

# **JOINT/SELECT COMMITTEE REPORTS OF LEGISLATIVE ASSEMBLY -1947**

## **The Taxation on Income (Investigation Commission) Bill**

**I. List of Reports of Select Committees  
presented to the Legislative Assembly  
of the Indian Legislature in 1947.**

S.No.	Short title of the Bill.	Date of presen- tation.	Date of publica- tion.
1.	The Indian Navy (Discipline) (Amendment) Bill.	3.2.1947.	15.2.1947
2.	The Motor Vehicles (Amendment) Bill.	3.2.1947.	15.2.1947
3.	The Motor Vehicles (Second Amendment) Bill.	3.2.1947.	15.2.1947
4.	The Foreign Exchange Regulation Bill.	3.2.1947.	15.2.1947
5.	The Industrial Disputes Bill.	3.2.1947.	15.2.1947
6.	The Railways (Transport of Goods) Bill.	17.2.1947.	1.3.1947
7.	The Banking Companies Bill.	17.2.1947.	1.3.1947
8.	The Indian Trade Unions (Amendment) Bill.	26.2.1947.	5.4.1947
9.	The Insurance (Second Amendment) Bill.	5.3.1947.	15.3.1947
10.	The Delhi and Ajmer-Merwara Rent Control Bill.	12.3.1947.	22.3.1947
11.	The Imports and Exports (Control) Bill.	12.3.1947.	22.3.1947
12.	The Income-tax and Excess Profits Tax (Amendment) Bill.	19.3.1947.	29.3.1947
13.	The Business Profits Tax Bill.	19.3.1947.	29.3.1947
14.	The Rubber (Production and Marketing) Bill.	1.4.1947.	12.4.1947
15.	The Control of Shipping Bill.	1.4.1947.	12.4.1947
16.	The Capital Issues (Continuance of Control) Bill.	7.4.1947.	12.4.1947

S.No.	Short title of the Bill.	Date of presenta- tion.	Date of publica- tion.
17.	The Taxation on Income (Investigation Commission) Bill.	7. 4.1947.	19. 4.19

II. List of Reports of Select Committees  
Presented to the ~~Lakas~~ Constituent  
Assembly of India (Legislative) in  
1947.

1. The Delhi and Ajmer-Merwara  
Rent Control (Amendment) Bill. 1. 12.1947. 13.12.19
2. The Delhi Premises (Requisi-  
tion and Eviction) Bill. 1.12.1947. 13.12.19
3. The Extra-Provincial Juris-  
diction Bill. 6.12.1947. 13.12.19

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## LEGISLATIVE ASSEMBLY

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### REPORT OF THE SELECT COMMITTEE ON THE TAXATION ON INCOME (INVESTIGATION COMMISSION) BILL, 1947

We, the undersigned, members of the Select Committee to which the Bill to provide for an investigation into matters relating to taxation on income was referred, have considered the Bill and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

*Clauses 3 and 5.*—We propose the replacement of clause 3 of the Bill as introduced by these two clauses. Sub-clause (a) of the new clause 3 reproduces without material modification sub-clause (1) of the previous clause 3. We have however recast considerably in our clause 5 the provisions of sub-clauses (2) and (3) of the original Bill. Under those provisions investigation into the cases of particular cases could be initiated either by the Commission itself or on a direction from Government: power was also given to the Commission to investigate the cases of persons whose affairs it found to be connected with those of the person under investigation. We consider that this aspect of the Commission's work should in the first instance be confined to cases referred to it by Government before the end of the current year, in which Government has *prima facie* reasons for believing that substantial evasion has taken place. Should the Commission in the course of an inquiry have reason to believe that other persons have been evading taxation, it is empowered under sub-clause (2) of our new clause 5 to report the matter to Government, and if Government considers that an investigation should be made into any case so reported, it may at any time direct the Commission to make the investigation.

*Clause 4.*—We consider that the Chairman should be a person who is or has been a High Court Judge, and we amend the clause accordingly.

