard to currency notes. In that matter I am taking immediate steps. For example the preparation of the paper with the necessary water-mark, for instance, will take about 8 to 9 months, and I am already placing the matter before the Government for a decision as to what should be the future watermark in the paper. Once that is done, the matter of actually designing the plate for the notes is a comparatively simple matter and I myself have in mind a proposal that as an immediate step we might print the effigy of Gandhiji. For this purpose, probably, very soon we might issue one rupee notes bearing the effigy of Gandhiji.

**Dr. B. Pattabhi Sitaramayya:** May we understand the Honourable the Finance Minister to have said that the delay in issuing fresh coins does not arise so much from time taken to withdraw the coins in circulation as from the time taken to mint new coins?

**The Honourable Shri R. K. Shanmukham Chetty:** The time taken to mint new coins will be quite considerable.

**Seth Govinddas:** Is the Honourable Minister aware that in the past coins were changed and will he go into the question with a view to finding out how much it cost and how much time it took?

**The Honourable Shri R. K. Shanmukham Chetty:** The point is that during war-time and some time later on the quantity of small coins minted and put into circulation was enormous and to withdraw all those coins and substitute them by new coins will be a rather difficult and costly process. We have, therefore, to go about it rather slowly.



**Seth Govinddas:** What about rupee coins?

**The Honourable Shri R. K. Shanmukham Chetty:** It applies to all coins. As I said, that problem is under our examination.

**Dr. P. S. Deshmukh:** Is there any possibility of increasing the proportion of silver in our coins, Sir?

**The Honourable Shri R. K. Shanmukham Chetty:** No, Sir, we do not propose to do that.

**Shri S. V. Krishnamurthy Rao:** May I know, Sir, if a beginning cannot be made immediately and the replacing of all the coins spread over a number of years?

**The Honourable Shri R. K. Shanmukham Chetty:** We shall keep that suggestion in mind and start taking action as early as practicable.

#### CASH, BALANCES AND RESERVES MADE OVER TO PROVINCIAL GOVERNMENTS BY CHATTISGARH STATES.

†876. \***Shri Ramprasad Potai:** (a) Will the Honourable Minister of States be pleased to state the amount of cash, balances and reserves, which were made over to the Provincial Governments by Chattisgarh States when the former took over charge of the latter's administration on 1st January 1948?

(b) Do Government propose to advise the Provincial Governments to spend the said amount for the welfare of the States' people?

**The Honourable Shri R. K. Shanmukham Chetty:** (a) Information has been called for from the Government of Central Provinces and Berar and will be laid on the table of the House in due course.

(b) It has been agreed that as far as possible the accumulated reserves taken over by the Provincial Government should be spent on the welfare of the State's people concerned.

#### DATE OF COMMENCEMENT OF SERVICES OF CHATTISGARH STATES EMPLOYEES

†877. \***Shri Ramprasad Potai:** (a) Will the Honourable Minister of States be pleased to state whether it is a fact that the services of the State employees in the merged Chhattisgarh States are going to be treated as commencing from the 1st of January 1948 for purposes of promotions and pensions?

(b) If so, do Government of India propose to consider the desirability of advising the Government of the Central Provinces, to treat the services of the State employees as they stand?

**The Honourable Shri R. K. Shanmukham Chetty:** (a) and (b). The details of the terms and conditions of service of the staff are still under the consideration of the Provincial Government but in this matter they propose to proceed on the basis that while this staff would secure with effect from 1st January 1948 the benefits accruing from their employment under the Provincial Government, their previous service would not in any way be ignored or written off. The Government of India consider that this is a reasonable position to adopt and would leave it to the Provincial Government to implement it in details.

#### SPECULATIVE TRANSACTIONS IN INDIA IN GOLD, SILVER, FOODGRAINS ETC.

878. \***Pandit Mukut Bihari Lal Bhargava:** (a) Will the Honourable Minister of Finance be pleased to state whether Government are aware that large scale speculative transactions are being carried on in big and small commercial centres throughout the Indian Union in gold, silver, cotton, foodgrains and various other commodities?

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

(b) Have Government taken any decision on the policy to be pursued in respect of these transactions? If not, why not?

**The Honourable Shri B. K. Shanmukham Chetty:** (a) and (b). Government are aware that speculation is carried on in the commodities mentioned by the Honourable Member. Government do not consider that speculation has reached a stage where it is affecting the economic life of the country. They have, however, the position constantly under review and will take appropriate action, when the need for it arises.

**Seth Govinddas:** The other day the Honourable the Finance Minister while replying to a supplementary question by me promised that as far as speculation in bullion market is concerned it is under review. Is any legislation going to be brought, as far as the bullion market is concerned?

**The Honourable Shri B. K. Shanmukham Chetty:** As I mentioned in the course of the debate yesterday, I have now taken on hand the question of a comprehensive stock-exchange legislation and in that connection the whole question of forward trading in bullion will also be considered.

**Shri B. Das:** Will Government consider the advisability of starting registration of persons who indulge in *satta* throughout India and also tax them?

**The Honourable Shri B. K. Shanmukham Chetty:** That suggestion will be considered at the time of the stock-exchange legislation.

**Shri Deshbandhu Gupta:** Does the Honourable the Finance Minister propose to bring in this legislation during the present session?

**The Honourable Shri B. K. Shanmukham Chetty:** No, not during the present session.

**Shri K. Santhanam:** Was the decision to bring in legislation for controlling speculation arrived at after the answer to this question was framed?

**The Honourable Shri B. K. Shanmukham Chetty:** No. As a matter of fact, as I have already said, it was one of the problems that has been engaging my mind ever since I came into office. The point is that control of stock exchanges is essentially a provincial subject and we have to get the consent of all the Provincial Governments for a central legislation. Sometime ago a special officer was deputed to study the whole mechanism and working of stock-exchanges and we have now got his report. The Bombay Government have introduced a certain measure and I am now getting the consent of all the Provincial Governments to enable me to introduce central legislation to control stock exchange transactions.

#### INDIA'S MISSING ARMY STORES DESPATCHED FROM PAKISTAN

879. **\*Shri Jaspat Roy Kapoor:** (a) Will the Honourable Minister of Defence be pleased to state whether it is a fact that a number of boxes of army stores which fell to the share of India and which were despatched from Pakistan, when received in Agra, were found to contain bricks and stones?

(b) If the answer to part (a) above be in the affirmative, what is the description and value of the missing stores?

(c) Have Government claimed from the Government of Pakistan the missing articles or the value thereof and if so, with what result?

(d) Do Government propose to adopt some effective method of checking the contents of such boxes before despatch from Pakistan and of their safe transit to India?

**The Honourable Dr. Syama Prasad Mookerjee:** (a) No, Sir.

(b) and (c). Does not arise in view of answer to (a) above.

(d) Circumstances make it difficult to adopt steps which would ordinarily have been adopted for this purpose. But everything possible is being done by the two Governments in consultation with each other to secure the maximum degree of check.

## FUNCTIONS OF PERSONNEL OF A. I. G. S. BENGAL AREA.

**880. \*Shri Harihar Nath Shastri:** Will the Honourable Minister of Defence be pleased to state:

(a) what are the functions of the personnel employed in the Unit, formerly known as I.G.S. (Bengal Area) and at present known as A.I.G.S. (Bengal Area); and

(b) since when this unit has been functioning?

**The Honourable Dr. Syama Prasad Mookerjee:** (a) The unit is still known as I.G.S. and is responsible for the inspection of general stores (such as jute and other textiles, metals, timber, chemicals etc.) and medical stores required by the Army. The unit is responsible for the quality of stores supplied and for ensuring that supplies conform to the specifications shown in the tender.

(b) For over 25 years. Originally known as the "Ordnance Inspection Depot, Hastings", it was renamed as the (Inspectorate of General Stores) in May, 1941.

**Shri Harihar Nath Shastri:** Is the A.I.G.S. (Bengal Area), a temporary establishment?

**The Honourable Dr. Syama Prasad Mookerjee:** It is temporary in the sense that it is required for special services and its strength also is reduced from time to time according to the services that are expected to be rendered by them.

**Shri Harihar Nath Shastri:** The Honourable Minister has just stated that this establishment has been in existence for the last twenty-five years. In view of this and in view of the nature of duties performed by them, may I enquire why this establishment has not yet been put on a permanent basis?

**The Honourable Dr. Syama Prasad Mookerjee:** Apparently the number of persons employed is varied from time to time and that I believe is the reason why the entire service has not been made permanent; but the matter is now under examination.

**Prof. N. G. Ranga:** Is it not a fact that Government have recently announced that they were going to strengthen this service in order that they may be able to expedite the survey?

**The Honourable Dr. Syama Prasad Mookerjee:** I find that in the course of 1946-47 there has been considerable retrenchment. I do not think Government is going to strengthen the service as a whole, but individual units may be strengthened.

## PERMANENT AND TEMPORARY EMPLOYEES OF A. I. G. S. BENGAL AREA.

**881. \*Shri Harihar Nath Shastri:** Will the Honourable Minister of Defence be pleased to state:

(a) the total number of employees in A.I.G.S. (Bengal Area);

(b) how many of them are permanent;

(c) how many are temporary; and

(d) of the temporary hands, the number of men who have put in at least five years of service, who have over five years and upto ten years of service, and those exceeding ten years of service respectively?

**The Honourable Dr. Syama Prasad Mookerjee:** (a) 366.

(b) 4.

(c) 362.

(d) (i) Upto 5 years, 64.

(ii) 5-10 years, 258.

(iii) Over 10 years, 40.

**Shri Harihar Nath Shastri:** Are Government aware of the fact that in order to break the continuity of service and to deprive the personnel of privileges that accrue to them as permanent hands, all these men are retrenched every year on the 31st March and reemployed on the following day?

**The Honourable Dr. Syama Prasad Mookerjee:** I am not aware of that.

**Shri Harihar Nath Shastri:** Do Government propose to put these men on a permanent footing after the retrenchments that have taken place so far?

**The Honourable Dr. Syama Prasad Mookerjee:** The Defence Minister is considering the question of reorganisation of the service and it is difficult for me to say anything more.

**Shri Harihar Nath Shastri:** Is it not a fact that a committee was set up to go into this question and, if so, when is their report expected?

**The Honourable Dr. Syama Prasad Mookerjee:** I cannot say, Sir, when the Committee will submit their report.

#### DOWN-GRADED EXTRA TEMPORARY PERSONNEL OF A. I. G. S. BENGAL AREA.

882. **\*Shri Harihar Nath Shastri:** (a) Will the Honourable Minister of Defence be pleased to state whether it is a fact that a large percentage of extra-temporary personnel in A.I.G.S. (Bengal Area) was down-graded in emoluments and status during 1946-47?

(b) What is the number of persons so down-graded in different categories.

**The Honourable Dr. Syama Prasad Mookerjee:** (a) Yes. As a result of reduction of work on the termination of the war the number of higher appointments had to be reduced and in consequence some had to revert from higher to lower grades.

(b) I lay a statement on the table of the House.

<i>Statement</i>	1946	1947
Examiners 'A' . . . . .	10	..
Examiners 'B' . . . . .	26	..
Examiners 'C' . . . . .	104	3
Head Clerks . . . . .	3	..
Supervisors 'B' Clerical . . . . .	17	..
Clerks Grade 'A' . . . . .	1	..
Clerks Grade 'B' . . . . .	1	..
Viewers . . . . .	28	..
Painters . . . . .	1	..
Assistant Loaders . . . . .	1	..
Labourers 'A' . . . . .	62	9
Labourers 'B' . . . . .	89	16

**Shri Harihar Nath Shastri:** Is the Honourable Minister aware that while on the one hand the Central Pay Commission was set up to raise the pay of the staff in the various Departments of the Government, the personnel in A.I.G.S. was subjected to a drastic wage cut by about 60 per cent. of their previous pay?

**The Honourable Dr. Syama Prasad Mookerjee:** Not the entire service but certain parts of that.

#### INTRODUCTION OF UNIFIED PAY SCALES AND LOSSES TO EXTRA TEMPORARY CLERKS A. I. G. S. BENGAL AREA.

883. **\*Shri Harihar Nath Shastri:** Will the Honourable Minister of Defence be pleased to state:

(a) when the unified scales of pay for extra-temporary clerks A.I.G.S. (Bengal Area) were introduced;

(b) whether it is a fact that the said clerks had to suffer financial loss owing to recoveries made from them on account of interpretations of rules made several times by the authorities; and

(c) whether fixation of pay on unified scales has been finalised?

**The Honourable Dr. Syama Prasad Mookerjee:** (a) 8th June 1946. But the orders on the subject had retrospective effect from 1st September, 1944.

(b) It is true that various difficulties were experienced in applying and interpreting the orders. Only certain overpayments which were clearly unauthorised have been recovered.

(c) Yes.

**INCOME-TAX REALISED FROM UNDIVIDED HINDU FAMILY ASSESSEES IN VARIOUS PROVINCES DURING 1945-46 AND 1946-47.**

**884. \*Pandit Thakur Das Bhargava:** Will the Honourable Minister of Finance be pleased to lay a statement on the table of the House showing the following information for the years 1945-46 and 1946-47 respectively:

- (i) the amount of income tax realised from the class 'Undivided Hindu Family' giving figures for each province separately;
- (ii) the number of Undivided Hindu Family Assesseees;
- (iii) the amount of super tax, excess profits tax, or the business profits tax realised from Undivided Hindu Family;
- (iv) the number of Undivided Hindu Family Assesseees assessed to super tax, excess profits tax and business profits tax; and
- (v) the number of Hindu Undivided Family Assesseees assessed to income tax below 2,500, 3,500, 5,000, 7,500, 10,000, 15,000 and 25,000 during the years 1945-46 and 1946-47?

**The Honourable Shri R. K. Sanmukham Chetty:** I lay on the table a statement showing the required figures in respect of income-tax and super-tax. Excess Profits Tax being a charge on business the demand levied is not classified according to the status of assesseees for statistical purposes. The Business Profits Tax was not in force in the years in question.

*Statement showing the number of Hindu Undivided Family assesseees and the tax demanded during 1945-46 and 1946-47 laid on the table in reply to Pandit Thakur Das Bhargava's question No. 884.*

Part (a)

Provinces	1945-46		1946-47	
	No. of assesseees	I. T. demand (in Lacs)	No. of assesseees.	I. T. demand (in Lacs)
		Rs.		Rs.
Madras	12314	85	13542	1,22
Bombay	11479	1.02	10566	1.09
Bengal	4667	36	3691	46
U. P.	11674	75	11586	80
Punjab	11118	67	10410	71
C. P. and Berar	5026	30	4913	40
Bihar	8264	54	8060	69
Orissa	1234	6	1088	6
Assam	952	8	1212	11
N. W. F. P.	1190	6	952	5
Delhi	1070	14	946	18
Sind	2357	10	2459	14
Baluchistan Ajmer Merwara	753	6	620	4

## Part (b)

	1945-46	1946-47
(i) Super-tax demanded (Rs. Lakhs)	1.74	2.01
(ii) No. of Hindu Undivided Family assesseees .	4246	4207

(iii) No. of Hindu Undivided Family assesseees to Income-tax in the following grades of income.

Grade of Income	No. of assesseees	
	1945-46	1946-47
Below 2,500 .	10082	9306
2,500 to 3,449	14860	13291
3,500 to 4,999	12550	11997
5,000 to 7,499	12002	10388
7,500 to 9,999	6178	5623
10,000 to 14,999	6826	5698
15,000 to 24,999	4913	4054

## UNDIVIDED HINDU FAMILY ASSESSEES AND TAXATION.

885. \*Pandit Thakur Das Bhargava: (a) Will the Honourable Minister of Finance be pleased to state on a rough estimate the average number of persons constituting Hindu Undivided Family Assesseees?

(b) What difference, on a rough estimate, in the amounts of income tax will result if the Undivided Hindu Family was not taxed as such and the members thereof were taxed as individuals?

(c) What difference in the amount of super tax, excess profit tax or business profit tax will result if the persons constituting Undivided Hindu Family were taxed as individuals instead of being taxed as Undivided Hindu Family?

The Honourable Shri R. K. Shanmukham Chetty: (a) Government have no information.

(b) and (c). It is not possible to give any figure. As was explained in reply to Honourable Member's starred question No. 329 on the 18th February 1946 the amount of tax payable by the individual members would depend on the composition of the various Hindu individual families, the share of the individual members in the family income and the separate income, if any, that the members may have. It is not possible to even roughly estimate any of these factors.

## BASIS OF TAXATION ON HINDU UNDIVIDED FAMILY.

886. \*Pandit Thakur Das Bhargava: (a) Will the Honourable Minister of Finance be pleased to state the grounds or basis on which Hindu Undivided Family as such is treated as a class for taxation purposes?

(b) Are the grounds so stated or basis (if any) propounded given or referred to in any statements, replies or discussions in the House or in any Reports of any Committees about policy of taxation or documents relating thereto? If so, what are they?

**The Honourable Shri R. K. Shanmukham Chetty:** (a) The expression 'Hindu Undivided Family' as used in the Indian Income-tax Act includes the Hindu co-parcenership of the Mitakshara School of Hindu Law as well as the undivided family of the Dayabhaga School. *Prima facie* a family that is undivided is an association of persons and not an individual. But where an ancestral trade or family business is carried on by an undivided Hindu family, it cannot be treated as a partnership or as a firm since such activity is not based on, or the result of, any contractual relation between the individuals who constitute the family. This is why the undivided Hindu family is treated as a separate entity by itself. In the case of the Mitakshara family (co-parcenership) the indeterminate nature of the share of the members in the family property is an additional reason for having to treat the family as a unique entity in a class by itself.

(b) Presumably the Honourable Member has in mind Sir George Schuster's speech on the amendment he moved to clause 6 of the Finance Bill of 1930 (page 2062 of Volume II of the Legislative Assembly Debates of 20th March 1930) and the Honourable Sir Nripendra Sircar's speech on Babu Baij Nath Bajoria's amendment on clause 30 of the Income-tax Amendment Bill, 1938, on the 6th December 1938 (page 3962 of the Legislative Assembly Debates, dated the 6th December 1938, Volume VIII, No. 2).

**Pandit Thakur Das Bhargava:** Am I to understand, Sir, that the Honourable Minister cannot enlighten me in regard to other books or documents on this question except these two speeches of Honourable Members in debates on the floor of this House?

**The Honourable Shri R. K. Shanmukham Chetty:** So far as the research of my officers goes, this is all they could dig out.

#### DISPARITY IN MINIMUM LIMIT OF BUSINESS PROFITS TAX AND SUPER-TAX FOR INDIVIDUALS AND UNDIVIDED HINDU FAMILY.

387. **\*Pandit Thakur Das Bhargava:** (a) Will the Honourable Minister of Finance be pleased to state whether it is a fact that the minimum limit for business profits tax is not the same for individuals and Undivided Hindu Family?

(b) If so, what are the reasons for the distinction?

(c) Is it a fact that in the matter of super-tax also there was a distinction between an individual and Undivided Hindu Family about the minimum previously?

**The Honourable Shri R. K. Shanmukham Chetty:** (a) Yes, Sir,

(b) This distinction was made by the Select Committee on the Business Profits Tax Bill 1947 in recognition of the possibility that, as in the case of a partnership, there may be a number of individual members of a Hindu Undivided family actively engaged in the business.

(c) Yes, Sir, before 1939.

#### NON-RECOGNITION OF CITY DENTAL COLLEGE, CALCUTTA.

388. **\*Shri Damodar Swarup Seth:** Will the Honourable Minister of Health be pleased to state:

(a) whether Government are aware that the City Dental College, Calcutta, is more than 10 years old and was registered before 1940 and grants the same diploma as the Calcutta Dental College or the Karachi Dental College; and

(b) whether it is a fact that Government do not propose to recognise this college in future; and

(c) if so, the reason therefor?

**The Honourable Rajkumari Amrit Kaur:** (a), (b) and (c). Government understand that the City Dental College, Calcutta, was established in 1938 and was registered before 1940. The City Dental College, Calcutta, the Calcutta Dental College and the College of Dentistry, Karachi, grant diplomas in Dentistry. The Calcutta Dental College and the College of Dentistry, Karachi, are recognised by the Governments of West Bengal and Sind respectively. The diploma granted by the City Dental College, Calcutta, is not recognised by the Government of West Bengal and has not, therefore, been included in the Schedule to the Dentists Bill which was passed by this House on the 20th February, 1948.

**Prof. N. G. Ranga:** Why was it not recognised, Sir?

**The Honourable Rajkumari Amrit Kaur:** Because it did not come up to standard.

**Shri Mibir Lal Chattopadhyay:** May I know, Sir, whether this Karachi Dental College was recognised by the Government of Sind?

**The Honourable Rajkumari Amrit Kaur:** Yes, Sir.

#### RECRUITMENT IN INDIAN ARMY AFTER 15TH AUGUST, 1947.

**889. \*Shri V. J. Kesava Rao:** (a) Will the Honourable Minister of Defence be pleased to state the number of recruits to the Indian Army after 15th August 1947, province-wise?

(b) What is the number of personnel retrenched from the ranks?

(c) Is a Recruiting Mela proposed to be held in East Punjab in the near future?

**The Honourable Dr. Syama Prasad Mookerjee:** (a) It is not in the public interest to give the actual number of recruits. I lay a statement on the table of the House showing the percentage of recruits enrolled since 15th of August 1947 province-wise.

(b) There has been no retrenchment in the Indian Army since the 15th August 1947.

(c) No, Sir. A recruiting mela was recently held at a place called Kurali.

#### Statement.

Percentage of recruitment to the Indian Army from 15th August 1947 to 31st January 1948

Province or State:	Percentage of the total number recruited.
Madras . . . . .	18.99
Bombay . . . . .	4.97
West Bengal . . . . .	1.55
U. P. . . . .	17.93
East Punjab . . . . .	25.16
Bihar . . . . .	2.68
C. P. & Berar . . . . .	.82
Assam . . . . .	.61
Orissa . . . . .	.4
Coorg . . . . .	.35
Delhi . . . . .	.53
J. & K. State . . . . .	.41
Patiala . . . . .	1.27
Nagaha . . . . .	.44
Jind . . . . .	1.18
Kapurthala . . . . .	.9



Tehri-Garhwal . . . . .	.17
Alwar State . . . . .	.3
Bharatpur State . . . . .	.08
Bikaner . . . . .	.32
Jaipur . . . . .	1.82
Jodhpur . . . . .	.52
Kolhapur . . . . .	.24
Travancore . . . . .	3.38
Cochin . . . . .	1.15
Mysore . . . . .	1.16
Minor Bombay States . . . . .	1.08
Minor Punjab States . . . . .	.92
Minor Rajputana & C. I. States . . . . .	.64
Minor Assam States . . . . .	.47
Nepal . . . . .	10.09
Rest mostly minor States . . . . .	

NOTE.—The above statement includes ex-servicemen re-enrolled for Defence Department Constabulary.

SCHOLARSHIPS BY U. N. O. FOR STUDY OF CERTAIN SPECIFIC PROBLEMS.

890. \*Shri V. C. Kesava Rao: (a) Will the Honourable Minister of Health be pleased to state whether any scholarships have been offered by the United Nations Organisation for study of certain specific problems?

(b) What is the system adopted for selection of candidates for these scholarships?

(c) What is the number of students selected for these scholarships during the last financial year?

The Honourable Rajkumari Amrit Kaur: (a) Yes. The United Nations Organisation has offered certain fellowships for social welfare workers. Five such fellowships were offered to India in 1947 and nine this year.