*Clause 6.*—Sub-clauses (1) and (3) reproduce with only formal change clause 5, and sub-clause (5) of clause 7, of the original Bill. Our sub-clause (2) replaces clause 6 of the Bill as introduced. While we recognise that it would be impracticable for the Commission itself invariably to make the detailed examination of accounts and other documents which may be necessary to ascertain the true facts, we consider that the wide powers which could have been conferred on officers of the Commission under the original clause 6 to be much too drastic and capable of being abused. Under our revised provision, when an investigation by the Commission is proceeding, competent persons may be deputed by the Commission to examine accounts or other documents and to interrogate for the purpose of such examination persons having charge of them. Having made such examination, the person deputed will report to the Commission.

*Clause 7.*—Sub-clause (1) reproduces the corresponding sub-clause of the original Bill, omitting the power of the Commission to decide whether there may be representation by pleader: we think that this right should be allowed to all persons whose cases are being investigated, and in our sub-clause (3) we so provide. While we accept the second part of the original sub-clause (2) and include it as sub-clause (5) of our draft, we consider the first part of this sub-clause as originally drawn to be unfair to the persons concerned, and this we replace in our sub-clause (2). And as we expressly refer to the Indian Evidence Act in this sub-clause, the substantive part of the original sub-clause (3) becomes unnecessary in view of

section 132 of that Act. As a means of protecting witnesses, we prefer to the provision set out in the provisos to the original sub-clause (3) which enabled the Commission to grant certificates of indemnity, the provision which we set out in sub-clause (4) requiring the sanction of Government for the use against witnesses in the Courts of evidence given by them before the Commission. Our sub-clause (6) reproduces the original sub-clause (4) with only formal modification.

*Clause 8.*—We propose limiting the reopening of assessment proceedings to periods subsequent to the year 1938, and insert a sub-clause requiring a copy of the Commission's report so far as it relates to him to be given to the person in respect of whom assessment proceedings are directed to be taken under this clause.

*Clause 9.*—Our changes are formal.

2. The Bill was published in Part V of the *Gazette of India*, dated the 8th March, 1947.

3. We think that the Bill has not been so altered as to require republication, and we recommend that it may be passed as now amended.

JOGENDRA NATH MANDAL.

LIAQUAT ALI KHAN.

\*P. J. GRIFFITHS.

MOHAMMAD YAMIN KHAN.

K. NAZIMUDDIN.

MUHAMMAD NAUMAN.

N. V. GADGIL.

MANU SUBEDAR.

MOHAN LAL SAKSENA.

SATYA NARAYAN SINHA.

LAKSHMI KANTA MAITRA.

N. M. JOSHI.

SHAVAX A. LAL.

JOHN SHEEHY.

C. W. AYERS.

NEW DELHI ;

The 7th April, 1947.

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\* Subject to a minute of dissent.

## MINUTE OF DISSENT

I disagree entirely with the changes made in Select Committee, inasmuch as they seriously diminish the power of the Commission to deal with particular cases of evasion.

In particular I regret that the Commission has now no power to act on its own initiative and that even the Central Government cannot refer a case to the Commission without *prima facie* evidence that evasion has taken place.

As the Bill is now framed, I doubt if the Commission will catch any of the really big offenders.

P. J. GRIFFITHS.

NEW DELHI ;  
*The 7th April, 1947.*

## (BILL AS AMENDED BY THE SELECT COMMITTEE)

(Words underlined or *sidelined* indicate the amendments suggested by the Committee : asterisks indicate omissions)

A

## BILL

*to provide for an investigation into matters relating to taxation on income.*

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

It is hereby enacted as follows :—

1. (1) This Act may be called the Taxation on Income (Investigation Commission) Act, 1947. Short title, extent and commencement.

(2) It extends to the whole of British India.

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

2. In this Act, "taxation on income" means any tax chargeable under the Indian Income-tax Act, 1922 (XI of 1922) or the Excess Profits Tax Act, 1940 (XV of 1940). Interpretation.

3. \* The Central Government may constitute a Commission to be called the Income-tax Investigation Commission (hereinafter referred to as the Commission) whose duties it shall be— Constitution and functions of Commission.

(a) to investigate and report to the Central Government on all matters relating to taxation on income, with particular reference to the extent to which the existing law relating to, and procedure for, the assessment and collection of such taxation is adequate to prevent the evasion thereof ;

(b) to investigate in accordance with the provisions of this Act any case referred to it under section 5 and report thereon to the Central Government.