(b) This year nominations were called for from Provincial Governments and the authorities of the Red Cross and the Tata Institute of Social Sciences and a committee was appointed to consider the nominations received and to make recommendations regarding selection. Last year selection was made on the recommendation of the Director General, Indian Medical Service.

(c) In 1947 five candidates were selected of whom only three could go.

RESETTLEMENT OF DEMOBILISED DOCTORS AND AUXILIARY MEDICAL MEN.

891. \*Shri V. C. Kesava Rao: (a) Will the Honourable Minister of Health be pleased to state the number of demobilised doctors and auxiliary medical men who have been re-settled?

(b) How many more demobilised personnel of the above categories are yet to be re-settled?

(c) Are there any schemes to give further training to the auxiliary personnel to fit them for medical work in the villages?

The Honourable Rajkumari Amrit Kaur: (a) and (b). A statement is laid on the table of the House. Full particulars of all demobilised medical and auxiliary personnel have been communicated to Provincial Governments who make all possible efforts to settle them.

(c) Provision has been made for the further professional training of demobilised medical and auxiliary personnel. Such people can take up medical work in villages if they wish to do so. The attention of the Provincial Governments will be drawn to the need for inducing people to take up medical work in villages.

## Statement

Showing particular of the resettlement of medical and auxiliary personnel.

(a) Figures of ex-service personnel who have so far been settled :—

(i) Numbers of personnel provided employment :—

Medical Officers . . . . .	615
Nursing Personnel . . . . .	57
Nursing Orderlies of I. A. M. C and Male Nurses of various categories.	593
Technicians . . . . .	132
Total . . . . .	1397

(ii) Numbers of personnel for whom various training courses were arranged :—

Medical Officers . . . . .	391
Nursing and Allied persons . . . . .	216
Technicians . . . . .	13
Total . . . . .	620

(b) Numbers of demobilised personnel who are yet to be resettled :—

Medical Officers . . . . .	1302
Nursing Personnel . . . . .	817
Nursing Orderlies of I. A. R. C. and Male Nurses of various categories.	2635
Technicians . . . . .	458
Total . . . . .	5212

**PRODUCTION OF INFORMATION FILMS UNDER GOVERNMENT AUSPICES IN VARIOUS INDIAN LANGUAGES.**

892. \*Shri V. C. Kesava Rao: (a) Will the Honourable Minister of Information and Broadcasting be pleased to state the number of information films produced under Governmental auspices after 15th August, 1947?

(b) Are these produced only in English?

(c) Do Government propose to consider the question of producing Hindi, Bengali, Telugu, Tamil, Kanarese, Oriya, Malayalam, Marathi, Urdu and Gujrati versions of all important information films? ●

(d) What is the number of films proposed to be produced in the next financial year?

(e) Is there any co-ordination between Government and the Film Industry in this matter?

The Honourable Shri R. K. Shanmukham Chetty: (a) One.

(b) No.

(c) Government propose to distribute as far as possible their films in English, Hindustani, Bengali, Tamil and Telugu.

(d) 30.

(e) As far as Government are aware, the film industry in India has not taken to making documentary films to any appreciable extent. The question of co-ordination does not, therefore, arise.

## CONSUMPTION OF ARECA NUT, BETEL LEAVES, TEA, COFFEE AND TOBACCO IN INDIA

893. \* { Shri S. V. Krishnamurthy Rao: } (a) Will the Honourable Minister  
 { Shri R. E. Diwakar: } . }

of Health be pleased to state whether Government are aware that large quantities of (i) areca nut, (ii) betel leaves, (iii) tea, (iv) coffee and (v) tobacco in various forms are consumed in this country? If so, what are the respective quantities consumed during the year 1946-47?

(b) Has any scientific research been carried out as regards the food-value or otherwise of these commodities? If so, are the results available to the public? If no research has been undertaken so far, do Government propose to do it now?

(c) Are Government aware that in the State of Baroda, it is an offence to sell tobacco to persons below 16 years?

(d) Do Government propose to take any such step here? If not, why not?

**The Honourable Rajkumari Amrit Kaur:** (a) Yes. A statement showing the estimated consumption during 1946-47 is laid on the table of the House.

(b) No. These substances are consumed not for their food-value but for their effects as stimulants or sedatives and it is not considered necessary to undertake any research regarding their food-value.

(c) Government have no information.

(d) I shall take up the matter with the Provincial Governments.

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*Statement*

Showing the estimated Consumption in India of Betelnut, Tea, Coffee and Tobacco during 1946-47

Commodity	Quantity consumed
Betelnut	219 million lbs.
Tea	158 million lbs.
Coffee	31 million lbs.
Tobacco	531 million lbs.

Information regarding the consumption of betel leaves is not available.

**Prof. N. G. Ranga:** Are Government aware, Sir, of the fact that several scientists have themselves expressed in favour of the food-value of areca nut and betel leaves?

**The Honourable Rajkumari Amrit Kaur:** I would ask the Honourable Member to furnish me information on that point.

**Shri H. V. Kamath:** Is it not a fact, Sir, that excessive eating of areca nut by itself leads to dyspepsia, and chewing of tobacco to a bad heart?

**Mr. Speaker:** Order, order.

**Shri Deshbandhu Gupta:** Is it not a fact, Sir, that betel leaves were considered to be the best way of taking calcium and are still considered so?

**The Honourable Rajkumari Amrit Kaur:** I shall enquire into that matter.

**Shri S. V. Krishnamurthy Rao:** In view of the age-long custom in the use of these articles and in view of the fact that this use is dying out on account of foreign competition, will the Government initiate research into the nutritive and health value of these articles?

**The Honourable Rajkumari Amrit Kaur:** Government will consider the

## STRATEGIC RAILWAY LINES AND HIGHWAYS ALONG INDIA'S BORDERS IN VIEW OF PARTITION

891. \* { **Shri S. V. Krishnamurthy Rao:** } (a) Will the Honourable Minister  
 { **Sari R. R. Diwakar:** }

of Defence be pleased to state whether, in view of the partition of India, that was effected on 15th August, 1947, Government have planned strategic railway lines and highways along the borders of India?

(b) If so, how far are the plans complete?

(c) What is the estimated capital outlay?

(d) Has any actual construction begun?

(e) Are Government aware that recently some raiders from Pakistan were reported to have penetrated into Jaisalmer on the North-Western borders of India?

(f) Is there any railway line or highway to Jaisalmer, which is strategically useful?

(g) Are Government further aware that a railway line from Kalvat in the North can be brought up to Siddpur along the Indian borders for defence purposes?

(h) Has any survey been made? If not, is it contemplated?

**The Honourable Dr. Syama Prasad Mookerjee:** The question should have been addressed to the Honourable Minister of Railways. It has accordingly been transferred to the list of questions for the 29th March 1948 when it will be answered by him.

## RAIDS FROM PAKISTAN TERRITORY AND LOSSES INSIDE KASHMIR STATE

895. \***Shri Brajeshwar Prasad:** (a) Will the Honourable Minister of Defence be pleased to state the total number of raids made since these began in 1947 up to the end of February, 1948 inside the boundaries of Kashmir State, by raiders coming from the Pakistan territory?

(b) Do Government propose to lay on the table of the House a statement giving:

(i) the names of villages which were raided;

(ii) the number of persons killed by the raiders;

(iii) the number of persons injured by the raiders;

(iv) the number of women kidnapped by the raiders;

(v) the extent and nature of damage done to property by the raiders; and

(vi) the number of kidnapped women who were later rescued?

**The Honourable Dr. Syama Prasad Mookerjee:** (a) I presume the Honourable Member is referring to incidents on the border. If so, the number is 54 from 20th December, 1947 to the 9th March, 1948. This does not, of course, include the incidents which resulted in the occupation of portions of Jammu and Kashmir territory by the raiders. Particulars of the number of raids which took place before the 20th December, 1947 is not readily available.

(b) Information in the detail required by the Honourable Member is not available at present.

## EMPLOYMENT OF REFUGEE EMPLOYEES IN GOVERNMENT OF INDIA SERVICES

†896. \***Diwan Chaman Lall:** (a) Will the Honourable Minister of Home Affairs be pleased to state whether it is a fact that the Government of India have assumed direct responsibility for providing employment for displaced Government servants from Sind, Baluchistan, and N.-W. F. P. only?

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

(b) Is it a fact that the Government of India have not taken over any responsibility for providing employment to displaced refugee Government servants from West Punjab and that the Government of East Punjab have been solely held responsible for their absorption?

(c) How many of these Government servants have been absorbed by the Government of East Punjab and how many are still without employment?

(d) Is it a fact that some refugee employees from West Punjab who are employed in the Government of India services have been given notice by Government to make room for displaced Government servants from Sind, N.-W. F. P. and Baluchistan?

(e) If so, do Government of India propose to consider the displaced Government servants from West Punjab as also eligible for employment in the Government of India services, in the same way as those from Sind, N.-W. F. P., and Baluchistan?

**The Honourable Shri R. K. Shanmukham Chetty:** (a) The Government of India provide facilities to such persons to find alternative employment in India.

(b) Yes, but I should explain that the Government of East Punjab have accepted this responsibility like other Provincial Governments who have been directly affected by the partition and in accordance with the arrangements of partition as affected by their Partition Council.

(c) Government of India have no information.

(d) Information is not readily available whether such notices have been actually issued but Government servants from Sind, Baluchistan and N.W.F.P. have been given priority over those from West Punjab for employment under the Central Government and it is possible that on that account, some such instances have occurred.

(e) As explained in reply to clause (b), the displaced Government servants from West Punjab are the primary responsibility of the East Punjab Government.

**SCHEDULED CASTE STUDENTS SENT ABROAD ON GOVERNMENT SCHOLARSHIP  
YEAR-WISE SINCE 1937**

**897. \*Shrimati Dakshayani Velayudhan:** (a) Will the Honourable Minister of Education be pleased to state the number of Scheduled Caste students who were sent abroad for higher studies on Government scholarship since 1937 year-wise?

(b) How many were boys and how many girls?

(c) How many of them have returned after completing their study?

(d) How many have returned before completing their course of study due to war or other reasons?

(e) Is any preference given to Scheduled Caste candidates in the selection of sending students abroad for higher studies?

آنریبل مولانا ابوالکلام آزاد : (a) شیڈول کاسٹ و دیارتھی جو اس وقت تک باہر کے ملکوں میں تعلیم کے لئے بھیجے گئے ہیں، ان کا ٹوٹل نمبر ۳۵ ہے۔ ان میں سے ۳۴ و دیارتھی سنہ ۳۵-۳۶ء میں چلے گئے تھے۔

۲۲ شیڈول کاسٹ اسکالرشپ اسکیم کے اندر اور ۱۲ اوریس اسکالرشپ کی جنرل اسکیم کے اندر ایک اور ودیارتھی سنہ ۱۹۴۶-۴۷ میں اوریس اسکالرشپ اسکیم کے در چنا گیا - اس طرح ٹوٹل نمبر ۳۵ ہو گیا -

(b) ۳۳ لڑکے - ۲ لڑکیاں -

(c) گیارہ

(d) صرف ایک ودیارتھی کو بیماری نے کارن واپس آنا پڑا -

(e) اور سہر اسکالرشپ اسکیم کے اندر شیڈول کاسٹ کو ان کا تھیک تھیک حصہ

ملنی بھاگ مل رہا ہے -

گورنمنٹ آف انڈیا کی ہوم منسٹری نے جو ریشو نوکری کے لئے ٹھہرا دیا ہے وہی اسکالرشپ کے دینے میں بھی سامنے رکھا جاتا ہے بشرطیکہ کوالیفائڈ امیدوار موجود ہوں - اس تھنگ کی وجہ سے بہت اچھا موقعہ کامیابی کا انہیں مل گیا ہے کیونکہ ہم سے کم کوائلی فیکشن رکولڈ پر ہی انکا چناؤ ہو جاتا ہے - یہ کم سے کم کوائلی فیکشن در حال میں ضروری ہے کیونکہ بغیر اس کے وہ باہر کی یونیورسٹیوں میں جو ایکس سرس میں سے بالکل بھری ہوئی ہیں، جگہ نہیں پا سکتے -

**The Honourable Maulana Abul Kalam Azad:** (a) The total number of Scheduled Caste students so far sent for advanced studies abroad is 55. Out of these 34 were selected in 1945-46, 22 under the Scheduled Caste Scholarships Scheme and 12 under the Overseas Scholarships Scheme. The remaining one was selected in 1946-47 under the Overseas Scholarships Scheme.

(b) Two girls and thirty-three boys.

(c) Eleven

(d) One, due to serious illness abroad.

(e) Under the Overseas Scholarships Scheme of the Government of India, the Scheduled Castes are given a proper share of scholarships according to communal ratio prescribed by the Ministry of Home Affairs for purposes of appointments to services, provided suitable candidates are forthcoming. They are thus afforded better chances, with comparatively lower merit, provided they possess the minimum qualifications which would ensure their admission in the already overcrowded foreign universities.

**Shrimati Dakshayani Velayudhan:** I asked the number of candidates year-wise.

**Mr. Speaker:** But the question is not very clear on that point.

**Shrimati Dakshayani Velayudhan:** The original question was all right. I do not know who made it like this.

**Mr. Speaker:** What does she want to know?

**Shrimati Dakshayani Velayudhan:** I want to know the number of students from 1937 to 1948 year-wise.

**Mr. Speaker:** Is it possible for the Honourable Minister to give this information?

آنریبل مولانا ابوالکلام آزاد : ن کیلئے نوٹس کی ضرورت ہے -

**The Honourable Maulana Aoul Kalam Azad:** I want notice for this.

**Mr. Speaker:** Is there any other question which she wants to put?

**Shrimati Dakshayani Velayudhan:** I wanted to know only this. But I do not know who has changed the question.

**Mr. Speaker:** I must refer to the original notice she sent because nobody is interested in amending it.

**Shrimati Dakshayani Velayudhan:** Why did they amend the question?

**Mr. Speaker:** Whether the question is amended or not is a matter to be verified. The Honourable Member does not know perhaps that the questions are not amended by the Executive Government. All questions that are sent by members are scrutinised by the Speaker's Office, then they are scrutinised by the Speaker himself and, if necessary, they are amended to bring them within the rules. If she has any complaint about any amendment, she should see me in my Chamber and then the matter will be verified and if there is a mistake, that will be corrected. She cannot discuss in this House what the Speaker has done.

#### STATES NOT JOINING ANY MERGER SCHEMES AND WITHOUT RESPONSIBLE GOVERNMENTS

†898. \***Shri K. Hanumanthaiya:** Will the Honourable Minister of States be pleased to lay on the table of the House a statement showing the names, area and population of such states as have not joined any merger schemes and have not introduced responsible governments?

**The Honourable Shri R. K. Shanmukham Chetty:** So far as the Government of India is aware, most of the States which are outside the present merger schemes have introduced or propose to introduce responsible governments in the States.

#### POPULATION AND AREA OF STATES MERGING WITH OR ACCEDING TO INDIA

†899. \***Shri K. Hanumanthaiya:** Will the Honourable Minister of States be pleased to lay on the table of the House a statement showing:

(a) the number, area and population of the Indian States that have acceded to India:

(b) the number, area and population of the Indian States that have merged into the territories of India; and

(c) the number, names, area and population of the Indian States which have not so merged or acceded to India?

**The Honourable Shri R. K. Shanmukham Chetty:** The information asked for is contained in a statement placed on the table of the House.

#### Statement

(a)

Number	Area in square miles	Population
610	5,18,066	7,09,56,981

(b)

61	65,381	87,42,031
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†Answer to this question laid on the table, the questioner being absent.

(c)

Number	Name	Area in square miles	Population
5	Hyderabad .	82,313	1,63,38,534
	Junagadh .	3,337	6,70,700
	Manavadar .	101	30,000
	Sardargarh .	72	10,000
	Bantwa .	82	22,300

**SUBVENTIONS AND POST-WAR RECONSTRUCTION GRANTS, ETC., TO VARIOUS PROVINCES FROM 1945-47**

900. \*Dr. P. S. Deshmukh: (a) Will the Honourable Minister of Finance be pleased to lay on the table of the House a statement showing the total amount of (i) subventions, (ii) post-war reconstruction grants department-wise, and (iii) other grants department-wise given to the various Provincial Governments during the years 1945-46, 1946-47 and 1947-48?

(b) Which of these are absolute grants and which are conditional?

(c) What are the conditions that are expected to be complied with by the Provincial Governments?

(d) What amount out of the grants given under the heads (ii) and (iii) of part (a) has been actually spent and what is the remainder?

(e) Who holds the unspent balance?

The Honourable Shri R. K. Shanmukham Chetty: (a) A statement giving the available information is laid on the table of the House.

(b) The subventions are not subject to any conditions, while the other grants are given subject to certain conditions.

(c) In the case of post-war development grants the Provincial Governments have to submit schemes, which are to form part of a policy or plan approved generally by the Government of India, for the prior approval of the Central Government and submit later progress reports on these schemes, and block grants are given to cover the whole or part of the actual expenditure incurred. Grants for 'Grow More Food' schemes and for additional expenditure on police relate to specific schemes or other accepted items. Only percentage of the expenditure incurred is given as grant.

(d) and (e). As the grants to the end of 1947-48 will be in reimbursement of the actual expenditure incurred, the question of any unspent balance does not arise.



Statements  
(Figures in Lakhs)

Province	1945-46				1946-47				1947-48 (to 15-8-47)				1947-48 (from 15-8-47 to 31-3-48)			
	Sub-ventions	Grants for develop-ment	Grants for Grow More Food	Grants for additional Police	Sub-ventions	Grants for develop-ment	Grants for Grow More Food	Grants for additional Police	Sub-ventions	Grants for develop-ment	Grants for Grow More Food	Grants for additional Police	Sub-ventions	Grants for develop-ment	Grants for Grow More Food	Grants for additional Police
Madras	..	16	17	..	..	..	..	..	..	..	..	..	..	..	..	..
Bengal	8.00	22	91	..	..	..	..	..	..	..	..	..	..	..	..	..
Bombay	..	28	10	..	..	..	..	..	..	..	..	..	..	..	..	..
U. P.	..	16	3	..	..	..	..	..	..	..	..	..	..	..	..	..
C. P.	..	6	11	..	..	..	..	..	..	..	..	..	..	..	..	..
Bihar	..	12	36	..	..	..	..	..	..	..	..	..	..	..	..	..
Orissa	40	13	9	40	15	..	..	..	..	..	..	..	..	..	..	..
Assam	30	7	1	39	11.25	..	..	..	..	..	..	..	..	..	..	..
Punjab	..	4	6	..	..	..	..	..	..	..	..	..	..	..	..	..
Sind	..	1	30	..	..	..	..	..	..	..	..	..	..	..	..	..
N. W. F. P.	1.00	7	43	1.00	37.5	..	..	..	..	..	..	..	..	..	..	..
East Punjab	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
West Bengal	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
Total	9.70	1.22	2.07	1.79	63.75	..	..	..	..	..	..	..	..	188.75	..	..

Notes:

(a) As the Accounts have not been closed, complete figures are not available. The total payment in each of the years is estimated at:-

Grant for development	1946-47		1947-48 (Pre-partition)		1947-48 (Post-partition)	
	Grant for Grow More Food	Grant for additional Police	Grant for development and G. M. F.	Grant for additional Police	Grant for development and G. M. F.	Grant for additional Police
13 Crores	8.15 Crores	21 Lakhs	16.9 Crores	20.39 Crores	7 Lakhs	7 Lakhs

(b) It is not possible to give the grants department-wise as they are block grants.

**Prof. N. G. Ranga:** Is any effort being made in the Finance Department to gauge the manner and the extent to which these post-war development schemes are being carried, to which the Central Government is making subventions, and if so, have the Government of India been publishing, or will they consider the advisability of publishing, reports about the development and progress of these schemes?

**The Honourable Shri R. K. Shanmukham Chetty:** These schemes were really examined by a Development Board which has been directly working under the Cabinet. The suggestion of the Honourable Member that some Report should be published regarding the working of these schemes is, I think, worth consideration and I will certainly take it into consideration.

**Shri S. V. Krishnamurthy Rao:** May I know, Sir, if the subvention for the Grow More Food scheme applies to the acceding States also?

**The Honourable Shri R. K. Shanmukham Chetty:** No, it cannot apply to States.

**Shri S. V. Krishnamurthy Rao:** May I know why?

**Mr. Speaker:** Order, order.

**Dr. P. S. Deshmukh:** Are there any schemes under consideration for the year 1948-49?

**The Honourable Shri R. K. Shanmukham Chetty:** The Honourable Member knows full well that Rs. 80 crores has been provided for these grants to the Provincial Governments in my Budget and therefore legitimate inference can be drawn that there are schemes.

**Shri B. Shiva Rao:** May I know, Sir, in regard to clause (c), whether the Finance Minister imposes any penalty on the Provinces which fail to carry out the conditions laid down?

**The Honourable Shri R. K. Shanmukham Chetty:** No, Sir.

**Prof. N. G. Ranga:** Is it not a fact that some two years ago, a percentage grant was offered to those Provinces who would develop working class housing schemes and if so, what has been the result?

**The Honourable Shri R. K. Shanmukham Chetty:** I want notice of that question.

**Dr. P. S. Deshmukh:** May I understand from the Honourable Minister's reply that the schemes on which expenditure is going to be incurred in the year 1948-49 have already been approved?

**The Honourable Shri R. K. Shanmukham Chetty:** Yes. They have been approved or will be approved in the course of the year.

**Prof. Shibban Lal Saksena:** Have the Central Government tried to examine those schemes of the Provincial Governments with a view to finding out whether they fit in with the over-all all-India picture?

**The Honourable Shri R. K. Shanmukham Chetty:** Yes, in fact; in making these post-war grants, the Central Government have in view the necessity of co-ordinating the various schemes of the Provinces in the over-all economic and industrial development of the country as a whole and that is exactly the reason why we make it a condition that this expenditure can be incurred only on those schemes which have got the general approval of the Central Government.

**Prof. Shibban Lal Saksena:** Will the Government enable a copy of those schemes to be made available to the members of this House?

**The Honourable Shri R. K. Shanmukham Chetty:** I will consider that point.

**Begum Aizaz Rasul:** Is the Government aware that nearly Rs. 8 crores earmarked for the United Provinces under these development schemes lapsed last year on account of certain reasons, and if so, will Government make good that amount this year?

**The Honourable Shri R. K. Shanmukham Chetty:** I do not know to what grant the Honourable Lady Member is referring, but as I said in my answer, so far as these post-war development grants are concerned, there is no question of their lapsing at all. These grants are intended, as I explained in my Budget speech, to be given to schemes to be worked out in a period of years; so, if any money is not spent within the first two years, then that amount is available for the succeeding year.

**Begum Aizaz Rasul:** But is there not the stipulation that the Provinces have to spend the same amount before they can get it?

**The Honourable Shri R. K. Shanmukham Chetty:** But that does not mean that any amount lapses. I have provided for Rs. 30 crores this year. Now that means that the Provincial Governments have to spend an equal amount of Rs. 30 crores before they can withdraw from this allotment. Supposing they spend only Rs. 25 crores, they will get Rs. 25 crores and the balance will be carried over to the remaining period.

**Pandit Lakshmi Kanta Maitra:** What is the machinery of the Government of India which scrutinises the schemes of post-war development? Is it done by the Cabinet or is there any *ad hoc* Committee?

**The Honourable Shri R. K. Shanmukham Chetty:** There is a Development Board as I have said, but except exercising a sort of over-all supervision, naturally we have to give a considerable amount of latitude to the Provinces themselves in working out these schemes.

**Shri Ramnarayan Singh:** May I know the allotment of the amount province by province?

**The Honourable Shri R. K. Shanmukham Chetty:** That is contained in the Explanatory Memorandum of the General Budget.

#### DEVELOPMENT SCHEMES SUBMITTED BY PROVINCIAL GOVERNMENTS FROM 1945-47

901. **\*Dr. P. S. Deshmukh:** (a) Will the Honourable Minister of Finance be pleased to lay on the table of the House a statement showing the schemes submitted by the Provincial Government for developments for the years 1945-46, 1946-47 and 1947-48 for which the Government of India had decided to contribute?

- (b) Do Government scrutinize these plans?
- (c) Is this done by each Ministry of the Government of India?
- (d) Have Government employed any experts for this purpose?
- (e) Is there any Central Body which is in charge of this work?
- (f) If not, do Government propose to consider the advisability of constituting such a Body?
- (g) Have Government any agency to supervise how the grants given by the Government of India are utilized?
- (h) Do Government keep any record of such supervision?

**The Honourable Shri R. K. Shanmukham Chetty:** (a) A list of the development schemes of the Provincial Governments approved by the Government of India as eligible for Central Grants is placed in the Library of the House.

- (b) and (c). Yes.
- (d) No.

(e) and (f). Yes, the work is co-ordinated by a branch of the Cabinet Secretariat known as 'Development Board'.

(g) and (h). No. The grants are made subject to certain conditions which *inter alia* require the general approval of Government of India to the provincial development plans and the submission of an annual progress Report to the Central Government regarding the execution of the schemes.

### (b) WRITTEN ANSWERS

#### SUB-VENTIONS ETC. TO C. P. AND BERAR AND DEVELOPMENT SCHEMES IN THE PROVINCE

902. \*Dr. P. S. Deshmukh: (a) Will the Honourable Minister of Finance be pleased to state what sub-ventions and grants Government of India gave to the Central Provinces and Berar Government for the years 1945-46, 1946-47 and 1947-48?

(b) What are the heads and purposes for which these grants were given?

(c) Have the Government of the Central Provinces submitted any schemes of development during the last three years? If so, do Government propose to lay copies of those schemes on the table of the House?

(d) What amounts out of these, have been actually spent and utilized during the said period?

(e) What has the Provincial Government spent, out of its own revenues, on each of these plans?

(f) Is there any balance with the Government of India?

(g) Have any amounts been held to have lapsed on account of the inability of the Provincial Government to spend them?

**The Honourable Shri R. K. Shanmukham Chetty:** (a) I would invite the attention of the Honourable Member to the statement laid on the table of the House in reply to Question No. 900.

(b) The grants for Grow More Food were to speed up the production of food crops in the country. The grants for additional expenditure on Police were for the additional responsibilities for maintaining law and order in the Provinces during the war and immediately thereafter. The post-war reconstruction grants were for assisting the Provincial Governments in putting into effect schemes for the economic development of the Province.

(c) Yes. A list of the approved schemes eligible for Central Grants has already been placed in the Library of the House.

(d) to (g). I would invite the attention of the Honourable Member to the reply I have given to part (d) of the Question No. 900.

#### DISPOSAL OF UNCLAIMED BODIES OF HINDU AND MUSLIM PATIENTS DYING IN IRWIN HOSPITAL

903. \*Ch. Ranbir Singh: Will the Honourable Minister of Health be pleased to state:

(a) the manner in which the unclaimed dead bodies of Hindu and Muslim patients who die in the Irwin Hospital are disposed of; and

(b) the amount of firewood, if any, provided for the cremation of an unclaimed dead body of a Hindu patient?

**The Honourable Rajkumari Amrit Kaur:** (a) The unclaimed dead body of a Hindu is given by the police to the Indraprastha Sevak Mandli, Delhi. The unclaimed dead body of a Muslim is given to the Muwat-ul-Islam Anjuman, Delhi. These two Associations cremate or bury the dead body as the case may be and send their bill to the New Delhi Municipal Committee who make the payment of the bill to the Association concerned.

(c) Does not arise.

**STAFF AND METHOD OF APPOINTMENTS IN OFFICE OF ACCOUNTANT GENERAL  
OF BIHAR**

904. \*Shri Ramnarayan Singh: Will the Honourable Minister of Finance be pleased to state :

- (a) the present strength of the office of the Accountant General of Bihar;
- (b) the methods of appointments and the jurisdictions of the Government of Bihar in this matter;
- (c) the number of vacancies, if any, and the period of time before which they are to be filled up;
- (d) the number of temporary hands, if any;
- (e) whether they are given any preference in filling permanent vacancies; and
- (f) the number of employees sent to and brought from Pakistan?

**The Honourable Shri R. K. Shanmukham Chetty:** (a) 441.

(b) According to paras. 211 and 213 of the Auditor General's Manual of Standing Orders recruitment in Civil Audit and Accounts offices is restricted to the residents of the province in which the office is situated, subject to the observance of orders and instructions relating to the appointment of members of minority communities and the reservation of a limited number of vacancies for sons of Government servants who have served long and faithfully in Accounts and Audit offices. If any difficulty is experienced in recruiting members of minority communities with adequate qualifications, recruitment is permitted from an outside area and sons of Government servants referred to above can be appointed to an office in the Province of origin of their fathers. These general provisions regarding recruitment had to be relaxed to a certain extent in recent years to provide for War Service candidates and persons who have opted for service in India after the 15th August 1947. Bihar Government have no jurisdiction in the selection of persons to be appointed to the office of the Accountant General, Bihar.

(c) Information is being collected and will be placed on the table of the House in due course.

(d) 248.

(e) Temporary men are given preference in filling permanent posts.

(f) Information is being collected and will be placed on the table of the House in due course.

**MAINTENANCE OF TERMS AND CONDITIONS OF SERVICE OF GOVERNMENT  
EMPLOYEES OF SYLHET, ASSAM OPTING FOR INDIA**

905. \*Pandit Hirday Nath Kunzru: (a) Will the Honourable Minister of Home Affairs be pleased to state whether Government are aware that the Chief Secretary to the Government of Assam informed the Gazetted officers of the Government of Assam on the 25th June, 1947, as follows:

".....the Special Committee of the Partition office, Government of India, New Delhi, appointed to work out the machinery for implementing the partition of India has decided as follows:

"Every Government servant, Indian or European, should be given an opportunity to select the Government, he wishes to serve....."

"I am to make it clear to you that the representatives of the two future Governments mentioned above guarantee your existing terms and conditions of service."

(b) Are Government aware that the Government of Assam further informed all Secretaries and Heads of Departments towards the end of August, 1947, that their decision was that "any Government servant who is a native of or domiciled in Sylhet District and is posted on the 14th August 1947 in Sylhet, should remain there irrespective of his choice to serve in any Dominion and not be exchanged against an officer outside Sylhet who may have opted for Pakistan"?

(c) Are Government aware that the Government of Assam subsequently decided that Government servants in Sylhet who had been released by the Government of East Bengal as their officials exercised their option for the "Rest of India", could only be absorbed in vacancies caused by the transfer of personnel to that Government?

(d) If the answers to parts (a), (b) and (c) above are in the affirmative, what steps do the Government of India propose to take to fulfil the guarantee given by them in June 1947 regarding the maintenance of the existing terms and conditions of service of those Government employees who decided to serve in India?

**The Honourable Shri R. K. Shanmukham Chetty:** (a), (b) and (c). Yes.

(d) The decision of the Partition Council referred to in part (a) of the question contained a guarantee given on behalf of the representatives of the prospective Governments of India and Pakistan to the employees of the Central Government. It was not a guarantee given to the employees of any Provincial Government. Questions relating to employees of the Governments of partitioned Provinces were settled by Provincial Partition or Separation Council concerned. This is, therefore, a matter for the Government of Assam to deal with. I would add, however, that the Government of India understand that the orders issued by the Government of Assam on 6th December 1947 of which presumably the Honourable Member is not aware, satisfactorily solve the problem created by their previous somewhat inconsistent orders.

#### **EMPLOYMENT OF GOVERNMENT SERVANTS FROM SYLHET, ASSAM OPTING FOR INDIA**

906. \*Pandit Hirday Nath Kunzru: (a) Will the Honourable Minister of Home Affairs be pleased to state the number of (i) permanent; and (ii) temporary Government servants—Gazetted and non-Gazetted separately—in Sylhet who opted for the "Rest of India" and were therefore, released, by the Government of East Bengal, together with the date of their release?

(b) How many Government servants of each of the classes referred to above, have been provided with appointments so far?

**The Honourable Shri R. K. Shanmukham Chetty:** (a) and (b). Government of India understand that 547 permanent and 185 temporary employees were released by the Government of East Bengal in pursuance of the option exercised by them. Further particulars have been called for but not yet received.

#### **RE-EMPLOYMENT BY ASSAM GOVERNMENT OF PERSONNEL OPTING FOR PAKISTAN AFTER RECONSIDERATION OF INITIAL CHOICE**

907. \*Pandit Hirday Nath Kunzru: (a) Will the Honourable Minister of Home Affairs be pleased to state whether the Government of Assam allowed any Government employees who originally opted for service in Pakistan to revise their choice in favour of India after the expiry of the period allowed for the reconsideration of their initial choice?

(b) If so, what is the number of such employees?

(c) What is the total number of vacancies caused by the release of Government employees who have opted for service in Pakistan and the number of such vacancies filled by the personnel released by the Government of East Bengal in Sylhet?

**The Honourable Shri B. K. Shanmukham Chetty:** (a) Though the Separation Council of Assam and East Bengal did not provide for an option after the 14th August, 1947, the Government of Assam allowed such an option to their employees.

(b) and (c). The information is being called for from the Provincial Government and will be laid on the table of the House in due course.

**OUTSTANDING NATIONAL DEBTS FALLING TO THE SHARE OF INDIA**

**908. \*Shri Biswanath Das:** Will the Honourable Minister of Finance be pleased to state:

(a) the grand total of all outstanding national debts that have fallen to the share of India noting the interest per cent. payable in each case;

(b) the amounts, if any, towards protective irrigation works constructed before the year 1921;

(c) the amounts, if any, borrowed towards payment to Britain as war aid or as payment for British Military aid to the East India Company as was done in 1858 or for Afghan, Burmese or Chinese wars or for any other wars noting the same in each case; and

(d) the results of debt redemption provisions on all our outstanding debts?

**The Honourable Shri B. K. Shanmukham Chetty:** (a) A statement showing the outstanding public debt as on the 14th August 1947, the liability for the whole of which has been assumed by the Indian Dominion is placed on the table.

(b) Loans are not generally raised or earmarked for any specific purpose and it is not possible to say how much of the present outstanding loans relate to a particular purpose. Moreover, the bulk of the outstanding liability in connection with Irrigation works was transferred to the Provinces on the 1st April 1921. On that date the capital outlay on protective works in Centrally administered areas amounted to only Rs. 9.47 lakhs which may be treated as reflected in the outstanding debt.

(c) As I have mentioned in reply to part (b) of the question, it is not possible to say how much of the outstanding debt relates to specific past payments or expenditure.

(d) The cumulative effect of the provision made for debt redemption is to reduce Government's borrowing and thereby the outstanding debt.

*Outstanding Rupee and Sterling Loans on the 14th August 1947*

**INDIA—**

*Rupee Loans—*

(In Lakhs of Rupees,)

3½ per cent Loan, 1947—50	55.94
2½ per cent Loan, 1948—52	87.01
4 per cent Loan, 1948—53	5.02
3 per cent Loan, 1949—52	66.64
4½ per cent Loan, 1950—55	6.74
3 per cent Loan, 1951—54	86.72
3 per cent Loan, 1953—55	1,15.64
3½ per cent Loan, 1954—59	12.72
4½ per cent Loan, 1955—60	9.06
4½ per cent Loan, 1958—68	5.85
4 per cent Loan, 1960—70	63.30
3 per cent Loan 1963—65	1,16.17
3 per cent Funding Loan, 1966—68	1,10.12
3 per cent Victory Loan, 1957	1,14.07
3 per cent Second Victory Loan, 1959—61	1,15.20
3 per cent First Development Loan, 1970—75	1,15.45
2½ per cent Bonds, 1950	35.09

2½ per cent Loan, 1960 . . . . .	46,68
2½ per cent Loan, 1954 . . . . .	35,06
2½ per cent Loan, 1961 . . . . .	57,01
2½ per cent, Loan, 1976 . . . . .	14,77
3 per cent Loan, 1896—97 (Non-Terminable) . . . . .	6,93
3 per cent Conversion Loan of 1946 (Non-Terminable) . . . . .	2,48,29
Maharaja Holkar 4½ per cent Loan . . . . .	70
Maharaja Scindia 4 per cent Loan . . . . .	1,50
Three-year Interest-free Defence Bonds . . . . .	31
Five-year Interest-free Prize Bonds, 1949 . . . . .	5,30
Rupee Loans not bearing Interest . . . . .	7,54
<b>Total Rupee Loans</b> . . . . .	<b>15,45,79</b>

*Floating Loans—*

Treasury Bills (a) . . . . .	76,34
Special Floating Loans (b) . . . . .	1,23,58
<b>Total</b> . . . . .	<b>2,10,42</b>

*Sterling Loans—*

India 4½ per cent Stock 1950—55 . . . . .	1,53
India 4½ per cent Stock 1958—63 . . . . .	69
India 4 per cent Stock 1948—53 . . . . .	62
India 3½ per cent Stock 1954—59 . . . . .	62
India 3 per cent Stock 1949—52 . . . . .	45
India 3 per cent Stock . . . . .	2,07
India 2½ per cent Stock . . . . .	25
India Railway Debentures . . . . .	19*
Liability for British Government 5 per cent War Loan (1929—47) taken over by India (c) . . . . .	20,62
Capital portion of Railway Annuities (d) . . . . .	20,61
Sterling Loans not bearing Interest . . . . .	11
<b>Total Sterling Loans</b> . . . . .	<b>47,76</b>
<b>Grand Total</b> . . . . .	<b>18,03,97</b>

NOTE.—The liability for the entire outstanding public debt of the late Central Government has been assumed by the Indian Dominion. Pakistan's share will be included in its debt to India.

(a) Varying rates, the average rate being 8 as. per cent.

(b) Non-Interest bearing.

(c) Payments suspended.

(d) Equivalent amounts already deposited with H. M. G.; the entry here appears only for technical reasons.

\*Rate varying from 3 per cent to 4½ per cent.

#### DEVELOPMENT OF CHANDABALI OR DHAMARA OR GOPALPORE PORTS IN VIEW OF DEFENCE AND TRADE

909. \*Shri Biswanath Das: (a) Will the Honourable Minister of Defence be pleased to state whether Government have considered the need of developing the ports of Chandabali or Dhamara or Gopalpore both from the point of view of defence and trade with the countries of Middle and Far East?



(b) Have Government examined the loss caused to India by the conveniences of the ports of Akyab in Burma and Chittagong in Eastern Pakistan, specially from the point of view of defence?

(c) Have Government examined the possibilities of the Chilka Lake and specially the protection it is expected to offer to a navy due to its location and conveniences so highly appreciated by persons competent to speak on such questions?

**The Honourable Dr. Syama Prasad Mookerjee:** (a) and (c). I would invite the attention of the Honourable Member to my reply to part (c) of Starred Question No. 80 asked by him on the 2nd February, 1948. The question whether these ports should be developed from the point of view of defence or of trade is governed by the over-riding consideration whether such development is technically possible. Sometime back the Ports (Technical) Committee recommended that Government should in due course investigate the possibility of establishing another sheltered deep-sea port between Vizagapatam and Calcutta. I understand that there is a possibility of developing a port near the mouth of the Dhamra river as a result of facilities that are expected to become available on completion of the multipurpose development of the Mahanadi River.

(b) Due consideration is being given in our Naval defence plans to the changed circumstances resulting from the loss of the ports of Akyab and Chittagong.

#### RAILWAYS (TRANSPORT OF GOODS) AMENDMENT BILL.

**The Honourable Dr. John Matthai** (Minister for Railways and Transport):  
Sir, I beg to move:

“That the Bill to amend the Railways (Transport of Goods) Act, 1947, be taken into consideration.”

Sir, the present Act under which the system of priorities is being worked will expire on the 25th of March and the Bill that I have placed before the House seeks the approval of the House for the extension of that Act for another year. The main consideration on which this particular Bill is based, the main consideration on which we are asking the House to extend the duration of the Act, is that we are still in this position that the existing transport facilities are not sufficient for moving all the traffic that is offered. In other words, there is a relative shortage of transport capacity. The general principle on which controls are instituted is that when there is shortage in an essential commodity, it is necessary that there must be some arrangement for regulating the distribution of that particular commodity. But that, of course is not a decisive consideration. There are certain special factors which make it important that we should retain a certain amount of power for regulating priorities in regard to railway traffic. First of all there is this very important consideration that Government with the approval of the House have accepted a policy of gradual de-control of commodities. Now our experience is that when you have adopted a policy of physical de-control, it is necessary during the initial stages, during the transition period, that there must be a certain amount of control over movements. In other words, it is not possible, unless you are prepared to face serious disorganization, to introduce simultaneously a physical de-control programme and also a decontrol of movement. One must follow the other. I might perhaps illustrate this point by what is happening in regard to the movement of various classes of foodgrains today. As the House is probably aware, since we have gradually begun to de-control food-stuffs, it has become necessary to provide railway facilities for large movements on private or trade

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account. . . When large movements occur on trade account, these movements are not necessarily intended for the transport of goods to where these goods are needed most and along routes which would provide the most economical transport. In other words, what the trade aims at doing, quite naturally, is that the goods must move to the places where the largest margin of profit can be secured, whereas in the public interest what is required, assuming a shortage of transport capacity, is that these goods must move to points where they are required most urgently.

There are also other special considerations which make it important that we should retain a certain amount of control. Take, for example, the situation which has arisen in the Madras Presidency. In that province we are expecting a serious shortage of food-grains. In consultation with the Ministry of Food, I have been drawing up a programme for the movement of food-grains to that Province, from the beginning of May, probably extending up to September or October. As far as I am able to judge from the figures given to me, it would mean that the Ministry of Railways would have to move over a period of about three to four months, somewhere about ten to fifteen special goods trains a day.

**Pandit Lakshmi Kanta Maitra** (West Bengal: General): Every day?

**The Honourable Dr. John Matthai**: Yes, every day. That is going to place a very considerable strain on our limited transport facilities. We shall not be able to do that unless we have a certain amount of power to regulate general movement of traffic.

Then there is the question of the rehabilitation of our refugees. Large schemes are being worked out in Provinces like the Punjab and Bengal for the rehabilitation of refugees, which involves the construction of houses, the construction of various kinds of works of public utility. The materials required for these public works, it is necessary, should be moved as quickly as possible.

Also there is the question of Kashmir. If unfortunately the Kashmir position continues to be in the present fluid and somewhat difficult stage, it would be necessary for us to conserve our transport facilities, so as to be able to move whatever is required in the way of supplies for strengthening our position in Kashmir. For all these reasons, therefore, I feel it is important that we should have the power to regulate and to conserve our transport capacity.

Sir, there are certain new features which have been embodied in this amending Bill. First of all, in deference to the prevailing feeling in the House that we should restrict control where necessary to the minimum, we have taken care in this Bill to cut down the number of articles included in the Schedule for priority purposes from 99 to 18, that is to say only the most essential classes of articles will be included in the Schedule and control of priorities, therefore, will be restricted to that extent.

Secondly, we are providing in this amending Bill that where special facilities or preference is granted in regard to specially essential commodities, we retain the power to fix certain quota limits, quota limits to the number of wagons provided. That is necessary, because if a situation arises where various classes of essential commodities want traffic facilities, it is necessary that we should place them on an equitable footing as between one class of goods and another.

Thirdly, we are providing in this Bill that the sponsoring authority of Government as far as Provincial Governments and State Governments are concerned cannot be delegated by them to subordinate authorities. The provision at present in the existing Act is that the sponsoring authority of Government can be delegated by the Central Government, by the Provincial Government and by the State Government to any subordinate authority on whom it wants to confer that power. What we are providing at present is that the power of

delegation should be restricted to the Central Government; the Provincial Government and the State Government cannot delegate their authority. The reason for that is there have been cases, quite a number of cases, as a matter of fact, where this power has been somewhat seriously abused. I find, for example, in the papers that I have seen, that certain Provincial Governments have delegated this authority to functionaries like Tahsildars, to Managers of agricultural farms, etc. You cannot delegate authority to officers of that standing without causing a great deal of confusion in the administration of priorities. These are the main new features which we have put in the amending Bill.

I should like to say a word about the legal justification for a Bill of this kind. As the House is aware, under section 42A of the Indian Railways Act railways cannot exercise what is called undue preference in moving commodities. We have been advised by our legal advisers that unless Government are invested with authority of the kind embodied in this measure, any case of special facilities or preference granted to a particular commodity or group of commodities would bring the Indian railway within the mischief of section 42A of the Act, and would render us liable for damages. According to the advice that we have received from the Law Ministry the position is that any preference that is given except in order of registration may be construed as undue preference and would bring us within the province of the section dealing with undue preference in the Railways Act.

There is a special provision included in the Bill to which also I should refer. Since we are reducing very considerably the number of articles to be included in the Schedule we are seeking power in this Bill whenever an emergency arises in regard to any particular commodity, to grant special facilities or preference for that commodity, although that commodity may not be included in the list of articles set out in the Schedule. That would be done only where there is an important and urgent necessity for including that particular article. The House will probably have seen from the list of amendments circulated that my Honourable friend Mr. Santhanam has suggested an amendment which seeks to provide that the power to grant special preference to articles other than those included in the Schedule should be granted only for reasons of urgent public interest. I am going to accept the substance of that amendment, although there is a slight verbal alteration that I would suggest. That will secure that whenever this power is exercised by Government it will be exercised only in regard to temporary emergencies which may arise in regard to particular commodities.

There is one other point to which I wish to refer. I have had a feeling for some time that our administration of priorities has suffered by reason of the fact that there has not been enough contact between those who administer railway priorities and business opinion. I am therefore going to provide as a matter of executive arrangement that hereafter every Regional Controller of Railway Priorities should have attached to him an advisory committee consisting of representatives of business interests in the locality and also of such Government departments as may be concerned.

**Prof. N. G. Ranga (Madras: General):** What about the agriculturists? Business interests come in only as middlemen.

**The Honourable Dr. John Matthai:** When I said 'business' I meant both distribution and production. As a matter of fact the actual composition of these regional advisory committees has not been settled, and I should be glad to have suggestions from the House regarding the lines on which these committees should be composed. My idea is that they should not merely meet periodically for the purpose of reviewing the position but should, at least in the initial stages, meet every day. They should sit with the Regional Controller of Priorities, see how movements have been arranged, and what the

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programme is for the future, so that effective contact is established between the administration and the public interested in the movement of commodities.

That, Sir, covers more or less the points I want to place before the House at this stage. I hope the Bill will commend itself to the House.

Mr. Speaker: Motion moved:

"That the Bill to amend the Railways (Transport of Goods) Act, 1947, be taken into consideration."