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4. (1) The Commission shall consist of a Chairman (being a person who is or has been \* \* \* a Judge of a High Court) and two other Commissioners, appointed by the Central Government. Composition of Commission.

(2) 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.

5. (1) The Central Government may, at any time before the 31st day of December 1947, refer to the Commission for investigation and report any case in which the Central Government has *in a facie* reasons for believing that a person has to a substantial extent evaded payment of taxation on income, together with such material as may be available in support of such belief. Powers of Central Government to refer cases for investigation.

(2) 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 a 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.

Powers of Commission.

6. (1) The Commission shall have power to administer oaths, and shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (V of 1908), for the purposes of taking evidence on oath, enforcing the attendance of witnesses and of persons whose cases are being investigated, compelling the production of documents and issuing commissions for the examination of witnesses, and shall be deemed to be a Civil Court for all the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898 (V of 1898); and any reference in the said Chapter to the presiding officer of a Court shall be deemed to include a reference to the Chairman of the Commission.

(2) If in the course of any investigation under this Act it appears to the Commission to be necessary to examine any accounts or documents which it cannot itself conveniently examine, the Commission may authorise any person qualified in its opinion to make such examination to examine the accounts or documents and interrogate for that purpose any person having charge or custody thereof and make a report thereon to the Commission; and any person having charge or custody of such accounts or documents shall be bound to produce them to the person so authorised and to give to such person any information in respect thereof which the person so authorised may require.

(3) The Commissioners and all persons authorised by the Commission under this section shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

Procedure of Commission.

7. (1) The Commission shall, subject to the provisions of this Act, have power to regulate its own procedure (including the fixing of places and times of its sittings and deciding whether to sit in public or in private\*\*\*) and may act notwithstanding a vacancy in the number of the Commissioners.

(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.

(3) Any person whose case is being investigated by the Commission may be represented by a pleader duly authorised to act on his behalf.

(4) Except with the previous sanction of the Central Government,—

(a) no suit, prosecution or other legal proceeding shall be instituted against any person in any civil or criminal court for any evidence given by him in any proceedings before the Commission, and



(b) no evidence so given shall be admissible in evidence against such person in any suit, prosecution or other proceeding before such Court.

(5) \* \* \* No document shall be inadmissible in evidence on any proceedings before the Commission on the ground that it is not duly stamped or registered.

(6) Nothing in section 54 of the Indian Income-tax Act, 1922 (XI of 1922) or in that section as applied to excess profits tax by section 21 of the Excess Profits Tax Act, 1940 (XV of 1940) shall apply to the disclosure of any of the particulars referred to therein in any proceeding before the Commission or in any report made by the Commission to the Central Government or in any report made to the Commission by a person authorised under sub-section (2) of section 6.

8. (1) After considering any report made to it under clause (b) of section 3, the Central Government may, by order in writing, direct that proceedings to assess in respect of the income of any period commencing after the 31st day of December 1938 the person to whose case the report relates to income-tax, super-tax or excess profits tax shall be taken or reopened; and upon such a direction being made, such assessment proceedings may be taken and completed under the appropriate law, notwithstanding anything contained in section 34 of the Indian Income-tax Act, 1922 (XI of 1922), or section 15 of the Excess Profits Tax Act, 1940 (XV of 1940), or any other law, and notwithstanding any lapse of time.

Power to direct reopening of assessment Proceeding.

(2) On a direction being made under sub-section (1), a copy of the report of the Commission, so far as it relates to the case of the person concerned, shall be furnished to him.

(3) Notwithstanding anything to the contrary contained in any other law, in any proceedings directed to be taken under sub-section (1), any evidence in the case adduced before the Commission or a person authorised by it under sub-section (2) of section 6 shall be admissible in evidence.

9. No act or proceeding of the Commission or any person authorised by it under sub-section (2) of section 6 shall be called in question in any manner by any Court, and no suit, prosecution or other legal proceeding shall lie against the Crown or any Commissioner or any other person for anything in good faith done or \* \* intended to be done under this Act.

Bar of Jurisdiction.

10. The Central Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

Power to make Rules.