Shri K. Santhanam (Madras: General): Sir, as a member of the Transport Standing Committee I have had occasion to scrutinise the working of priority control. I am afraid this stands more or less on the same footing as the so-called partial rationing in food. I have always found that where there is complete rationing there is some decent distribution, but wherever there is partial rationing it has been an unsatisfactory mess. I can really understand having complete control over distribution and saying that each article comes in a particular order and shall be distributed in that order. But as things stand only certain categories of articles are to be in the priority list and other articles are simply left to the rule that the devil takes the hindmost. Therefore I think the sooner this priority control is got rid of the better it will be. The main effect of this priority organisation now is that it delays all proceedings; but at the same time I am convinced that this organisation cannot be scrapped immediately. If there were no famine in Madras and no food scarcities in other provinces I would have no hesitation in telling the Honourable Minister that it should be immediately scrapped. But in the present food emergency priority for movements of foodstuffs has to be given, and so to that extent I am supporting the extension of this Act for one year. At the same time I want that clause 6 which is there should not be utilised; it should be utilised only for the purpose of excluding articles. The one advantage of the present Bill over the existing Act is that the categories of article which will obtain priority movement is limited. I wanted that these articles should be rigid and there should be no power of extension for any authority. But it was pointed out that there may be very rare cases in which public emergency requires sending of one or two articles outside the list for particular destinations. Therefore I have proposed an amendment that wherever the discretionary power is to be used it should be used only on the ground that there is a public emergency; otherwise the railway administration should simply work the priority control over the articles mentioned in the Schedule and let other goods be transported according to the order in which they are offered to the railways. The sooner therefore the routine of 'First come, first served' gets into operation the better will it be both for business and for the railways as also for the public concerned.

Pandit Lakshmi Kanta Maitra: Who is going to determine that emergency?

Shri K. Santhanam: After all the Central Government and its officers have to determine, but if they misuse it we are here to take them to task. This is the only possible machinery that can be devised. Of course the Honourable Minister has already made a proposal that he is going to have committees of businessmen in each area. There is a great danger also in this device. While it is necessary to be in contact with businessmen, we know that businessmen, specially those people who get into committees, have got private interests, and they may use their position in these committees to get preferences over those rivals who are not fortunate enough to be in these committees; and therefore the priority officers should not put themselves unduly under the influence of these committees because where private interest is concerned it is very difficult to have a sense of perspective or proportion. I therefore suggest that the Railway Minister should give us a definite undertaking that Section 6 of the old Act will not be used and that the entire purpose of the working of the

administration for one year should be to liquidate the organization at the end of the year. There should be no attempt to build up a case for a further extension of this period. It has already lived long enough and it is time this is given a decent burial as early as we can.

**Shri T. A. Ramalingam Chettiar** (Madras: General): In supporting this motion, I consider that it is an exceptional case in which, on account of the situation in the country, this power has to be given to the Government, and it is to be given only for the period for which it is necessary, and I am glad that the duration of this Bill will be limited to the 26th March of next year. But in the actual working of the Act there have been difficulties felt.

Time after time we have felt in Madras that allotments have been made of foodstuffs but they have never reached the area to which they were made. It was always said that that was due to the fact that the railway defaulted or that they were not able to move the goods. I may here say, that in Madras at any rate, they have got what are called Movement Officers. They are people who make arrangements for the purpose of moving the quantities of foodstuffs allotted to the different districts from the surplus areas. But these people seem to have no influence whatever with the railway authorities. In spite of all that they can do, they are not able to be effective and manage the sending of these foodstuffs from the surplus areas to the deficit areas. I would, Sir, ask the Honourable Minister for Railways not to be so anxious about having businessmen coordinated with the work of these officers; but rather he should try and coordinate the work of the Local Government and the railway authorities, so that when the Local Government wants any foodstuffs to be allotted, and sometimes urgently wanted in any deficit area, the railway authorities may co-operate with them and see that these foodgrains reach the areas where they are wanted. That is much more important than associating businessmen with a thing like this. I agree with Mr. Santhanam that the Association of businessmen in these matters is likely to lead to miscarriage of business and miscarriage of activities connected with this work. We know the sort of corruption that exists in these matters, and it is better that persons actually interested in these matters are not allowed to have a voice in the settlement of these priorities.

I would only add this that there have been cases, especially with reference to deficit areas, where wagons often had to return empty. They discharged certain goods which were sent to certain areas but on the return journey the wagons were sent empty. A thing like that should be attended to by the railway authorities or some responsible person on the spot, so that the required goods may be sent in those empty wagons. I know of many cases in which, from Malabar and South Kanara, empty wagons have been sent to and fro, even though a lot of food was required in Malabar and South Kanara, and a lot of materials for house building which is also required could have been sent from Malabar and South Kanara. Sir, some sort of supervision, with reference to this use of wagons to and fro may be provided for by the appointment of some responsible officers. If these two things are done, I think to a large extent the difficulty that has been felt in the administration of this Act can be met.

**Shri M. Ananthaswami Ayyangar** (Madras: General): However inconvenient a control might be, the duration of its existence is very often determined by the economic situation in the country. This is another kind of control. Under the Railways Act whatever goods are offered are being carried from one place to another. But for this Act, the railway authorities have no option but to carry them as and when goods are offered. Last year a Bill was introduced and it was enacted into law to be enforced only for one year, giving authority to the railway authorities under directions from the Central Government and the Provincial Governments to accept or to give priority to certain classes of goods. That Act was to be in operation only for one year. It is seriously enough said in the preamble to the Act and in the priority clause that

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this shall come into force and shall remain in force for one year. Of course, this year, my Honourable friend, the Railway Minister has brought in an amendment to this, saying for one year only we shall have this Act. But I do not think he wants to impose a control which is unnecessary. I am sure, therefore, that it is necessary.

In December of last year many industrialists met in a conference here, convened by the Industry and Supply Minister. They decided that priority must be given to goods and raw materials necessary for various industries. Amongst them the complaint was that coal was not being transhipped as early as possible and that is why production in the factories had gone down, besides being due to other causes like labour troubles. As long as commodities are in short supply and wagons are in short supply priority has to be given. Mr. Santhanam admitted that having regard to the food situation in the Southern Presidency it is necessary that priority should be given to articles of food. They must be carried there; otherwise, in view of the famine conditions to be faced many casualties may occur.

I do not know how long these controls have to be in existence. These are necessary evils. We may suggest that they should be operated with as great care and caution as possible under the circumstances. If again the Honourable Minister has to come before us next year, I would not hesitate to continue it for one year more. There is no rule of thumb which can say that it must be put an end to at a particular point of time. This year we have had some of our friends who were protagonists of decontrol and who were very vehement about it. They said let there be decontrol and let things take their own course. But we have now seen how things are taking their course in the Southern Presidency. The Food Minister has said we have to be satisfied with six ounces of food. One ounce of food contains 100 calories and six ounces 600 calories. No human being can live on that. If you fix on this you will see that people will then die like flies. There is no use sticking to a particular principle. So long as commodities are in short supply, it should be necessary to introduce control. Likewise, so long as wagons are not available and foodstuffs and other articles have to be moved from place to place, a kind of control has to be exercised. I do not say that the administration has been perfect. But the administration has to be strengthened and made absolutely foolproof.

I welcome the suggestion of the Honourable Minister that he is going to have advisory committees. I wish to give one suggestion regarding their composition. There are local advisory councils for railways with each railway administration. One or two of those members may be chosen to look into these matters from day to day. This suggestion of his to form an advisory council is on the same lines as the suggestion of appointing a council here to look into the news that come from various local newspapers and then censor them from time to time. Such an advisory council was constituted for the Delhi Province. Similarly wherever there is a Controller or an authority to control or decide upon priorities in the matter of wagon supply an Advisory Council may be constituted. One or two members may be chosen from the Local Advisory Council. Due weightage must be given to the representatives of agriculture, as they are the producers of the primary commodities. Industries have their cries heard as they command newspapers and other platforms. So we need not be over-particular about industries. Agriculture very often goes to the background and their interests are not cared for. Special provisions should be made for the inclusion of representatives of agriculture and also representatives of the local Advisory Council for railways should be included.

I originally thought that the power that the Honourable Minister wants under clause 4(b) was innocuous. Mr. Santhanam's amendment suggests that such priority shall be exercised in the case of the other goods not specified in

the schedule only in cases where public interest necessitates that. My fear is that this power may be used so as to override the priority given in the schedule. The wording is so general. 18 items are scheduled and the schedule gives a particular priority. A number of items are included in the schedule and an order of priority is indicated.

**Shri K. Santhanam:** The number is not the order of priority, which is different. This is a mere catalogue.

**Shri M. Ananthasayanam Ayyangar:** Then I do not know who will prescribe the order of priority. Supposing there is a conflict between foodgrains going to the South and coal going to the South. Possibly the Central Government will decide. Is the power that will be exercised to be modified from time to time or season to season? Why should not such priorities be indicated in the schedule itself?

**Shri Mohan Lal Saksena (U.P.: General):** It may vary from day to day.

**Shri M. Ananthasayanam Ayyangar:** After all the operation of this Bill is only for one year. Broadly speaking we are not going to have such radical changes during the course of the year. As a matter of fact.....

**The Honourable Dr. John Matthai:** To cut short the discussion I may explain it to the Honourable Member. As soon as the policy of decontrol was decided on it became necessary very drastically to recast the whole schedule of priorities. Any alteration of that kind would make it necessary during the course of the year to recast this system of priorities.

**Shri M. Ananthasayanam Ayyangar:** Normally do you not draw up a priority list, so that every thing that is urgent will secure priority. Take the case of potato seedlings, which must be transported from one place to another. Besides there is a particular season for it and it must have top priority in that particular season.

**The Honourable Dr. John Matthai:** That would come under 4(b).

**Shri M. Ananthasayanam Ayyangar:** I would suggest to the Government that they must fix up a priority. I thought there was a priority in the schedule. Unless it be in exceptional cases one must know what the priority is for an article. After all though the Honourable Minister may not technically be in charge of it, yet he is going to appoint some authority of the provincial government, who is going to give the priority. That is the way in which the giving of large powers to a particular authority to carry it out has ended in corruption and nepotism. I was asked to preside over some conference of railway workers in a place near to my town and they asked me "If at dead of night a man put Rs. 200 into my hands, how do you expect me to resist the temptation." However big a man might be it is very difficult to get over temptation. If you delay the supply of wagons by a day in the case of perishable articles or food-stuffs during the rainy season they will go bad. Under these circumstances it will be too much to expect that these people can really be honest, however much they may make up their minds to be quite honest. Therefore let there be a priority and let it not be transgressed from time to time according to the wishes of any individual or authority however high placed he might be. For that purpose I want the powers that the Honourable Minister wants under clause (b) to be exercised sparingly.

In another connection the Honourable Law Minister said that in the matter of controls we adopted only controls without the corresponding provisions for safeguarding the manner in which the controls are to be effected. In England wherefrom we copied a large number of these controls there is a tribunal with respect to each control. An applicant whose application has been refused can

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go to the tribunal, which will dispose of the matter. Likewise the Advisory Council which is to be brought into existence must have the power to inquire into complaints and dispose of them. There must be appeal from the authority which gives the priorities to a higher authority which must sit almost from day-to-day. If non-officials are not available there may be official members or non-official members may be paid for the occasion.

As regards the powers of the provincial government, under this Bill they are sought to be curtailed.

**Pandit Lakshmi Kanta Maitra:** Does the Honourable Member mean to suggest that this Advisory Council should have appellate power?

**Shri M. Ananthasayanam Ayyangar:** I want the Advisory Council to have the power to over-ride in particular cases. It must be in the nature of a tribunal. Merely giving advice means that they sit along with the officers there. If the Advisory Council sits from day to day they must be able to dispose of applications for priorities along with the officer responsible.

**Pandit Lakshmi Kanta Maitra:** Then it becomes an executive body.

**Shri M. Ananthasayanam Ayyangar:** Let there be a different tribunal, which will be able to dispose of applications from time to time. They must be able to interfere. Merely going on advising would not do. I know advisory councils discharge their functions with tremendous zeal on the first or second occasion. Thereafter they become slack for reasons best known to them. It must be a council which can say "I am in a position to dispose of this matter over the head of the authority. Let me sit along with other members of the Advisory Council and let the decision of the majority prevail." Let my Honourable friend try this experiment, whether the authority will also sit with the officer and generally dispose of all the applications. This method, I consider, may produce better results than the system which has been in force hitherto.

As regards provincial governments I think that their powers ought not to be so much curtailed and make the Secretary to the Government alone responsible, whereas the Central Government is competent to appoint any officer to dispose of this matter. With regard to the priority of articles in the schedule there may not be any necessity for the provincial government to sponsor. A provincial government can adjust its needs as far as possible when they sponsor a particular matter.

Sir, I welcome this measure. It may be for a year and if necessary it may have to be extended for another year.

**Shri Satyanarayan Sinha (Bihar General):** Sir, the question may now be put.

**Mr. Speaker:** The question is:

"That the question be now put."

The motion was adopted.

**Pandit Lakshmi Kanta Maitra:** Will the Honourable Minister kindly explain to us the character of the Advisory Committee to which reference has been made and whether he will have representatives of the Provincial Governments on the Advisory Committees?

**The Honourable Dr. John Matthai:** If I may take the House into my confidence on the actual composition of these Committees, I was waiting really to get suggestions from the House. My own idea is to have a local Advisory Committee which would be rather small in number. It has to meet in the first stages, as I said, every day. It must dispose of matters expeditiously.



I do not want Committees which are unwieldy. They must be compact Committees.

With regard to the representation of Provincial Governments I do think that in certain cases it would be necessary for representatives of appropriate departments of the Provincial Governments to be on these Committees in certain regions. I also feel the importance of having on these Committees not merely distributors but also producers. I will keep that point in mind.

The other point which has been raised with regard to the Advisory Committee is the point that my Honourable friend Mr. Ananthasayanam Ayyangar raised, namely, that these Committees should function in the nature of Tribunals. I am rather apprehensive about conferring on these Committees anything like the authority which an Appellate Tribunal has. At present the Regional Controller is acting by himself in this matter. It has not been very satisfactory. Therefore we are improving the position by appointing these Advisory Committees who would not merely meet at intervals of a week at a later stage that it does not rectify the position completely then I would certainly be prepared to re-examine the position and see if it is necessary to clothe the Advisory Committee with different powers from those contemplated at present by me.

My Honourable friend Mr. Santhanam suggested that I should give a categorical assurance that the system of priority control would be liquidated by the end of the year. I think if I made any such declaration today it would not be respectful to the House. It is a matter for the House to decide. If in the circumstances of next year the House takes the line that the system of priority control should be liquidated, well, I am in the hands of the House. But I cannot forestall it.

**Shri K. Santhanam:** May I point out that the Bill before the House is to extend it only for one year. It is in the hands of the Department to prepare the House for another year, if necessary. I therefore suggest that they should not have that idea.

**The Honourable Dr. John Matthai:** I am asking the House permission to continue this for a year. That means that I am going to do my best to see that the system of control is brought to an end within the year. But, as my Honourable friend Mr. Ananthasayanam Ayyangar has said, it is likely that economic and political conditions may so develop, and transport goes to the very root of these matters, control may have to be kept in the hands of the state for some time more. As far as that is concerned, however much I value my powers of prognostication, I do not propose to make a categorical statement at this stage. I expect the House to come to a satisfactory decision when the time arrives.

My Honourable friend Mr. Ananthasayanam Ayyangar asked me whether we should not straightway have the order of priorities in respect of these articles to be determined. Personally I think it is an inadvisable step to take because I think conditions with regard to various classes of commodities may conceivably change in the course of the year. Take for instance *gur*. We have had for some time now something in the nature of a crisis with regard to the movement of *gur*, and what we have done is that *gur* which used to be in a lower grade of priority was in the first instance raised to a higher grade of priority and even that did not meet the necessities of the situation. Therefore it became necessary over a short period to raise it still further. Circumstances may arise like that from time to time. I suggest, in order to make it

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really satisfactory from the point of view of public interest, that there must be a certain degree of flexibility, of elasticity in the arrangement. I feel rather strongly on that point and I would therefore suggest to my Honourable friend not to press his suggestion. That is all that I have got to say.

**Mr. Speaker:** The question is:

"That the Bill to amend the Railways (Transport of Goods) Act, 1947, be taken into consideration."

The motion was adopted.

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

"That in clause 2 of the Bill, in the proposed amendment to sub-section (3) of section 1 of the Railways (Transport of Goods) Act, 1947, the word 'only' be omitted."

Sir, the clause says that the Act shall remain in force 'only' up to 26th March, 1949. The word 'only' has been used, I think, for coaxing the Members to accept the extension. This word 'only' in this sense is often used by theatrical companies, cinemas and circus proprietors in their advertisements—that the play or the entertainment would last for three or four days 'only'. This is done to stimulate their patrons to look sharp and book their seats early. I submit that the word 'only' in a legislative sense here is meaningless. If we say that the operation of the Act will remain in force 'up to the 26th day of March 1949', and if it is to be taken that we mean what we say the meaning is perfectly clear. To a serious Legislative Assembly the word 'only' is unnecessary. We can understand that the object is to keep the Act alive up to the 26th of March 1949. If we here use the expression 'only' at all, we would be tempted to extend its use to other spheres; for instance we should say that the Ministers should be paid Rs. 3,000 'only'. In fact, this expression is often used by lovers as "Yours only". We cannot be treated like this and the word is a misfit in a formal legislative enactment. The word should therefore be deleted.

**The Honourable Dr. John Matthai:** I have no objection to the amendment.

**Mr. Speaker:** The question is:

"That in clause 2 of the Bill, in the proposed amendment to sub-section (3) of section 1 of the Railways (Transport of Goods) Act, 1947, the word 'only' be omitted."

The motion was adopted.

**Mr. Speaker:** The question is:

"That clause 2, as amended, stand part of the Bill."

The motion was adopted.

Clause 2, as amended, was added to the Bill

**Shri K. Santhanam:** I move:

"That in clause 3 of the Bill, in the proposed amendment to sub-section (2) of section 2 of the Railways (Transport of Goods) Act, 1947, before the words 'by a Provincial Government', the following be inserted, namely:

'with respect to goods referred to in items 10 and 17 of the Schedule.'

In the Schedule to the Bill there are only three items which are to be sponsored. One item is "Petroleum and all petroleum products when consigned by oil companies and importers of petroleum products." My amendment seeks to exclude the Provincial Governments from sponsoring Petroleum and petroleum products. They ought to be sponsored only by the Central Government. Sir, I move.

**Mr. Speaker:** Amendment moved:

"That in clause 3 of the Bill, in the proposed amendment to sub-section (2) of section 2 of the Railways (Transport of Goods) Act, 1947, before the words 'by a Provincial Government', the following be inserted, namely:

'with respect to goods referred to in items 10 and 17 of the Schedule.'

**Shri M. Ananthasayanam Ayyangar:** Against item 10 the words 'when transport is sponsored' are put there. I want to be clear whether it applies to item 11 also wherein it is merely said "when consigned by oil companies etc". My friend Mr. Santhanam wants to restrict the power of the Provincial Government to sponsoring only these two, that is, items 10 and 17. Petroleum and all petroleum products in item No. 11 against which the words "when transport is sponsored" are not mentioned. Mr. Santhanam was afraid that unless his amendment is accepted the Provincial Government may have the right to sponsor item 11, that is Petroleum, also. Since the words "when transport is sponsored" do not appear in the third column of the Schedule against this item the power to sponsor is not given to any particular person and I do not think, therefore, that his amendment is necessary.

**The Honourable Dr. John Matthai:** If I may explain the position, my original idea when I saw my Honourable friend Mr. Santhanam's amendment was that I would accept it, because if a situation arose where it became necessary for us to give this authority to the Provincial Government with regard to items other than 10 and 17, it is possible for the Central Government to do that by delegating its authority to the Provincial Government to meet the situation. So that practically I do not think the acceptance of this amendment will cause any serious difficulty.

**Shri M. Ananthasayanam Ayyangar:** May I ask the Honourable Minister whether it does not mean that the expression 'when transport is sponsored' inasmuch as it is used only against items 10 and 17, the other items cannot be sponsored?

**The Honourable Dr. John Matthai:** That is not the point. With regard to these articles 10 and 17, they would come into the list of priorities only if they are sponsored; but with regard to the other articles, sponsoring can be done by the Government, but even where they are not sponsored by the Government they will be eligible priority.

**Mr. Speaker:** So I put the amendment to the House.

**The Honourable Dr. John Matthai:** If I may make a suggestion, I would suggest a slight verbal alteration which will not affect the substance of the amendment. I would say "with respect to items 10 and 17 of the schedule", which would make it shorter.

**Mr. Speaker:** I have been just considering whether this restriction is intended to apply to Chief Commissioners and the States also.

**The Honourable Dr. John Matthai:** Yes, these stand on the same footing as Provincial Governments.

**Mr. Speaker:** I am putting the amendment to the House in the altered form suggested by the Honourable Minister.

The question is:

"That in clause 3 of the Bill, in the proposed amendment to sub-section (2) of section 2 of the Railways (Transport of Goods) Act, 1947, before the words 'by a Provincial Government', the following be inserted, namely:

'with respect to items 10 and 17 of the Schedule.'"

The motion was adopted.

**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.

**Shri Mohan Lal Saksena:** Sir, I am sorry that I got the letter of the Honourable Minister late and I could not move the amendment in the form he was prepared to accept and therefore I am not moving this, but I would request you to permit me to move in an amended form.

**Mr. Speaker:** What is the amended form?

**The Honourable Dr. John Matthai:** Sir, I discussed it with my Honourable friend yesterday and I said I would be prepared to accept his amendment if it is modified as follows:

"if the Central Government or the officer so authorized deems it necessary for reasons of urgent public interest so to do."

the point of that being simply this, that in the form in which my Honourable friend put it forward, it would be open to a party to question whether the particular matter.....

**Shri K. Santhanam:** Mr. Mohan Lal Saksena wants the complete omission of that clause.

**The Honourable Dr. John Matthai:** I am sorry.

**Shri Mohan Lal Saksena:** I do not wish to move it.

**Shri K. Santhanam:** Sir, I beg to move:

"That in part (b) of clause 4 of the Bill, in the proposed amendment to clause (a) of section 3 of the Railways (Transport of Goods) Act, 1947, before the words 'of any goods', the following be inserted, namely:

'for reasons of urgent public interest'."

Sir, I request your permission to have it amended as:

'if the Central Government or the officer so authorized deems it necessary for reasons of urgent public interest so to do.'

I do not want to take up the time of the House. This has been explained. I move the amendment.

**Mr. Speaker:** The question is:

"That in part (b) of clause 4 of the Bill, in the proposed amendment to clause (a) of section 3 of the Railways (Transport of Goods) Act, 1947, before the words 'of any goods', the following be inserted, namely:

'if the Central Government or the officer so authorized deems it necessary for reasons of urgent public interest so to do.'"

The motion was adopted.

**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.

**Pandit Thakur Das Bhargava** (East Punjab: General): Sir, I beg to move:

"That in clause 5 of the Bill, in item 3 of the proposed Schedule to the Railways (Transport of Goods) Act, 1947, after the word 'or', the word 'by' be inserted."

**The Honourable Dr. John Matthai:** I accept it.

**Mr. Speaker:** The question is:

"That in clause 5 of the Bill, in item 3 of the proposed Schedule to the Railways (Transport of Goods) Act, 1947, after the word 'or', the word 'by' be inserted."

The motion was adopted.

**Shri Mohan Lal Saksena:** Sir, I beg to move:

"That in clause 5 of the Bill, in the proposed Schedule to the Railways (Transport of Goods) Act, 1947, in the third column against item No. 3 the word 'Nil' be inserted."

**The Honourable Dr. John Matthai:** I accept it.

**Mr. Speaker:** The question is:

"That in clause 5 of the Bill, in the proposed Schedule to the Railways (Transport of Goods) Act, 1947, in the third column against item No. 3 the word 'Nil' be inserted."

The motion was adopted.

**Shri Lakshminarayan Sahu** (Orissa: General): Sir, I beg to move:

"That in clause 5 of the Bill, in item 6 of the proposed Schedule to the Railways (Transport of Goods), Act, 1947, after the word 'including' where it occurs for the first time, the words 'fish and other' be inserted."

\*श्री लक्ष्मी नारायण साहू: सभापति जी, मेरा एक छोटा सा संशोधन प्रस्ताव है। मैं इतना ही कहना चाहता हूँ कि आइटम नं ६ (Item No. 6) में जहाँ फूड स्टाफ़ "(Food stuffs)" लिखा है वहाँ यह भी वयक्त करना चाहिये कि "Foodstuffs including fish and other perishables" क्योंकि फिश (fish) किसमें कही जायगी यह मालूम नहीं होता। लाइव स्टाक (livestock) में अगर फिश जायगी तो वहाँ भी अच्छी तरह से मेन्शन (mention) करना चाहिये। जब लाइव स्टाक में जायगी तो डेड स्टाक (dead stock) में नहीं जा सकती। इसी लिये मैं चाहता हूँ कि इतना परिवर्तन जरूर किया जाय कि "fish and other perishables"।

(English translation of the above speech)

**Shri Lakshminarayan Sahu:** Mr. Speaker, I have to move a small amendment. I simply want to say that in item No. 6 of the proposed schedule after the words "Foodstuffs including" the words "fish and other" be inserted because the category under which "fish" will be included is not quite clear. If "fish" is to be included in the category of "livestock", then it should be expressly mentioned therein, and in that case, it cannot fall under "deadstock". Therefore, I wish that this amendment should be made viz., "fish and other perishables".

**The Honourable Dr. John Matthai:** I accept it.

**Mr. Speaker:** The question is:

"That in clause 5 of the Bill, in item 6 of the proposed Schedule to the Railways (Transport of Goods), Act, 1947, after the word 'including' where it occurs for the first time, the words 'fish and other' be inserted."

The motion was adopted.

**Shri Mohan Lal Saksena:** Sir, I beg to move:

"That in clause 5 of the Bill, in the proposed Schedule to the Railways (Transport of Goods) Act, 1947, in the third column, against item No. 9, the word 'Nil' be inserted."

**The Honourable Dr. John Matthai:** Sir, I accept the amendment.

**Mr. Speaker:** The question is:

"That in clause 5 of the Bill, in the proposed Schedule to the Railways (Transport of Goods) Act, 1947, in the third column, against item No. 9, the word 'Nil' be inserted."

The motion was adopted.

**Shri Mohan Lal Saksena:** Sir, I beg to move:

"That in clause 5 of the Bill, in the proposed Schedule to the Railways (Transport of Goods) Act, 1947, in the third column, against item No. 12, the word 'Nil' be inserted."

**The Honourable Dr. John Matthai:** Sir, I accept the amendment.

**Mr. Speaker:** The question is:

"That in clause 5 of the Bill, in the proposed Schedule to the Railways (Transport of Goods) Act, 1947, in the third column, against item No. 12, the word 'Nil' be inserted."

The motion was adopted.

**Mr. B. K. Sidhva (C.P. and Berar: General):** Sir, I beg to move:

"That in clause 5 of the Bill, after item No. 12, of the proposed Schedule to the Railways (Transport of Goods) Act, 1947, the following new item be inserted, namely: '12A. Sanitary Fittings'."

**The Honourable Dr. John Matthai:** Sir, I would ask my Honourable friend not to press this amendment, because it is our idea that sanitary fittings would be included under the description of "materials and stores required for building purposes", and as the Honourable Member himself is aware there has been a considerable demand recently for moving sanitary fittings on a priority

[Dr. John Matthai]

basis and we have done our very best to give it high priority. Sanitary fittings would be included normally in item 12, and if there is any construction of urgent public interest it may be possible for us to take special action, if necessary; that is to say, the Central Government have sufficient powers in cases of that kind to move it up from a lower grade of priority to a higher grade of priority for a specified period. So, I want my Honourable friend to accept my assurance that it is our intention that sanitary fittings would be regarded, for priority purposes, as being included in item 12.

My objection to this amendment really is this. If we are going to put in specific items this Schedule would get cluttered up with unnecessary entries. The feeling of the House and of the country is that we should reduce the scope of control in the matter of priority to a minimum number of articles and I do not want, therefore, that we should go on making additional entries.

**Mr. R. K. Sidhva:** I have no objection to accepting the assurances but I would like to say that the Provincial Governments, for the purpose of building articles, have specially indicated sanitary fittings as articles specially specified for banning of imports for private purposes and keeping separately for Government use. Therefore, I thought it fit that for Government purposes and for priority purpose it would be desirable that these sanitary fittings should be mentioned here. If the Honourable Minister feels, as he does, that in the fitness of things it will be given priority, I have no objection. But I may tell him that almost all the Provincial Governments have specially specified sanitary fittings apart from the building materials; if the Honourable Minister feels quite differently, I have no objection.

**The Honourable Dr. John Matthai:** Sir, I have already stated my intention.

**Mr. Speaker:** Then I need not put the amendment to the House; does the Honourable Member agree?

**Mr. R. K. Sidhva:** Yes, Sir.

**Shri Mohan Lal Saksena:** Sir, I beg to move:

"That in clause 5 of the Bill, in the proposed Schedule to the Railways (Transport of Goods) Act, 1947, in the third column, against item No. 16, the word 'Nil' be inserted."

**The Honourable Dr. John Matthai:** Sir, I accept it.

**Mr. Speaker:** The question is:

"That in clause 5 of the Bill, in the proposed Schedule to the Railways (Transport of Goods) Act, 1947, in the third column, against item No. 16, the word 'Nil' be inserted."

The motion was adopted.

**Shri B. P. Jhunjhunwala (Bihar: General):** Sir, is this list in order of preference?

**Mr. Speaker:** That has been explained; it is not in order of preference. But I think it is better stated by the Honourable Minister himself. The Honourable Member wants to know whether the list given in the Schedule is in order of preference.

**The Honourable Dr. John Matthai:** It is not.

**Mr. Speaker:** The question is:

"That clause 5, as amended, stand part of the Bill."

The motion was adopted.

Clause 5, 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. John Matthai:** Sir, I beg to move:

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

**Mr. Speaker:** Motion moved:

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

**Shri Deshbandhu Gupta (Delhi):** Before the motion is put, may I ask the Honourable Minister to explain why no mention has been made in the Schedule of newspaper—whether it is an omission or whether it is sought to be provided for in the special powers given to the Government.

**The Honourable Dr. John Matthai:** As regards newspaper—and there are other articles also which are not included in the Schedule—it is my intention, if for example an emergency arises with regard to newspaper, to exercise the power that we have under Section 4-B for reasons of urgent public interest, to give it special facilities. I am prepared in such cases to exercise that power.

**Mr. Speaker:** The question is:

“That the Bill, as amended, be passed.”

The motion was adopted.

### TAXATION ON INCOME (INVESTIGATION COMMISSION) (AMENDMENT) BILL

**The Honourable Shri R. K. Shanmukham Chetty (Minister for Finance):**  
Sir, I move:

“That the Bill to amend the Taxation on Income (Investigation Commission) Act, 1947, as reported by the Select Committee, be taken into consideration.”

Sir, I have on a previous occasion explained to the House the main purpose of this Amending Bill. It is really intended to strengthen the powers of the Commission so that its investigation might really be effective and achieve the purpose that the House and the Government have in view. The Select Committee has made a few amendments which in my opinion improve the Bill in many respects.

Under the original provision as proposed by me, it was left to the discretion of the Government as to when the Commission might be dissolved. The Select Committee thought a specified time-limit should be placed and they have, therefore, provided that the Commission will be in existence till the 31st March 1950, and that the Government will have the power to extend the period by one year more if found necessary.

Another amendment made by the Select Committee relates to the closing of cases where it is found that there is really no *prima facie* evidence to warrant a full investigation. In my proposal the Government was given the power to withdraw such cases with the consent of the Commission. The Select Committee, however, felt that the Commission also must have powers *suo moto* to report to the Government that on an examination of the *prima facie* evidence, there is no case for any further investigation, and thus report to the Government accordingly.

Another amendment has also been made by the Select Committee to provide that in the case of an obstructive or evasive assessee, the Commission should have the power to impose a penalty.

With regard to the furnishing of documents and papers, in my original proposal it was left to the discretion of the Commission. The Select Committee have, however, provided that where any records or documents are actually brought on record then the assessee will be entitled to have copies. I think it is a salutary provision intended to protect the interests of the assessee.

The Select Committee has also dealt with the right of representation of the assessee before the Commission. The right of representation was originally restricted to pleaders. The Select Committee thought that the assessee concerned should also have the option of being represented either by Registered Accountants or by their own employees. I think it is a very reasonable amendment to make in the interests of the assessee.

[Shri R. K. Shanmukham Chetty]

These are the main features of the changes made by the Select Committee and I move, Sir, that the Bill as reported by the Select Committee be now taken into consideration.

**Mr. Speaker:** Motion moved:

"That the Bill to amend the Taxation on Income (Investigation Commission) Act, 1947, as reported by the Select Committee, be taken into consideration."

**Pandit Thakur Das Bhargava** (East Punjab: General): Sir, so far as the provisions of the original Bill are concerned, even they were objected to because it was never given to us to understand by the Department as to what were the reasons why the appointment of such a Commission was necessary; secondly, we never knew what was the extent of the evasion; thirdly, we were never informed as to how the conclusion was come to that the provisions of the present Income-Tax Act were not sufficient to tackle with the situation. Nor, Sir, were we told how the proposed provisions of the law would make the situation better.

Now, Sir, when the Bill was referred to Select Committee, even then I submitted for the consideration of the Honourable the Finance Minister kindly to let us know the circumstances in which this Bill has been brought before the House to be amended, and to give us the materials on which to frame our opinion as to whether these new provisions are necessary or not. But nothing of the kind has been done. It is true that a paper in the nature of a note by the Income-Tax Investigation Commission has been circulated to the Members after the Select Committee has reported, but that itself is not an illuminating document. It does not give the materials necessary or the reasons why these amendments are sought to be made.

Now, Sir, the Commission as provided for by the old Bill divided itself into two parts. One part was to ascertain "whether the actual incidence of taxation on income is or has been in recent years in accordance with the provisions of the law and the extent to which the existing law and procedure for assessment and recovery of such taxation is adequate to prevent evasion thereof." So far as this part is concerned, we do not know whether any Report has been made by the Commission so far. The Bill was enacted in 1947 and by this time the Report of the Commission should have been ready, but we do not know whether this Commission has actually reported or not. In fact, Sir, I cannot divest my mind of the idea that these two provisions were amalgamated in the Act by the Honourable the Finance Minister to introduce the Bill in 1947, so that the real purpose of his could be clouded by a purpose which was certain, beneficent and unobjectionable. The question of investigation into tax evasion, personal investigation into the cases of assesses, is absolutely different from the purpose of finding out how far the present law is deficient.

**The Honourable Shri R. K. Shanmukham Chetty:** Sir, on a point of order, I would suggest for your consideration and for a ruling as to what should be the scope of the discussion in the case of an amending Bill of this kind. The House has already passed an Act, under which an Investigation Commission has been established. Now, the purpose of my amending Bill is simply to enlarge the powers of the Commission and at this stage of the discussion on this amending Bill, would it be relevant to re-examine and re-open the whole question as to whether there was justification for the establishment of such a Commission or not?

**Mr. Naziruddin Ahmad** (West Bengal: Muslim): May I submit, Sir, a few words? It is a fact that the House has accepted the Act as the Honourable Minister has pointed out. Still, it should be open to any member to dispute it and, secondly, for the purpose of opposing the present amendment, he may



travel a wider ground and say that the original Act itself was wrong or that it went beyond our real needs. He may say that as a background for his opposition. Therefore, I think the question does not arise as a point of order. The question is really one of merits.

**Mr. R. K. Sidhva** (C.P. and Berar: General): Sir, in my opinion, the principle of the Bill having been accepted, there can be no re-opening now. The main principle having been thoroughly discussed, I think we cannot now open the principle. By all means, we can discuss whatever other parts there are of the Bill, but whether the tax dodgers who have been dodging income-tax should not be brought to book is a question which if we start discussing, there will be no end to it. Therefore, Sir, I think what the Honourable Minister has stated is correct.

**Pandit Thakur Das Bhargava**: May I humbly submit, Sir, that when I was making these remarks, these were only introductory remarks. The remarks which follow will show how the present discussion is relevant to the amending bill. I want to show that this amending bill is against the principle of the Bill as originally enacted. I was going to state that the principle of the Bill was such and such and that now the Honourable the Finance Minister wants to add to those provisions in contravention of the principle of the original Bill. Therefore, Sir, I would be perfectly in my rights to discuss even the merits and principles of the old Bill.

**Mr. Speaker**: At present the House may adjourn and I will decide the point after it re-assembles.

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

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

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**Mr. Speaker**: With reference to the point of order raised, it really is a request to me to state broadly, the scope of discussion on the present Bill. It is clear, I think, that the principle of the Bill cannot be challenged at this stage; the Act is there; we must take it that the principle underlying the old Act is there and therefore, so far as that principle goes, it cannot be challenged or discussed again in this House on an amending Bill. But, it will be perfectly competent for a member to discuss all the amendments which the Select Committee has made, which deal with the procedure; and that will open a large field for discussion and some reference to the question of tax evasion, the desirability of pursuing the tax dodger, may also be within the scope of relevance. I really find it difficult to define the scope of discussion, because I do find that the Select Committee has very materially changed the old procedure. In fact, there is a change almost in every section. It is difficult to say anything further, but if a specific reference arises which goes distinctly beyond that, I shall certainly see that the Honourable Members do not go into such references as might appear to be challenging the principle of investigation, in respect of the conduct of tax dodgers. That is the only thing that I could say at present.

**Pandit Thakur Das Bhargava**: Mr. Speaker, Sir, I welcome the ruling just announced by you. I am not going to attack the principle of the old Act. What I was submitting was that as a matter of fact the old Act was misconceived and the amendments now sought to be moved are more misconceived.

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In the interval, I busied myself with finding out as to what was behind the mind of the gentleman who introduced this Bill. You will be pleased to see, on page 3357 of the debates of 1947, Mr. Sri Prakasa's speech, when he said:

"What I am surprised at is this: Why does not this Government, when it has evidence that certain persons are criminals or offenders have evaded the payment of tax, why does it not straightway punish the Income-tax officers of those places and ask them: 'How is it that these people have escaped; why did they escape; why did you not examine their books; why have you not caught them?' That is a straight question that I should ask. But I am surprised why the Government does not ask the question of its officials though it has evidence that the people within the jurisdiction of those officers had committed those offences. And why does it need a Commission with a super-annuated High Court Judge as its Chairman to find things out for it?"

This was the same question to which, Sir, the reply was given by the Honourable Mr. Liaquat Ali Khan in these words:

"But what about the officers of the Income-tax Department? I think that the investigation of the cases of the tax evaders would indeed be an investigation into the action of the Income-tax Department officers and for that purpose also I think that the appointment of an independent Commission would be useful."

So that, Sir, it appears that at the time when the Bill was brought, the Honourable the Finance Member wanted the Income-tax Department to remain at a tangent and not to come within the ambit of that Act. Even when it enacted certain provisions, which gave the Commission the right to appoint other Commissions to do the mechanical work of inspecting documents and books and make a report in so far as inspection was concerned, they did not mention that the Income-tax people will be employed for that job. They fought shy of the Income-tax Department. What I want to submit for the consideration of the House is this: Now it is the Income-tax Department which is the real authority and is the instrument by which this tax evasion is sought to be remedied.

Now, Sir, in regard to the provisions of the Bill, with your permission, I will just quote a few words of Mr. Liaquat Ali Khan when he referred to my speech, because on that occasion also I expressed my great doubts in this House in regard to the efficacy of the Bill and I said that the Bill would be barren and infructuous. According to me the Civil Court set up under this Act would be so deficient of powers that it could not have realised this object in view. I therefore submitted that more powers should be granted for the purpose of exploring how the tax evasion had taken place. I also submitted certain criticism in regard to section 95 and chapter 35 of the Code of Criminal Procedure Code. Mr. Liaquat Ali Khan referring to me said:

"My Honourable friend Mr. Bhargava had doubts about one or two points. Being a very able lawyer, he scrutinised the provisions of this Bill with too much suspicion, if I may say so, because lawyers are always suspicious of the provisions of any Act. Unless they are suspicious of the provisions of the Act, they would not be able to plead cases in a court of law. I can assure him that I have made sure with the assistance of our legal advisers that there is nothing wrong with any of the provisions of this Bill legally."

Now, Sir, I find that in regard to all the provisions of the Bill this amending Bill amends them all. As regards the sanction, etc., the provisions are entirely changed. In regard to the powers of investigation also I submit now they have taken the proper powers which an investigator should have if he wants to go after the tax evaders. So far it is right. Now what I object to is not the extension of powers of the gentleman who is in charge of the investigation; I object to this Bill, this amending Bill, on a fundamental point. Now, Sir, the whole scheme of the Income-tax Act of 1922 is that the Inspector collects evidence against the assessee; the assessee files a return and with all this material, the case comes before the Income-tax Officer and the Income-tax Officer is both a judge as well as an investigator and he decides the case. He has got ample powers; now he can call for the returns, ask the assessee to bring

his books, examine them and do all sorts of things. If the assessee does not behave well, if he does not file a return, refuses to give a reply to the questions put to him, he could proceed under section 23 and make the assessment. Then again the case goes to another officer who is the real judicial officer in the whole department,—the Assistant Commissioner. Every Assistant Commissioner is an officer of great experience and decides cases judicially. This Income-tax Officer has accordingly to the present arrangement another Assistant Commissioner at his back called the Inspecting Assistant Commissioner. This Income-tax Officer has usually mortgaged his intellect as well as his conscience to this Inspecting Assistant Commissioner. He calls the assessee and he assesses them as the Inspecting Assistant Commissioner directs him to do. That is the present position. At the same time, I am satisfied and the country is satisfied that at least in one court, in the court of the Assistant Commissioner, we have got a competent man to decide cases and then we have an independent tribunal also where questions of law alone go. At least this is a safeguard. When you go to the provisions of the present amending Bill you will find that the entire structure has been destroyed beyond recognition. Sir, I have got great faith in a High Court Judge; there is some prestige and dignity attached to his name. But we know also many High Court Judges who are not up to the mark and any reference to this or that Judge for composition is beside the point. I refuse to judge the provisions of this measure with reference to any distinguished personage or the name of any exalted authority. A High Court Judge may be a good judge and when the material is placed before him he decides the case correctly and impartially. But if you appoint the Finance Minister to the post of Civil Surgeon it will not be fair; if you appoint a competent surgeon as a civil engineer he will not do his job rightly. How is this High Court Judge employed? According to the provisions of the Bill, he is himself the complainant, he is the investigator, he will have most arbitrary powers and then he will be the judge of fact and law and his judgment will be absolutely final. He will have every assessee in the hollow of his hand and can fine him up to any amount he likes. He can pass any order, he may put such evidence on the record before himself as he chooses and at such time as he chooses, and there is no appeal. Sir, when the Rowlett Act was passed in 1914 it was said that it was an Act in which there was no *vakil*, no *daleel* and no *appeal*. In this amending Bill Pleaders are not allowed and investigations can go on under sections 3 and 7 and only the assessee and his captors and no one else can go into the sacred precincts. There is no appeal; the judge can hear the evidence in the absence of the assessee. He will get his impressions in such a manner that when the assessee gets an opportunity he will not be able to wipe out those impressions and there will be no fair play. It may be said that I am depicting a lucid picture in favour of tax evaders. Sir, I do not want that any person should not pay his taxes now. Before the 15th August it was a different matter. May I ask how many members of this House have been paying taxes in their life honestly? There have been many judicial ruling in which it has been said that if you can escape the payment of tax in a legitimate manner you can do so. That has been the tradition. Then every person thought that the money collected by the previous Government was being used to tighten our chains of slavery and therefore many people evaded taxation. I know that there is in human beings a strong desire to escape taxation. But whatever that may be, those persons who evaded the tax did it not because they could not be caught but because they were not caught. In the first instance I submit that I am rather disinclined to view the whole thing favourably from the background of things as they developed during the war period. Those big officers, many of them Englishmen—who got the cream of the profits and who were bribed by the contractors, etc., are now away; they have taken away their illicit gains to their country. The contractors who made illicit gains have lost them by speculation and in various other ways during the last eight or ten years. Now the old.

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matters are sought to be raked up afresh. The assessee may complain that having allowed him to destroy the evidence in his favour you want him to give accounts after eight or ten years which legally you cannot now force him to do. In this connection I will refer to section 14 of our new draft constitution dealing with fundamental rights. It reads:

"No person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as offence, nor be subjected to a penalty greater than that which might have been inflicted under the law at the time of the commission of the offence."

You are now making a new law that if a person answers 30 questions and fails to answer one question, if he shows all his accounts but not the account you want you can say that his refusal is wilful and you can fine him up to any amount you like. This was not the law then.

Then the next sub-section of sec. 14 reads: "No person shall be punished for the same offence more than once." Once these persons have been assessed and their cases decided they have escaped assessment. According to the provisions of sec. 34 and many other provisions of the Income-tax Act these persons could be proceeded against. But they have not been proceeded against.

Then the third provision is: "No person accused of any offence shall be compelled to be a witness against himself." It may be said that non-payment of tax is not an offence. I submit that in the Income-tax Act there are sections 51 and 52 which provide that in particular circumstances even the filing of a false return, the concealment of income and making a wrong statement in any return is an offence.

Now what is the position today? If in a civil court a person does not want to make a statement he may be sent to jail for contempt of court, but he cannot be compelled in any other way. According to the provisions of the Criminal Procedure Code if an accused chooses to keep mum an adverse inference can be drawn against him. But there is no provision of law that he must be forced to appear against himself and make a statement against himself and in case he does not do so make himself liable to indefinite amount of fine. This reminds me of the provisions relating to extortion of confession. The assessee may be questioned for hours and for days until he breaks down but unless he makes a statement to the satisfaction of the questioner the latter can always say that the man has refused to answer, and his refusal to answer was wilful, and he can be proceeded against.

It may again be said that if these powers were not there the assessee could not be caught; and that is exactly what I submitted when I made my submission when the original Bill was there. But even the worst offender is tried according to certain provisions of the law. The Civil Procedure Code and the Criminal Procedure Code are there to tell us what the procedure should be. But in this case there is no procedure. The words are:

"The Commission, and subject to the directions of the Commission any authorised official, may make such inquiries in such manner as it or he may deem fit and obtain statements on oath from any person". &c.

So that the powers which are now sought to be given to the Commissioner as well as to the Income-tax Officer are so plenary and so ample and so arbitrary that I think even if the gods were given these powers they would be liable to misuse them. I was submitting that in the previous Bill the Income-Tax Department was sought to be excluded from the ambit of this Bill. Now what happens? I will draw attention to the provisions of clause 4 (3). If you compare the previous provision of the Bill, the Commission was then competent only to have proceedings in a manner in which the civil courts exercised their powers and jurisdiction. As regards those persons who could now be employed by the Commission, the words in the amending Bill are:

"If in the course of any investigation 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, the Commission may authorise any income-tax authority not below the rank of an Income-tax Officer in that behalf subject to such directions as may be issued by the Commission from time to time, and the authorised official shall examine the accounts or documents, interrogate the person or obtain the statements from the person."

Here now they say nobody else except an Income-tax authority (Clause 4, sec. 3) and there again not only to interrogate in respect of documents but he can obtain any sort of statements from the person. Further the Bill says:

"Provided that the authorised official shall in the discharge of his duties be entitled to employ such ministerial and subordinate executive staff as he may consider necessary."

This provision pushes the cat out of the bag. The entire paraphernalia of the income-tax authority will be at the beck and call of the Commission and the High Court Judge will only write his report. The income-tax department sought to be excluded has been given all the powers of investigation and in the same old manner. Why not have a straight cut and go to the root of the question: give all these powers to the income-tax officers and let them afterwards place these things before the High Court Judge and let his judgment be final. Why prostitute the integrity and dignity of a High Court Judge and make him a complainant and then also make him a final judge? Please see what powers are given to the Commission. According to the provisions of the old Act in Sec. 5 (2) the powers are:

"If in the course of investigation into 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."

They now have made a great change. Now a Commission can say that certain points should be referred to them and after that the Government has no discretion in the matter, if this request goes from the Government, because the words are:

"It may make a report to the Central Government stating its reasons for such belief and, on receipt of such report, the Central Government shall forthwith refer to the Commission for investigation. . . ."

Now when you look to the provisions of Section 4 of this Bill, while proposing to amend Section 6, sub-clause 7, you will be surprised to learn that all these powers of the Commission can be used by the Commission for the purpose of this reference. According to the original idea of the Bill, if the Central Government had sufficient material within its possession it could refer the case to the Commission and Commission if it came incidentally to know that some of the person had evaded payment of taxation it could report to the Government and the Government had the discretion to make a reference. Now this Commission has the right to inspect any person's books, to call him and ask him to find out his wealth, and then to go to his house, seize his books, make searches, ask any person to make a statement in his absence. Then it can make report to the Central Government and then the Central Government is powerless not to refer the case to the Commission, which means that the work that a complainant usually does is done by this Commission: and not only by this Commission, but all these powers are enjoyed by the Income-tax Officer and he can do all this as he pleases. He can do it at his back. He can collect all this material and then call the accused. So that originally as the Bill stood it was the Central Government who could proceed on certain contingencies, whereas now the Central Government has no discretion in the matter, and this official, who is the pivot of this Act, can do whatever he likes.

Leaving this aside, the Commission could previously only proceed as a Civil Court. He could not proceed at the back of the accused. Now he can do this.

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All the powers of a police officer can be found vested in the Commission: not only that but in the income-tax officer also.

According to the old provisions of the Act:

"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."

If they wanted they could fill the vacancy. According to Section 5 of the present Bill, it appears that the Commission may act:

"Notwithstanding a vacancy in the number of the Commissioners: and the powers of the Commission under sub-sections (1), (2), (3), (7) and (8) of section 6 and sub-sections (2), (4) and (6) of this Section may be exercised by any member thereof authorised by the Commission in this behalf."

So one member can do the work entrusted to the three persons, except perhaps in the case of the judgment.

When you come to the judgment question you find a worse thing, because according to Section 8 they say:

"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 a vacancy is not filled and there are two members what would happen? Where will the majority come from. I fail to see any provision in the Act that all the time the members will be three. If there are two members there will be no majority and no report. Then the Commission may not function at all.

As regards the procedure, after the investigation is closed, powers are given to the Commission and the words are:

"All materials gathered by the Commission or the authorised official and materials accompanying the reference under sub-section (1) of section 5 may be brought on record at such stage as the Commission may think fit."

This is contrary to the provisions of natural justice of which something has been said in this Act. If after the assessee has been examined in detail, and asked to rebut the evidence, and if at that time after seeing his evidence something has been sprung upon him and if material gathered behind his back is put on record, he will be doomed and he will not be able to make a proper statement. Therefore all the principles of a fair procedure have been set at naught.

Then comes the question of the evidence collected against him. In fairness an assessee should be treated as a human being. He is not worse than a murderer. He should at least have a chance of looking into what has been gathered against him at his back, but the law does not allow him to look at the records. All that is provided is that copies of certain documents may be given but the assessee cannot call the papers in his defence at his will. For instance, evidence may be taken at the back of the assessee by 20 different persons. But he is not allowed to see what evidence has been given at his back and yet the Commission and the official may continue to be impressed by the evidence so taken. What is provided is that to rebut such material he shall have a reasonable opportunity. But the human head does not consist of different compartments in this sense that if a person makes an impression on his brain of a certain fact it can be divorced from the rest of the impressions received by the brain at that very moment.

I have not been able to understand how any Court hearing pieces of evidence simultaneously can while judging a fact divorce from his mind such evidence as has not been brought on the record and remain totally un'influenced by the evidence which naturally he must have mentally been impressed with. If the Judges have heard evidence in such circumstances and in such manner that they have been influenced by the evidence, I fail to see why the assessee

should not be allowed to inspect all these things and bring on record all such matters as they have gathered in his absence. In fairness he should be allowed an inspection of the record without the permission of the Commission. An inspection may show that a document has been forged. Every lawyer knows that unless an inspection of the original is allowed it is impossible for a man to rebut the evidence against himself. To hedge this natural right of inspection of the record with permission of the Commission which may or may not be given is to obstruct the even cause of justice. But the absolute right of taking a copy or calling of the records of such material as has been gathered against him has been taken away.

When you come to the last portion, the adage is proved that the sting lies in the tail. The report of the commission has been made final. No appeal is provided. It is a report based on provisions of this Bill in which many of the powers of the Commission have been transferred to the authorised official, who is none other than the income-tax officer who after exercising all kinds of arbitrary powers and enmeshing the assessee can force him to silence and close the investigation. It is then an *ex-parte* report and the report is final. In the previous act this provision did not exist. If a report was made the income-tax officer on the basis of that report made his own assessment. After the assessment was made it was open to appeal as in every case. Now this report which is not based on judicial material is made the final report. It is most unfair to make it final. On a question of law a reference has been allowed under the provisions of the Bill. I would submit that unless all these provisions are moulded again in the new spirit, in the spirit of law by which the courts are working, I will not be satisfied. I doubt very much if this Commission will be able to get anything out of the assessee. Even if it gets anything the harm done to the judicial system of this country and the resentment and dissatisfaction caused to all concerned when they come to know that a person has not been dealt with according to law but according to the arbitrary rules and principles laid down under this Bill, will be very great and the injury done will be greater than the amount earned. This amending Bill turns down the principles which were incorporated in the first Bill. I do realise that if you want to get at tax-dodgers you must arm those who investigate with powers. This was felt in the last Bill. They did not give any powers to the Commission then which was wrong. This time they have given powers but not rightly. You should have a judge who would decide impartially. Everybody has faith in a high court judge but do not make him investigator and the complainant simultaneously. One thing which was wanting in the previous Act has been provided, but the manner in which the deficiency of that Bill has been made up is fundamentally and basically wrong and I am sorry, Sir, I have no option left but to oppose this Bill.

**Shri C. Subramaniam (Madras: General):** Sir, I am one of those who welcome the provisions of this Bill. This Bill is intended to deal with tax-dodgers who have already evaded payment and therefore it is necessary that the Commission should be armed with wide powers for the purpose of finding them out. But in arming this Commission with wide powers there should be some method to be adopted, there should be some plan. When we go through the Bill there are various stages in the investigation and the enquiry. The first is a reference to the Commission by the Government. That is like the laying of a charge-sheet by the police against an accused. After that there is a preliminary enquiry by the Commission itself. That enquiry may be made behind the back of the persons. That is absolutely necessary, because if the person against whom an enquiry is made, is made aware of the sources from which we are getting information, all those sources are likely to be persons associated with the person against whom the enquiry is made he is likely to temper with them and therefore it is necessary that the person against whom

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the enquiry is made should not be aware, at least for the time being, of the sources that are being tapped by the Commission in their investigation. After that there is the third stage, that is the final enquiry, wherein the person is given the chance to rebut the evidence. Those are the three stages. I wish the framers of the Bill had borne these stages in mind and chalked out the various procedures to be adopted in the various stages. I find here a confusion. Dealing with investigation at some stage at once some powers of the Commission come in between, and then there is another stage and it goes on like that. Instead of that they should have divided the Bill into various chapters under these heads and they should have given the procedure to be adopted at each stage and finally the general procedure to be followed in respect of all these things should have been given. I do not find such a method followed in this Bill. I know it is an amending Bill but even in an amending Bill sufficient care should have been taken, especially when the Select Committee have interfered with every provision in the Bill, which I am going to tackle later on.

It is said in clause 5, that is the proposed section 7 of the Act, sub-section 2:

"In making an investigation under clause (b) of section 3, the Commission shall act in accordance with the principles of natural justice, shall follow as far as practicable the principles of the Indian Evidence Act, 1872 (I of 1872), and shall give the person whose case is being investigated a reasonable opportunity of rebutting any evidence adduced against him."

I want to know at what stage the person against whom these charges are made will be allowed to come in. That is not made clear here. And then when the Commission is sitting in enquiry they have to follow the principles of natural justice and as far as practicable the principles of the Indian Evidence Act. The only exception is that they can over-ride the provisions of Sec. 130 of the Indian Evidence Act.

If you turn to clause 4 [that is the proposed Sec. 6 (3) and (4)] you find a change in the provisions, made by the Select Committee. Sub-section (3) deals with the Commission authorising an official not below the rank of an Income-tax Officer to make an enquiry. His powers are given in sub-section 4.

"The authorised official shall subject to the direction of the Commission have the same powers as the Commission under sub-sections (1) and (2) and any person having charge or custody of accounts or documents required to be examined shall notwithstanding anything in any law to the contrary (that is the change made by the Select Committee and I lay some emphasis on that) be bound to produce them to the authorised official and to give to such official any information in respect thereof which he may require; and any person interrogated by the authorised official or called upon by him to make or prepare a statement or furnish information shall notwithstanding anything in any law to the contrary (again the Select Committee has intervened here) be bound to comply with his directions and answer all questions relating to the case put to him by such official."

When the Commission are making an enquiry they are bound by the provisions of the principles of the Indian Evidence Act but here notwithstanding anything in any law to the contrary the authorised official can question anybody and they are bound to answer. You know, Sir, there is a provision, Sec. 126 of the Indian Evidence Act, wherein certain communications are privileged. It says:

"No barrister, attorney, pleader or vakil shall at any time be permitted, unless with the client's express consent, to disclose any communication made to him in the course and for the purpose of his employment as such barrister, pleader, attorney or vakil, by or on behalf of his client, or to state the contents or condition of any document with which he has become acquainted in the course and for the purpose of his professional employment or to disclose any advice given by him to his client in the course and for the purpose of such employment."



There are some provisos there which are not relevant to my observations. You find in the proposed section 7(3) that a person can employ a pleader and certainly the pleader employed is the person most likely to know the affairs of the person. Under this clause an authorised official can call upon the pleader and notwithstanding the provisions of Sec. 126 of the Indian Evidence Act force him to answer questions put to him. The official may not act like that or the Commission may not act like that but the lawyers will be at their mercy. Why should this clause "notwithstanding anything in any law to the contrary" be inserted there when the Commission itself is bound by the principles of the Evidence Act? With what intention this change has been made by the Select Committee I want to know? Is it their case that a pleader who has been engaged by a person should be interrogated by an official authorised by the Commission for the purpose of getting information from him? Otherwise I do not see why such a clause, over-riding all the provisions of the existing law, should be introduced here. I really fail to see the natural justice in this. You give a person an opportunity to engage a pleader, but he does that at his peril. As soon as he has engaged a pleader, after some time you set upon the pleader an income-tax official, or serve him with an interrogatory, and he is bound to answer unless he be a liar and is going to say, "I am not prepared to say anything". Then as well say "You are not entitled to engage a lawyer". Having allowed him to engage a pleader it is wrong both to the pleader and the client for you to say that any person can be interrogated in spite of anything contained in any law. I fail to see with what intention this change was made by the Select Committee.

There is one other thing. If you turn to clause 6 of the Bill—the proposed Section 8—there again you will find that the Select Committee has intervened. The original clause stood like this:

"The report of the Commission shall be made in accordance with the opinion of the majority of the members of the Commission where its decision is not unanimous."

The Select Committee has now made this into:

"The report of the Commission shall be based on the materials brought on record, etc."

This is an expression which has got to be understood and interpreted with reference to sub-section (8) of section 6 which says:

"All materials gathered by the Commission or the authorised official and materials accompanying the reference under sub-section (1) of section 5 may be brought on record at such stage as the Commission may think fit."

This refers to a stage where enquiries were being made behind the person against whom the enquiry was being made. And at such stage as the Commission may think fit they may bring those materials on record. And here in section 8 it says "the report shall be based on the materials brought on record". It means only this, that even though those materials might not have been placed before the accused to enable him to rebut it, still the Commission shall base their report on the materials brought on record. Suppose a statement is taken by one of the authorised officials. It need not necessarily be a statement on oath. Even if it is on oath it does not make any difference. Suppose a statement is taken from a certain person. That is brought on record at a certain stage by the Commission. Then suppose that person is not available for the purpose of deposing before the Commission, suppose he is dead, or is absconding, or is not available. Then, in spite of the fact that the person had no opportunity to cross-examine the man or rebut that evidence, still this statement which has been brought on record will remain there as one of the materials brought on record on which, under section 8, the report of the Commission shall be based.

**Shri Ramnath Goenka** (Madras: General): He may be an imaginary person.

**Shri C. Subramaniam**: We do not know. I will concede that he was in existence at a certain time. The language here is "shall be based on the

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materials brought on record". I can understand if they say "shall be based on the evidence brought against the person". Having regard to the provisions which we have already made as to what materials can be brought on record, it really passes my comprehension as to why the Select Committee should have taken on its own shoulders to point out to the Commission, which is presided over by a Federal Court Judge, on what materials it should base its report. After all, the members of the Commission are the best persons to know on what to base their report. As if it is necessary for the Select Committee to point out that they should base their report on certain materials brought on record and as if they will go outside the record and base their report on some imaginary facts this clause has been put in here by the Select Committee.

**Shri K. Santhanam** (Madras: General): Sir, I do not want to speak at all on this subject and I want only to point out with reference to this point made by my friend that the meaning is that the report of the Commission shall not be based on materials which are not brought on record. It is for that purpose that the clause has been put in there.

**Shri C. Subramaniam**: But my point is this. 'Materials brought on record' include materials in reference to which the person might not have had an opportunity to rebut or cross-examine the person. Suppose the statement of a certain person has been recorded by the Commission or by an official authorised by the Commission. Natural justice requires that this man should come and depose before the Commission in the presence of the accused and the accused should be given an opportunity to rebut that by cross-examination. Where does the opportunity come in here to rebut the evidence? Does "rebutting" apply to defence witnesses alone? Does it not include the cross-examination of the witnesses let in by the Income-tax Department?

**Shri K. Santhanam**: There is no trial or cross-examination anywhere here.

**Shri C. Subramaniam**: I submit these people have absolutely no idea as to the exact procedure to be adopted. Is it going to be just like a departmental enquiry? This is a case in which a certain person is being charged with having evaded payment of tax and materials could have been, might have been and would have been gathered behind his back. When you want to sentence, punish or convict him and when you in sub-section (2) of section 7 say that he should be given an opportunity of rebutting any evidence, how are you going to say here "No, it does not matter whether such an opportunity was given or not"? It is contrary to sub-section (2) of section 7. So, unless you give him an opportunity to cross-examine it would not be evidence and it is against, as I shall presently point out the principles of the Evidence Act. Under section 32 of the Indian Evidence Act "statements, written or verbal, of relevant facts made by a person who is dead, or who cannot be found, or who has become incapable of giving evidence, or whose attendance cannot be procured without an amount of delay or expense which under the circumstances of the case appears to the Court unreasonable, are themselves relevant facts in the following cases" only. And the cases in which those statements would be relevant are set out in the section. So, the condition precedent is that he should be dead, could not be found, or become incapable of giving evidence; and that too under certain circumstances only, namely, when it relates to

cause of death or is made in the course of business, or against interest of maker etc., etc. In sub-section (2) of section 7 you say that "they shall follow as far as practicable the principles of the Indian Evidence Act". But here we are not going to be bound by these provisions and are going to override the provisions of section 32 of the Indian Evidence Act. You can as well say "We are not bound by any procedure or by any existing law; the Commission shall follow its own procedure, whatever it may be; it shall come to its own conclusions and they shall not be questioned in any court of law". You may as well have a Bill to that effect and be done with it. If my Honourable friend wants to say that there will be the opportunity to cross-examine and there is no question of denying the opportunity to rebut the evidence adduced against him, and that the provisions of the Evidence Act will, as mentioned in sub-section (2) of section 7, be followed, why does he not say in categorical terms that these principles will be followed? I respectfully submit that these two provisions, namely, "Notwithstanding anything in any law to the contrary any person can be interrogated in respect of any fact which he is likely to know" and this other provision that the Commission "shall base its report on the materials brought on record" especially viewed from the provision made for bringing the material on record make the whole thing unfair. I think in this respect the Select Committee should have taken a little more care to find out what would be the effect of the amendments which they wanted to make. My Honourable friend Mr. Santhanam went on to say 'We simply wanted to indicate that the Commission should base its report only on the materials brought on record', as if any Commission presided over by a Federal Court Judge will base its report on any materials outside you will be pleased to see, Sir, in the amendments suggested by the Commission itself such provisions are not found, that is 'based on the materials brought on record' and 'notwithstanding anything in any law to the contrary', because they were aware that if they make such a change, they would be completely wiping out the existing procedure and it would be contrary to the principles of natural justice.

There is one other thing I want to refer to. The proposed sub-section (3) to section 4 says "The commission shall be appointed to act, in the first instance, up to the 31st day of March 1950." You know the clause as it stood before the amendment by the Select Committee was: At any time the Central Government may dissolve the Commission and may reconstitute another if it is found necessary. I agree that there should be some continuity as far as the commission is concerned. And perhaps the Select Committee suspected that the executive might dissolve the Commission at any stage when they found it inconvenient and that they would reconstitute it later on with different personnel, and that is why they have fixed the period in the amended section. But suppose the work is over in one year, what is to happen? It is not as if an appointment is made without specifying any period and under the General Clauses Act you can dissolve the Commission at any stage you like. You make the appointment for two years specifically—"shall be appointed for a period up to the 31st day of March 1950". So even though the Commission might finish their labours within one year, they shall still continue till the 31st day of March 1950. Therefore I would suggest that at the most one year may be fixed, and after that power might be given to the Central Government to extend the period for two further years. I do not see anything wrong in that if you are prepared to give power to the Central Government to extend the period later on. Why not give power to extend by two years, and make the appointment in the first instance limited to a period of one year, because if we fix two years now, it means that the commission will continue to be in

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existence for two years whether they have work or not. After all we do not know the nature of the cases coming before them, whether they will collapse in the middle. After all there is provision in the Bill that whenever the Commission finds there is no use proceeding with any enquiry, they can report to government saying it is no use proceeding with the enquiry, and so it may be closed. Under these circumstances we need not unnecessarily fix the period of appointment in the first instance as two years.

There is one other point I wish to mention, that is 'No reference made by the Central Government under sub-section (1), whether before or after the 31st day of December 1947'. The phrase 'whether before or after the 31st day of December 1947' seems to have been included to include cases which have been referred to the commission prior to the 31st day of December 1947. But, Sir, the reference can be made under another provision also, that is when the commission makes enquiry and then sends it back to the Government saying here is another case which should be referred to the commission. Then the Government has got to make a reference in that case. That was pointed out by my Honourable friend Mr. Bhargava also, that the Government in that case is bound to refer it to the commission. Can that reference be attacked in a court of law? If it is said 'no reference made by the Central Government under sub-section (1) alone', which would refer to references made by the Government on its own initiative up to the 31st day of December, what is to happen to any reference which might be made by the Government later on the report of the commission? Can such a reference be attacked in a Court of Law saying 'No, it has not been made on proper basis. There is absolutely no *prima facie* ground to make such a reference.' After all the commission is only a quasi-judicial authority. Therefore, simply because the commission makes a report, that does not mean any court of law is bound by that, even though the reference may be based on that report. Therefore this sub-section (3) should be amended to include not only references under sub-section (1), but any references made by the government for the purpose of investigation to the commission. It is only with that purpose that I have given notice of an amendment—'No reference made by the Central Government to the Commission for investigation shall be called in question', that is no reference made either on its own initiative within the period mentioned or when it makes a reference on the report made by the Commission shall be called in question in a court of law. That is absolutely necessary.

Then I wish to point out another matter. In sub-section (3) of the proposed section 4, this is what is stated:

"If in the course of any investigation it appears to the Commission to be necessary to examine any accounts or documents or to interrogate any person or obtain any statement from any person, the Commission may authorize any income-tax authority not below the rank of an Income-tax Officer. . . . and the authorized official shall examine the accounts or documents, interrogate the person or obtain the statements from the person."

Read along with the provision that they can employ executive officers and others, it looks as if when the Commission wants any statement from any person the officer shall get it. That seems to be a mandatory provision, casting an obligation upon the authorized official that he should obtain a statement somehow or other. Therefore the better wording would be to say "he can either receive or record a statement". Instead of that the wording as it is indicates that when the Commission feels that any statement should be obtained from any person it may authorize any official and that authorized official should obtain that statement somehow or other and perhaps we indicate the methods too. A proviso is added that he could employ anybody whom he thinks necessary for the purpose of perhaps obtaining the statement.

There is one other thing I wish to point out. In section 8 you will find another change made by the Select Committee. As it originally stood, it was "made in accordance with the opinion of the majority of the members of the Commission where its decision is not unanimous". Now the Select Committee has made one change: "made in accordance with the opinion of the majority of at least two of the members of the Commission". The Commission is to consist of three members only. So the amended section says that the majority should consist at least of two members. I do not know what is the meaning of this amendment.

So these are the changes which have been made by the Select Committee, and my respectful submission, with due respect to the members who constituted that Select Committee, is that these changes have been made without proper thought or care.

**Prof. K. T. Shah** (Bihar: General): Mr. Speaker, Sir, I too have some objections to this Bill as reported by the Select Committee, but my objections are not founded on technical, legal or procedural grounds. They rather take into account the broader financial aspects and as such I would confine myself only to those provisions of the Bill which in my eyes affect the financial prospects of this country. Without in any way deprecating the larger issues of the principles of justice as we have been accustomed to and which have been raised by the learned speakers who spoke before me, I would say that the point we have to think of is how far tax is evaded illegally and the tax is avoided even legally.

[At this stage, Mr. Speaker vacated the Chair, which was then occupied by Shri K. Santhanam (one of the Panel of Chairmen)].

There are, as perhaps most members know, two ways of avoiding, or evading, taxes. Taxes are avoided in a perfectly straight-forward manner by the assistance of expert lawyers, auditors, accountants and similar advisers so that even the courts, even the judges are powerless to bring to book such persons and, therefore, a considerable amount of what might have come to the public exchequer escapes, escapes openly, escapes in accordance with the law. On the other hand, it seems that the Bill is designed only to concern itself with cases where the tax may be evaded by questionable devices—I would not call them illegal—which will tax to the utmost the ingenuity, the cleverness, the experience and knowledge of the persons who may be called upon to make such investigations and find out the many devices by which they are evaded. Ever since I have begun to take interest in this matter it has been on more than one occasion my lot to complain that a very considerable amount of public money has been and is being evaded from taxation. I do not know it myself; I wonder if anybody in this House or in the country would be able to tell us precisely to what extent and up to what amount tax is evaded. On an earlier occasion I had made some very rough estimate which made me think that at least as much of the money as it paid into the public purse escapes taxation and that if proper and rigorous methods were devised, perhaps, a good deal of that may be recovered. If I did not mishear him, if I did not misunderstand him, my Honourable friend, Pandit Bhargava made a reference to the attitude of the public mind in the past which, considering that after all it was a foreign Government, thought that it was not quite improper to rob it or to deprive it of what the law required it to obtain.

**Pandit Thakur Das Bhargava:** There was a complaint of no-tax campaign also.

**Prof. K. T. Shah:** I did not quite hear him refer to that campaign. I thought he was referring only to the general attitude that because there was an outsider, you are perfectly justified in robbing or at least denying it its dues.

**Dr. P. S. Deshmukh** (C.P. and Berar: General): There was no no-tax campaign so far as the income-tax is concerned.

**Prof. K. T. Shah:** The public, or at least a section of the public continue to entertain that mentality and continue to go on robbing the public exchequer even when the rulers of the country have changed. After all in another direction the Honourable the Railway Minister, for example, has time and again complained about the ticketless traveller and that has continued even after the foreigner has gone from the land. I for one am inclined to believe, Sir, that perhaps with the possibility of political and other influences of the powers that be, the chances of evasion might be greater if we do not adopt more stringent steps than are perhaps thought of even in this measure. In America there is no foreign government, but the Senate Investigation Committee which went into the evasion of taxation by legal and illegal means a few years ago found that some of the most prominent and respectable citizens of America, including a previous Secretary of the Treasury himself, Mr. Mellon, were evading payment of taxes and that the public exchequer was robbed of hundreds of millions of dollars. Please do not misunderstand me—far be it from me to suggest, even by implication, that the opposite number of that Secretary of the Treasury in this House is liable to any such thing as that. I have very hastily added this remark lest I might be liable to be misunderstood. The Honourable the Finance Minister the other day made an appeal, and I am very glad he did it, to all he would be investors in this country to see that the country is helped by their investments. I trust he will make an equally fervent appeal to the tax-payers also to see that they do realise their duty to the State and come forward of their own accord if not in their own name, lest they might be caught, in the name of what is commonly called in England as 'conscience men', and make donations to the Treasury.

**The Honourable Shri R. K. Shanmukham Chetty:** I have already made an appeal twice in that respect.

**Mr. Naziruddin Ahmad:** What was the response?

**The Honourable Shri R. K. Shanmukham Chetty:** Nil.

**Prof. K. T. Shah:** Sir, I was saying that there are several ways of evading by lawful means the taxes due to the state which, as far as I can see, are not quite provided for adequately in this measure, or are not provided for at all. For instance, Sir, the complaint about the evasion of taxation is not only for this year or for the last year; the complaint has been, as I have already remarked ever since one has begun to think of this subject, ever since direct taxation has come in, ever since, therefore, the pockets of the persons concerned are immediately affected. That being so, in the first place, Sir, I fail to see why a provision of this kind should be made only temporarily, that is to say, for two years, with the right to extend it by one year further, if they still find it necessary to do so. But after a particular date the Commission would automatically cease to function. I cannot understand the logic, or the statesmanship of such a provision as that, for there are several tax evaders who will continue to evade and who will find legal as well as accounting advisers who will show them ways of prolonging litigation, so that if you appoint a fixed date by which their work is to be terminated, such people will naturally escape taxation. I am sure that was not the intention of those who drew up that particular provision of the Bill. But as I read it as a layman, not from a legal luminary's point of view, I find that that provision by itself seems to hold out a premium to those who can specialise in the art of dilatory procedure, and those who are a little more honest, a little more nervous or a little more afraid will be easily caught.

The second point, also of the same character, that I would like to bring to the notice of the House is that—I am speaking under some handicap, as I have not been able to study the Bill very carefully—reference is to be made only by Government and in certain cases; if the Commission finds from its own earlier investigations that there is a case, against or possibility of a case against, some person, that person also may be brought under the purview of the Commission's enquiry.

I for one do not see why the Commission, if it is necessary, should not be authorized to proceed on its own so that it may be able, apart from the references made to it, to proceed against any persons against whom, from the records with the Income-tax Office or from other acceptable evidence, it may presumably be possible to hold that there is likely to be a case for enquiry.

Provision is also made, so far as I recollect, that the powers are given to Government to withdraw cases once referred to the Commission. Now, that, Sir, appears to me to be among the most pernicious provisions that could be introduced. Already many Members of this House might be aware—certainly the public is aware—of any number of rumours about influential personages having been able to bring successfully their influence to bear upon the powers—that be so that their names may be and have been withdrawn. I do not make myself responsible for these rumours—I only state them to the House for what it is worth; but I do want to draw the attention of the House to the fact that if there is any ground for an apprehension of this kind, if there is any occasion for feeling that political influence or personal connection have succeeded in getting out any person against whom there was a reasonable ground for believing that tax evasion has taken place, then I submit it would be very fatal to the prestige of this new Independent India to allow such partisanship, such favouritism, to take place and take place almost unconcernedly.

I trust, therefore, that a provision of this kind in the Bill will be tightened up, and that when the House considers the Bill clause by clause suitable amendments will be made to see that no loophole is left to let anybody escape against whom there is a reasonable case for believing that they have been evading tax payment. I hasten to add that I am also a believer in the old-established judicial principle that it is better that ten guilty people should escape than that one innocent should suffer. But in this case I have no ground to believe that an innocent, if he is really innocent, would suffer; the chances rather are that it is the guilty and the guilty alone who will manage to escape—if you do not take proper precautions against the guilty ones, it is likely that by one or other way, by political influence, personal connection or even more reprehensible devices, they will manage to escape.

It has been said that an outside body or those not connected with the working of the income-tax legislation or the practice of income-tax administration may not be able to see all the devious ways in which such operators operate. I know of an old saying which says: "Set up a thief to catch a thief." I am afraid we will not be quite respectable in this House if we assume that those who evade taxation are thieves and that we have in our administrators sufficient fellow-professionals of that kind as to be able to employ them to catch them. Let us assume that we have in our administrative officers, and experienced officers, more innocent persons, and that they, however, in their wisdom and their knowledge and their enthusiasm for the service of the State, in the interest of the public exchequer, will be able to find several ways to get the truth out of such people and bring them to book, at least on the credit side of the State if no other punishment or penalty is inflicted upon them.

(Prof. K. T. Shah)

The other ways—legal ways perhaps—which have not been quite adequately provided for in the Bill so far as my recollection goes, are, I submit, equally important for this House to take note of and proceed against; if not on the present occasion, when the principle of the Bill is said to have been so finally accepted that those amendments might be ruled out of order if anybody ventures to make them, at least an assurance ought to be given that an early opportunity will be taken to see that even legal devices which are morally wrong will not be permitted. I have heard it said, for instance, that very wealthy and prominent people are indulging in business carried on under a variety of names—some of them not of real persons, some of them utterly fictitious, which therefore cannot come under the purview of taxation. I have heard it said that very often payments are made in cash, so to say which cannot be traced. The Government preceding this found that as a likely ground for evasion and therefore enacted those Ordinances under which certain denominations of currency notes were taken out of circulation. It may be that the tax evaders or those specializing in this branch of learning have found other ways like purchasing gold bars, which cannot be identified as currency notes can be, and storing them in such a manner that they might be utilized against a rainy, or rather a rainless, day.

All these ways of getting away from their tax dues are reprehensible. I do not profess to be ready here and now to present the House or the Finance Minister with specific suggestions about making provisions which would get hold of such persons or help the State against such evasions. I would only like to draw attention of the authorities concerned and trust that they in their wisdom, they in their sagacity, they in their loyalty to the State and desire to fill the coffers of the State to the utmost extent possible, will be able to devise methods by which even such lawful or legally permissible methods will be found more and more difficult and may become impossible. Lawyers, Sir,—and I say it in all respect without any desire to be libelous on an honourable profession—lawyers are experts in making or advising in making laws—they are also clever in helping to break them: and if that is so I would also like to place some sort of an obligation upon the honourable the legal profession to see that if and when any practitioner of the art is satisfied for himself that assistance of the kind in a case before him for which he may be briefed is morally wrong and that the client coming to him is pursuing objectionable methods, undesirable methods even if they may not be technically illegal, he for his part should have nothing to do with such a client. I am not sure that I would be applauded in reality quite so well as an Honourable Member is willing to do in this House on the utterance of a sentiment; but I do hope for the growth of the national sentiment, the growth of the feeling that we now are responsible for our own destinies and that those who are in charge of the administration of the ship of State of this country are really doing so for the service of the masses of this country and at considerable strain upon themselves, so to say. Then with the progress of that sentiment the ideal that I have suggested will also not be impossible.

I would have occasion to speak perhaps on a later occasion on specific amendments that I have ventured to submit on particular provisions of this Bill. I will therefore not take more of the time of this House beyond saying that while my objections are not grounded specifically on legal grounds, I am not deprecating at all—far be it from me to do so—the great issues of political principles, of principles of jurisprudence that have been raised in this House, and that if wiser counsels prevail those in charge of the Bill will see to it that as far as they can accept, those amendments of substance as well as perhaps of grammar will be accepted.

Shri Krishna Chandra Sharma (U.P.: General): Sir, I have been listening



with interest to the criticism vehemently made by my Honourable friend Mr. Bhargava on the other side and to the criticism on legal grounds made by my Honourable friend on the left. I fear the position has not been rightly appreciated. From Mr. Bhargava's criticism it appears that a set of innocent people are being caught for no fault of their own. To appreciate the position you have to go back to the years passed by. What happened? Certain people made money, and made money at the cost of the people. If they would have paid the taxes, then inflation would not have arisen to the peak that it did: If they would have deposited the money into the Bank, they would have been caught. So what did happen is that they enjoyed, they spent large sums on themselves. The result of that enjoyment was that they paid prices for the commodities which the common man could never pay. The want of the common people could not be satisfied. Many people had to go naked because the profiteer, the tax-evader, the black-marketeer could pay a price which it was impossible for the common man, which it was impossible for the wage-earner, which it was impossible for the professional lawyers and doctors, to pay. The result was that even a lawyer's son had to go without shoe, even without books, a doctor's son had to go without shoe or coat or even without book. And then, these people, these tax-evaders would enjoy and waste at the cost of the man, the man who produced wealth, the man who renders service to the people, the man who assisted the industry. This resulted in injustice to the people. This resulted in inflation. This resulted not only in this sort of injustice, but sometimes it took away the morsel from the hungry child and sometimes would not let the sick have the needed medicine. This was the state of affairs and this state existed for a long time. Now, to say and to talk in terms of innocent people being caught for no fault of their own does not stand to reason.

Sir, there are emergencies in the life of a nation as they are in the life of the individual when you have to adopt certain measures which are extraordinary, which are serious. Take, for instance, the Defence of India Act. Many of the provisions there were where the burden to prove innocence was thrown on the accused. The accused were brought before the court and on certain *prima facie* evidence they were accused. It was not so much for the prosecution to prove that the man was guilty beyond any reasonable suspicion, as it was for the accused to prove, in the face of the *prima facie* evidence against him, that he was innocent. In this case, Sir, the *prima facie* evidence you can find in the books, you can find in the transactions. Many of the transactions took place where the annual income shown was no more than Rs. 20 lakhs, whereas in fact the transactions amounted to crores and crores of rupees, two crores, three crores and so on. It is for the tax-evader to prove where the money came from. But they kept three or four books. One book they produced before the Income-Tax Authorities. The other books they locked somewhere else. If the Income-Tax Authorities can get hold of the book, it is *prima facie* evidence. You can say then that so much money was earned, and it will be for the evader to prove what the real position was. After all, it is a wrong way of arguing that just as in the criminal cases, where the Police investigate the case, submit a prosecution before the Magistrate, the evidence is cross-examined and then the opportunity for defence is given. It is entirely a different set of circumstances which prevails in the case of a tax-evader. Here you will find the books, transactions or something of the sort. There is no case for cross-examination in the sense in which it is in the case of an accused in ordinary suicidal cases.

Then, Sir, there is enough provision to guard against hardship or injustice in Section 7 (2) which says: "In making an investigation under clause (b) of section 3, the Commission shall act in accordance with the principles of natural justice, shall follow as far as practicable the principles of the Indian Evidence Act....." Now, this expression, "shall follow as far as practicable the prin-

[Shri Krishna Chandra Sharma]

principles of the Indian Evidence Act", my friend will find used very often in the Defence of India Act where it says that so far as practicable the prosecution will be in accordance with the provisions of the Criminal Procedure Code, that so far as practicable the evidence will be in accordance with the provisions of the Evidence Act and so on. This phrase finds a place in the body of the Defence of India Act. My friend might not like to compare the position of the tax-evader to the necessity or emergency of the protection of a State. It was an old way of thinking, Sir, that a State has only way of functioning and that is that it must protect the people. Now, it is not greatly different to let a child be killed by the invader from to let him starve to death. The result is the same. Either an invader comes and kills a child or somebody takes away the morsel and lets the child die. The man who uses the sword is no more guilty than the man who starves the child. Both are the same. Now, the position is that you have got a lot of money. That money is not coming. In order to bring that money, you have to have recourse to special law. Now, do not indulge in legal nicety while the country is starving. The country wants money. You cannot throw more currency into the market. That will not help the people. Only so much power lies in your hands. To get back the money you can take recourse to the simple orthodox, traditional method of enacting law like the present measure. I would suggest a radical method to get back the money. Get all the money into the Bank. Appoint a date. Say that by such and such a date all should pay every pie in the rupee into the Bank. Then give money back in different currency proportionately. That is a radical method which you are not going to adopt. I know it has been tried somewhere and I suppose successfully. I personally believe that that is the only course by which you can get over this difficulty. But that nobody is going to accept or adopt. The only traditional and orthodox method in which we have been trained and bred up and to which we have been used is this making of law and getting what ever is possible. In making this law, enough provision has been made to guard against injustice. Further than this, we cannot at present expect.

Then, Sir, a lot of money might have been spent and it might be hard to pay. The tax-evaders could not invest in most of the cases in business. The money had to be hidden. It is underground money and this underground money could not be invested anywhere. So either it is spent on personal luxuries or it is somewhere in the safe boxes in the houses. In the open market this sort of money could not have been employed, because the man would have been caught.

So the money is there and that money is to be taken out. This argument that it would be a hardship to get hold of a man after eight or ten years and to ask him to pay that excess that he had not paid, because he might have no means to pay them now, is not correct. In most of the cases, this could not use it. I therefore, think, Sir, it is a right thing that the Government have brought this measure.

As regards the criticism about the majority of the two judges or the like I think these are matters of very small import, and can well be modified. Taking it basically on principle this Bill is a sound measure which deserves the support from every section of the people.

Shri Mohan Lal Saksena (U.P.: General): Mr. Chairman, Sir, I was indeed surprised if not shocked to listen to the speech of my Honourable friend, Mr. Thakur Das Bhargava and still now when at the end of his speech he said that he was opposed to this measure. He said that the Finance Minister has not placed before him the figures of evasion and the number of cases. It might

have been desirable for the Finance Minister to have supplied the figures to this House, but I put to him one simple question: Is it not within his knowledge that there has been tax evasion? There have been innumerable cases of tax evasion and I gather that the amount of tax evasion will come to ten or eleven figures. If that is so, is it not proper.....

**Pandit Thakur Das Bhargava:** You may know, but I did not know this.

**Shri Mohan Lal Saksena:** I know it must be within his knowledge that there are businessmen who are maintaining two and three sets of account books. It must have been within his knowledge that during the six years of war there are men who have become millionaires and they started from the scratch. Mr. K. T. Shah was a little hesitant to compare them with the thieves and he said: "You have to set a thief to catch a thief" but I feel it will be a libel on thieves simply to satisfy his needs and the requirements of his family and relations. But the tax dodgers are those who rob the State, who rob the society not for their individual requirements or for the requirements of their families. But they want to satisfy their vanity, for just showing off their pomp and glory on others.

My Honourable friend Mr. Thakur Das Bhargava said: "Well there was a spirit of non-payment of taxes." Where was the spirit of non-payment of tax? Did they not pay the tax? They did pay the tax—but they evaded payment of a large part of their dues. So I say they are worse than thieves. Now they were giving crores of rupees towards war loan and gave donations to other war Funds. They were establishing all sorts of soldiers' homes and canteens. It would not be just to say that they were patriotic in evading payment of tax. I think it is highly inappropriate. It is said it is agreed that six years ago they evaded payment and now to ask him to furnish accounts is quite unjust. Supposing a man had committed theft ten years back and we are able to get evidence, will that man not be brought to book? Will he not be prosecuted? It is just possible that there may not be evidence. If the evidence is there, the thief has got to be punished; there is no limitation or time-bar and so I submit that there is no basis or no ground for saying that it will be a hardship to take measures to catch hold of these tax evaders at this late stage. It is said after all the Tax Department was there and the Income-tax Department failed to realize this. We know what it was—a conspiracy between our own masters, the foreign rulers and these men; they wanted some money to carry on their Government, to fight the war and so long as they paid a certain amount of money, they did not care as to whether they robbed people or raised prices; they did not care so long as they were co-operating with them in just carrying on this war and finding funds for their war loans and other activities.

So, Sir, I think nobody here will be prepared to say that there is no justification for the present Bill which has been brought before us. Then we know, Sir, that this Bill is an amending bill. We passed a bill last year. This bill has been brought on the recommendation of two eminent judges and on the recommendations of the Members of the Commission and I know there is no single person in this House who will say that in the present personnel of the Commission, we have not got the most straight-forward and most judicial minded persons that we could have in India.

I think a Memorandum has been circulated to Honourable Members which gives out the reason why they want these powers. Then, so far as the Select Committee is concerned we have just made a departure in two or three respects from the original bill as introduced. We have extended the period of reference from 31st March to 30th of June. You will remember that in the original Bill

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the provision was that new cases could only be referred till the 31st of March and it was found necessary that in view of the present circumstances that that period should be extended so that all such cases should be included which could not be compiled or collected during this short time that will be at the disposal of the Income-tax Department between the date of passing of this Bill and 31st of March.

Then, Sir, an objection was raised by Mr. Subramaniam that after all this finding is going to be based on the material that is brought on record. That does not mean that the material that is produced in evidence by way of rebuttal will not be brought on record.

**Shri C. Subramaniam:** That was not my point: I did not say that what would be let in by way of rebuttal would not go on record. But certain materials which had been brought on record might not have been placed during the enquiry for the person to rebut.

**Shri Mohan Lal Saksena:** Any way that was not the intention of the Committee or the Bill. If that is so, it might be scrutinised and I think a suitable amendment will be accepted, but it was never our idea not to give an opportunity to the person or to the assessee to give evidence in rebuttal.

Then, Sir, on these points, I hope my Honourable friend Mr. Ananthasayanam Ayyaengar will be speaking. I do not want to go into these legal points.

Then I come to the rumours about which my Honourable friend Mr. K. T. Shah referred. I know the big business is responsible for spreading all sorts of rumours; they have created an impression that our Government is under the influence of big business. I know that there are persons who talk: They have been fellow directors of such and such a minister; they are friends of such and such a minister; they have been acting as hosts to such and such a minister and all sorts of things. But I know the Government as constituted today will not be influenced by any of these circumstances and I know, if necessary, they will not hesitate to proceed against their very nearest and dearest relations, if they come within the mischief of the provisions of this law which has been enacted. If there are any such cases within the knowledge of Mr. Shah, let him bring them to the notice of the Honourable the Finance Minister; there is ample time and then suitable action will be taken in regard to them.

He also said that to catch a thief you must set another thief, and insinuated that there are such experts in the Income-tax Department. I would not like them to be called thieves. I accept the principle when I say that in all collection departments have a practice of having informers. For instance, in the case of evasion of customs duty any information brought is suitably rewarded, and so is the case in excise. I hope this department also has some such arrangement. I think Prof. Shah meant that the department knows how to set a thief or an accomplice to catch another thief.

My Honourable friend Mr. Subramaniam asked why members of the Commission should be appointed for two years in the first instance; on the other hand Prof. Shah said that it should not be for two or three years, but this Commission must be there because there is bound to be tax evasion. But I think the idea of the Government was that so far as cases relating to this period are concerned they will be dealt with by this Commission, but later on we will have some machinery like that in the U.S. A., i.e. a Committee of the House, to which I hope our Finance Minister is giving thought and at the proper time he will place his proposals before the House.

Sir, I think there is still some opportunity for those people who evaded taxation. Some one said there has been a spirit of tax evasion because we were preaching non-payment of taxes. But since the 15th August last year there

has been a national Government here. These persons can come before Government now and offer to pay these taxes. After all they wanted to cheat the foreign Government and now they must be prepared to help this Government if they have any patriotism and sense of public duty. That will be the most honourable course for them to adopt, even if they have now to pay more. An appeal has been made from this House and the Finance Minister also has more than once appealed to them to come forward and make a clean breast of these evasions; and Government as well as the Commission will certainly take into consideration the fact that these evasions are being disclosed not because of any investigations but on their own voluntary initiative.

Sir, I support the Bill.

**Shri M. Ananthasayanam Ayyangar** (Madras: General): Sir, in a world of naked men the man with a cloth becomes a fool. I am really surprised that my Honourable friends both on my right and on my left—Mr. Subramaniam for instance—have been more loyal to the rich men than the Finance Minister himself.

**Shri C. Subramaniam**: Sir, Honourable Member has completely misunderstood me. Simply because I criticised certain provisions that does not mean that I am a friend of the rich or an enemy of the poor.

**Shri M. Ananthasayanam Ayyangar**: I admit they are foes of the rich. Now, Sir, the Finance Minister started by saying that he wanted to have a reversal of the policy. The previous Minister by his taxation measures threw cold water on industrial enterprise. That he wanted to correct. We all agreed with him and hoped that the industrialist will take advantage of these measures and help the country in better production. Now the same Finance Minister has brought forward a measure which was introduced by the previous Minister with whom he did not see eye to eye with respect to most of this proposals. Can you say that this Finance Minister with one hand wanted to help the industrialists and with the other hand threw a stone at their heads? Therefore my Honourable friend Mr. Bhargava may feel sure that there will not be unnecessary harassment. The Finance Minister who is a responsible gentleman will take only such cases where he is himself convinced that they are good cases. We have provided rightly that till the 30th June 1948 Government itself may withdraw cases where after second thought Government may not find sufficient material for proceeding with the case. In a hurry when time was given in the previous Act as it stands, before 30th December 1947 all cases had to be filed. When time was sought to be extended to 31st March 1948 in the original Bill and amending Bill we gave him three months' more time and told him to make up his mind; in a hurry a number of cases may have been placed there. There is no intention in this Bill or in the previous Bill to get one pie from a man who is not bound to pay or one pie more from a man than what he is bound to pay. We do not want to grow rich dishonestly at the expense of a person who is not liable to pay. If really somebody has not paid there should be sufficient procedure or an organisation or authority by which those taxes will be collected. Take for instance a person who owns land; he is liable to pay land revenue. Does not the village *munsif* with the *karnam* or the *talayari* go in front of his house and announce that his chattel and all his belongings must be sold by public auction? The conscience of our friends is not touched there. I am sorry they are more anxious not about other rich men; he will also be the next rich man, and either by charity or otherwise we can get those funds. If a man has deceived the previous Government I will count him as one of the persons who fought the civil disobedience movement. Some people directly did not pay their taxes and went to jail and their property was sold. Indirectly these men evaded the tax and their coffers grew rich. They also can be called

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persons who fought in the freedom movement. In the honours list I am prepared to give them the *agrasthanam* or the first place. The Finance Minister was advised to issue appeals; he issued appeals once and twice. And the third time even before these people set about the business he will only be too willing, anonymously or by collection; to receive all presents; he will accept them as presents not as his due. A rupee is not going to be 14 annas or 15 annas if it is called a present or 17 annas if it is called a tax. In either case he will welcome it. Let us instead of wrangling here go about the country and tell them that it is not their right and the rich men must pay because the entire community must be saved. The man who deceives does not deceive an individual but the entire community. Who is the plaintiff and who is the defendant? I have also been practising for some time; on account of my coming here my Honourable friends might think that I have lost touch with law and forgotten it. I was in the Select Committee and I shall try to justify everything for which I was responsible. The Finance Member feels I have let him down and looks to the other side. I am reminded of a case in which there was a munsif. As soon as a plaint came in about a pro-note saying that the man refused to pay, the munsif thought this man was a scoundrel because he took Rs. 300 and refused to pay and he came to the conclusion that there was a *prima-facie* case. The defendant then filed a written statement to say that he had paid the money for which the plaintiff had agreed to execute a receipt but he effected a sale of his sheep and cattle. The munsif would then say that the poor man had been deceived. Therefore when he does not hear the other side he immediately came to the conclusion that unfortunately these people have let him down in the Select Committee. I shall justify every act; the responsibility is not his but of every one of us. If really we have committed any error we must certainly admit that error.

I do not want any more preamble for what I am going to justify. As to the step we took in the Select Committee I will say one thing more. This ought not to be taken as a judicial tribunal. Under the Income-Tax Act is the income-tax authority a judicial tribunal? He makes inquiries to the best of his ability, asks the assessee to come forward and file a statement, who must take the oath. He is liable to be prosecuted; he must be examined on oath. It is open to him to go and ask him to produce accounts; he has all those powers.

But Honourable Members will remember, and particularly those who were here that some years earlier during the previous regime, the then Government wanted some additional powers of entry into a house, powers of search and the taking possession of documents to get at tax-dodgers. But we were not prepared to give that power. We were not prepared to clothe the officers under the previous Government with such powers, irrespective of their being fair or dark, we felt they would be afraid not so much of the white man but of his dog in his bungalow. Therefore such power would only harass our dark men. As a matter of fact our dark men's money was not going out from this country. After independence their money would be still ours and that in the end we would probably legitimately get it. So we stood by those people and we refused to allow these powers to get into the hands of the western bureaucracy. But today we have a different Government.

Our people's mentality will change. As a matter of fact there is a change. But we cannot get into their hearts at once.

I am going to the genesis of this Commission. If an officer is clothed with all the powers which the Commission is clothed, we might say that an officer of the Revenue Department should not be clothed with such powers. In his place there should be a Commission of extraordinary persons of extraordinary

integrity like an ex-Judge of the High Court, the Chief Justice of the Bombay High Court or a Member of the Income tax Tribunal. Such a body would be of some judicial standing to decide over an Assistant Commissioner of Income-Tax. There is now an Inspecting Commissioner of Income-Tax. For this there is a Tribunal. I am glad that the Honourable the Finance Minister has avoided the suspicion that the authority contemplated is to squeeze the rich man who might have earned well during the war. He has not made himself open to that charge. He has been cautious and judicious. He wanted to make this as good a judicial tribunal as possible.

But are there two parties? If there are two parties, one will say, yes, and the other will say that there is no document. But we should know that every man, woman and child in this country is ranged on one side and the tax-dodger on the other side. He alone has access to his books. On one occasion Sir James Grigg brought forward an amendment to the Income-tax Act. It was said that Sir James Grigg has mentioned that there are two sets of accounts. I say that I know that there are three such sets for each trader and businessman: one set of accounts for himself which gives him the trend of his transactions: the second set is to deceive Government: and the third set is to deceive his own partner. That is the morality of the people whose support we want in this country. I am not ashamed to admit that among them were many of my own kith and kin. Unfortunately they have overestimated their individual importance and set it against their own interest and against the interest of the public. We are the public in general, that body which is represented by the Ministry here and we, and the authority in the Income-tax Department are on one side: the man who has prepared three sets of accounts is on the other side. But he does not bring his accounts nor does he lay a clear statement on the table. What are we to do? Should this be torn to pieces? If my Honourable friends who objected to this were themselves Finance Ministers, what would they do? They would appoint a Commission consisting of respectable persons who are above approach whose traditions were that they were born into the profession and from the time they started life, the Income tax Act had become part and parcel of themselves. Those are the kind of people entrusted with the work which the Finance Minister was frightened to entrust to any other official. I know the whispering galleries are there. Even a man like Pandit Thakurdas Bhargava has said that you cannot entrust such a power with even a God. He would soon become Satan! Just imagine we are going to make God into Satan! We are so big that we are by certain powers going to make God himself become Satan. I would however like to urge that we can have this power. What are the powers that have been given? My friends said that the investigating authority ought not to be a Judge. Now let there be a complaint filed before the Magistrate. The Magistrate has a right to make a preliminary enquiry. What is that enquiry? In it my friends cannot appear. They may be vakils. I even cannot appear.

**Shri C. Subramaniam:** During the preliminary enquiry before a Magistrate you can appear. I am afraid the Honourable Member is forgetting his law!

**Shri M. Ananthasayanam Ayyangar:** Wittingly or unwittingly, I do not appear. So far as the preliminary enquiry is concerned, it is open to him to gather material and then come to a conclusion whether there is a *prima facie* case or not. Then he may dismiss the case. If there is not a *prima*

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*facie* case he can throw it out. Otherwise he can proceed with it and call upon the accused and examine the witnesses and give him an opportunity to rebut. It was said that rebutting was something different. It is only by adducing fresh evidence and by cross-examination of the evidence that you can show how much of the evidence brought on record is wrong. All that the Commission does is to gather such material and with respect to all and sundry material it may not think it necessary to call the assessee or the person charged against to come and explain. They may without further evidence reject some piece of evidence. If he rejects, how can his judgment be coloured? He has the right to reject some evidence and accept some. If there is a case which has to be rebutted he may accept it; and professionally don't we do so subject to relevancy and further proof. If no proof is tendered it is rejected.

Statements have been made here as if the whole procedure was novel. Is the Honourable Finance Minister starting a new procedure in this world? They are not aware evidently of the elementary principles of jurisprudence and justice.

This is an emergency piece of legislation. The same Commissioners have been entrusted with the task of suggesting ways and means of amending the Income-Tax Act. This is not for the purpose of just amending. It is to endeavour to get hold of persons who try to dodge taxes on income which have accrued during the war from 1938. Similar provision is there in section 34 of the Income-tax Act today. But for various reasons the officers are unable to proceed against a man. A charge may be made, there may be whispers and even the Finance Minister may withdraw cases. If so, how can you expect the ordinary officials to have the courage to proceed against them. First of all we should have responsible persons who can be entrusted with this task, proper officers who can get hold of those persons who are guilty of tax-evasion. This Commission is a sort of grand authority, an independent authority. . . .

Shri T. T. Krishnamachari (Madras: General): A Grand Inquisition!

Shri M. Ananthasayanam Ayyangar: No man who is asked to pay a tax pays it gladly. The best of socialists turns overnight into the worst of conservatives or diehard toryies. Bernard Shaw the great exponent of Socialism when he was asked to disgorge his property said "Socialism is not for me. I am teaching the whole world and when the whole world becomes socialist my property also will become the property of the state." Socialism is for others but not for one's own self.

Now, am I going to catch people who have evaded paying Rs. 200 or 300. There are about 200 or 300 people in all India who may have to pay enormous sums. The Bill is intended only for such extraordinary cases. The Finance Minister will be laughed at if he places 300 cases where Rs. 300 each was due, before the Commission, whereas each Commissioner may be paid Rs. 4,000. Rs. 300 multiplied by 300 comes to 90,000 only. Merely because there are provisions here, they will not be applied. If you want such an assurance the Finance Minister will give the assurance. Extraordinary cases where large sums are involved alone will be caught. There is absolutely no reason to get alarmed. On the evidence on record no judgment will be given unless the judge satisfies himself that there is a *prima facie* case and even then, unless the assessee has had the opportunity to rebut the evidence. It is not therefore evidence alone but there will also be cross-examination, to show that the evidence cannot be relied upon.

As regards copies when copies are given of those documents which are brought on record they can certainly be allowed to be inspected. It is said that copies may be granted but inspection of original documents may not be



allowed. If copies are granted what is the difficulty about access to the original documents. Certainly all those documents which have been brought on record will be shown. Other useless documents will not be brought on record.

**Pandit Thakur Das Bhargava:** May I draw the attention of the Honourable Member to clause 4 where it is given that the right of inspection will not be there unless with permission.

**Shri M. Ananthasayanam Ayyangar:** Right of inspection of every document will not be there.

**Pandit Thakur Das Bhargava:** Any document.

**The Honourable Shri E. K. Shanmukham Chetty:** This relates to documents which cannot be brought on record.

**Pandit Thakur Das Bhargava:** It refers to both kinds of documents.

**Shri M. Ananthasayanam Ayyangar:** Before the documents are brought on record it is a matter of discretion to allow inspection. After they are brought on record you have a right to rebut the evidence and the powers of inspection will be there. So this also falls to the ground.

Then there is nothing novel in the words "notwithstanding anything in any law to the contrary". Section 126 of the Indian Evidence Act was referred to and it was suggested that there is a privilege under this section as between a lawyer, counsel and a client. Whatever information a client gives to his lawyer shall not be asked to be divulged. As far as possible evidence under the Indian Evidence Act alone will be taken. What are all the things to the contrary?

**The Honourable Shri E. K. Shanmukham Chetty:** Under the Bankers' Book Act a banker cannot disclose details regarding the transactions of his clients but it is exactly that kind of information that we want to catch hold of people.

**Shri C. Subramaniam:** "Notwithstanding anything in any law to the contrary" would not exempt a lawyer. There is no exception made in any case.

**Shri M. Ananthasayanam Ayyangar:** What is the good of asking the Finance Minister about it. I shall try to explain it, although I know he was also a lawyer. He has given instances as to where he intended this to apply. My friend Mr. Subramaniam says that this is too general. Some other man gives a statement before the income-tax authority and so far as this is concerned it is confidential. As to whether this covers the case where a lawyer would be asked to divulge, my submission is that he would not be called upon. This will not apply.

**Shri C. Subramaniam:** I am glad to have the Honourable Member's assurance.

**Shri M. Ananthasayanam Ayyangar:** My interpretation is that a lawyer gives only indirect evidence. A lawyer is given certain documents. That is direct evidence which alone is permissible under the Evidence Act. The assessee makes an admission which may or may not be true. But he is not bound to make an admission. After all a client is not bound to give out the truth even to his vakil. Under these circumstances this would not apply to that case at all. It would not be proper under the Evidence Act. These are all extreme cases. In 1942 when people wanted to appear before high courts for the purpose of filing petitions under the *Habeas Corpus* to get the release of arrested persons under the 1942 Movement, people were afraid. Why? I am really surprised that this provision should be intended to mean that it would cover the case of lawyers also.

[Shri M. Ananthasayanam Ayyangar]

Now, I come to the period of the Commission. My friend blew hot and cold. There are about 200 cases now and they had to be disposed of. One year may be too short. Two or three years may be long and therefore two years may be fixed in the first instance and if necessary it should be carried on for one year more. If even within the period of one year, as suggested by my friend in six months, all the cases are disposed of, what will they do? This is therefore a hypothetical case. The reasonable expectation is that it should go on for a period of two years. It may go on for three years. These are all not matters which are germane and they are farfetched.

Much was made of the statement that the officials shall obtain the statement of the assessee. It is obligatory for the official to go and obtain the statement but he will not coerce them. The only point you have to see is that the Commission may authorise any official to do so and on such authorisation the official shall do so. That only means that it is the duty of the official to ask for a statement. My friend read only the earlier portion and not the latter portion. If the man refuses to give the statement the official can immediately close the case.

**Shri C. Subramaniam:** My Honourable friend is wrong. It is only when the person against whom the investigation is made refuses to give a statement the enquiry may be closed and not when any third person from any statement is required as a witness refers to make a statement.

**Shri M. Ananthasayanam Ayyangar:** Then it is much better. There is a remedy in the case of the person charged against. If the prospective assessee refuses to give a statement the official can close his case. With respect to other cases, if the man refuses, the official cannot do anything; he can only bite his fingers. There is another provision which says that he can report the matter to the Commission and the Commission might take such steps as it deems fit. If a man is in possession of certain facts and refuses to disclose them, a penalty can be imposed upon him. It is not as if you shall do it. If I ask my servant to go to my Honourable friend Mr. Subramaniam and get some books from him it is not as if my servant can walk away with the books. What is this kind of construction he is putting? I have a right to ask my servant "you shall do it; you shall fetch something from the bazar". But if the bazar-man refuses to sell, am I asking him to loot? I am surprised at this kind of construction that the expression "you shall" means that "you shall do so". If I ask my servant to get the mountain, shall he shake the mountain? I am not bound to answer these things and I do not want unnecessarily to take up your time.

I have only to answer one point made by Prof. K. T. Shah and that was that the Government has been clothed with power to withdraw. I was also suspicious why the Government should be clothed with the power. But even if Professor Shah is the Finance Minister, he must have the power to withdraw. There may be useless cases. There is no use clutching at them: it will be demoralising. If an useless case is pushed further it will go about the country that these are the cases placed before this Commission. The man will get scot-free and so long as the assessee is alive not even the Finance Minister will have the courage to ask from him a pie. It is no use pursuing a useless case. Therefore that power is necessary. I say that this Bill as it has emerged from the Select Committee—I say so not because I was there—is fool-proof. It must be carried both in principle and as it stands. If there are any errors here and there, certainly the Finance Minister will accept those amendments.

**Shri T. T. Krishnamachari:** Mr. Chairman, the provocation for me to rise to speak on this motion is the speech of my Honourable friend Mr. Ananthasayanam Ayyangar and the extraordinary exposition that he gave of double standards of morality, one standard of morality when a foreigner was ruling

this country where people could be freely allowed to evade payment of tax and a different standard of morality when we are in possession of the state when we must compel the people to pay their taxes and dues by every conceivable provision of law possible, however Draconian it might be. (Inter-ruption). I am not yielding. I want my Honourable friend to recall what happened in 1945 when a former Finance Member brought a Bill for amending the Income-tax law—an amendment to Sections 34 and 38. He then pointed out the need to amend Section 34 and said how inadequate it was and how the intention of the section could not be implemented. These two Sections were sought to be amended for giving the Income-tax Department more powers in order to reopen cases beyond the period set forth in Section 34 and also giving the Department powers to inspect accounts and enter the premises where such accounts are kept. I must say, Sir, in justice to the memory of that great man whose voice resounded here for a decade and over that he felt that the Department was justified in asking for an enlargement of the powers—I refer to the late lamented Bhulabhai Desai. I must also tell the House that he carried me with him. But we were powerless and we could not give the Department these powers, in spite of the fact that any diminution in the tax collection by the then Government meant more borrowing from the people. The British Government however got its money if not by way of taxes, by borrowing, or by way of increasing its currency and by similar methods. Now to say that any Draconian provision is justifiable because we have a government of our own, on the ground that a different standard of morality should now obtain is a proposition which I cannot accept. However eminent the person propounding this theory might be as a lawyer and as a legislator I think it is a proposition which the House cannot accept.

**Shri M. Ananthasayanam Ayyangar:** That is because I appreciate the change that has come about.

**Shri T. T. Krishnamachari:** The mere fact of the change cannot justify the provisions of the nature that are found in this Bill as it has been amended by the Select Committee. The Select Committee seeks to put a provision in this Bill which says "Notwithstanding anything contained in any law to the contrary". I want a specification of all the laws which will be affected. A lawyer like my friend Mr. Ananthasayanam Ayyangar cannot say that it cannot apply to the Evidence Act. It will apply to that Act and to every other conceivable Act of that nature. If what my Honourable friend the Finance Minister said is correct he wants protection against the Bankers Books Evidence Act it seems the Commission has already required and obtained some protection against that particular Act and the other provisions of the amending bill. Instead of doing that specifically you are putting an omnibus clause and saying "Notwithstanding anything contained in any law to the contrary." And persons like my Honourable friend Mr. Ananthasayanam Ayyangar, who would not allow a minor amendment to Sections 34 and 38 in 1945, trying to justify this is a metamorphosis which even I, a close friend of his, cannot easily digest.

**Shri M. Ananthasayanam Ayyangar:** I worked for the metamorphosis.

**Shri T. T. Krishnamachari:** He might have done so, but he has finished that work.

**Mr. Chairman:** I think the personal references may be cut out.

**Shri T. T. Krishnamachari:** I am sorry to make the reference to what happened in 1945 it was only because as I said before that was the only provocation for me to speak on this motion. I feel that in so far as Mr. Subramaniam has pointed out the enormity of the implications of this particular amendment he has done a definite service to this House and I propose to support him when he moves his motion, in spite of my Honourable friend Mr. Ayyangar's opposition.

[Shri T. T. Krishnamachari]

With regard to anything else that Mr. Ayyangar might have said I have nothing to quarrel alone. Actually, we are aware that the provisions of this amending bill are Draconian. We are also aware that such provisions are needed in order to see that income-tax evasion is put an end to, or at any rate mitigated to a considerable degree. Professor K. T. Shah was saying that 50 per cent. of the income-tax assesses do not pay the tax. I was told by a person who had known the position both as an Income-tax Commissioner and subsequently as an adviser to people who have to pay income-tax that the estimate of people who were not paying income-tax, in his opinion, was somewhere about 66.2/3 per cent.

**Prof. K. T. Shah:** On a point of personal explanation, I mentioned 50 per cent as an estimate. . .

**Shri T. T. Krishnamachari:** I am not refuting Prof. Shah's estimate. I am merely saying that his estimate is not probably very accurate because on better authority I have an estimate that a much larger percentage of people are evading the tax. If we pass this measure and if we do it with the full knowledge that it runs contrary to the ordinary law of the land, then we are throwing away every principle for which my friend Mr. Ananthasayanam Ayyangar fought in the past—the libertarian ideas which impelled us to fight the British Government and which impelled him to make the sacrifices that he made—we are bidding goodbye to all these in order to see that the country gets the money that is due to it and which it needs. That does not mean that what we did in the past because it was a Foreign Government was right, and what we now do is something glorious. A double standard of morality is not justifiable in any circumstances. I do hope that my Honourable friend the Finance Minister will lighten the rigour of this particular Draconian measure to the extent that it would not impinge on the ordinary law of the land, except in so far as it is specifically mentioned here that it does.

**Shri Satyanarayan Sinha (Bihar: General):** Sir, the question may now be put.

**Mr. Chairman:** The question is:

“ That the question be now put. ”

The motion was adopted.

**The Honourable Shri E. K. Shanmukham Chetty:** Sir, I am very glad that this debate has taken place. Apart from the relevancy of this debate to be measured immediately before the House, it is significant because it is an evidence that this House will think a hundred times before giving extraordinary powers even to the executive of a national government which might jeopardize the individual liberty of an honest citizen. From that point of view the debate must give cheer and hope for the future of our country.

Coming to the actual measure, I am afraid that the whole criticism of my Honourable friend, Pandit Thakur Das Bhargava, is based upon a misconception of the nature and function of this Commission. If we were setting up a special judicial tribunal, then all his observations will be perfectly relevant. I made it plain at an earlier stage of the debate that it is not our intention to set up an *ad hoc* judicial tribunal before which two parties will appear, but it was our intention to set up an investigation commission. It is a well known fact that a great many people. . . . .

**An Honourable Member:** Too many.

**The Honourable Shri E. K. Shanmukham Chetty:** . . . . . evaded the payment of legitimate taxes during the last seven or eight years. We could proceed against them under the ordinary income-tax law, but we found on an examination of our income-tax law that that Act does not invest the income-tax authorities with sufficient powers to proceed against these evaders. For

instance, under the Income-tax Act, an officer cannot ask a third party to produce his accounts so that he might come to some decision regarding the assessment case of another person. Having found that limitation under the Income-tax Act, it was then a matter for decision whether we should invest the income-tax authorities themselves with extraordinary powers to proceed to the task of bringing to book these tax-evaders. Then we thought that there would be serious objection on the floor of this House if we brought forward a proposal asking for such extraordinary powers to be invested in the hands of the officers of the Income-tax Department, and so we thought we would set up a commission whose integrity cannot be questioned and we will invest them with these extraordinary powers. As soon as I came into office and wanted to establish the commission, I was told by my advisers that the Act under which the commission was to be set up was very defective and that the commission will not really be effective unless certain radical amendments were made, and they produced before me a draft of those amendments. When I looked at those amendments, my mind also was disturbed like that of my friend Pandit Thakur Das Bhargava. At the same time I felt that without these powers it would be difficult for the commission to work and so I said that I would not accept these amendments unless the commission itself feels that these powers are necessary for them to discharge their functions. So I asked the Central Board of Revenue to place before the Commission for their examination the draft amendments. After very carefully going through those drafts, the Commissioners themselves came to the conclusion that without the powers which they indicated in their report, the work of the commission will not be effective. That is the genesis of the original measure and the present Amending Bill. I frankly admit that we are not setting up an *ad hoc* judicial tribunal and I frankly admit that we are investing this judicial tribunal with extraordinary powers which under the law of the country will not be permissible, but the fact remains that if you really want to collect, at any rate make an attempt to collect, the money from these tax-dodgers, there is no other course. That is the justification. My Honourable friend, Pandit Thakur Das Bhargava, thought that every small man would be harassed. I might give him the most categorical assurance that it is our intention to place before the Commission only a few selected cases relating to the very top men in the business.

**An Honourable Member:** How many?

**The Honourable Shri R. K. Shanmukham Chetty:** It is not possible for me to say how many, but it will be a comparatively small number and I personally would be glad even if a dozen of them could be brought to book. So no apprehension need be entertained that an honest, innocent or poor man or the middle class man will be subjected to any harassment at all.

After all this explanation, Sir, about the genesis of this measure, and after the exposition given by my Honourable friend Mr. Ananthasayanam Ayyangar, I hope the House will accept this motion, and when we actually take up consideration of the various clauses, I shall certainly be prepared to accept any suitable modifications that may be necessary to remove the anomalies pointed out by my Honourable friend Mr. Subramaniam.

**Mr. Chairman:** The question is:

"That the Bill to amend the Taxation on Income (Investigation Commission) Act, 1947, as reported by the Select Committee, be taken into consideration."

The motion was adopted.

*The Assembly then adjourned till a Quarter to Eleven of the Clock on Monday the 22nd March, 1948.*