

of the country according to his capacity ? Or are you going to deny yourself the application of the principle—"From each according to his capacity" until you have reached a stage when you could give to each according to his needs ? If that is the proposition for which the hon. Member stands.....

SHRI P. SUNDARAYYA : If I am given a little time, I will explain the position.

MR. CHAIRMAN : No need. There is a well-known saying that nobody has full knowledge of Communism; there are only varying degrees of ignorance. So let us not get into doctrinal discussions.

SHRI N. GOPALASWAMI : Sir, the hon. Member launched upon a doctrinaire discussion and charged me with ignorance, forgetting that there was very much greater ignorance on his part of his own doctrine than any ignorance on my part of his doctrine.

SHRI P. SUNDARAYYA : The very speech of the hon. Minister shows that he is ignorant.

MR. CHAIRMAN : Yes, there are different degrees.

SHRI N. GOPALASWAMI : It is difficult, Sir. It must be a case of different degrees of ignorance when you enter into what is known as Marxian dialectics. There is so much ignorance and so much knowledge also that it is difficult to say who is ignorant and who is well-informed. I shall say no more so far as the debate on the third reading of the Bill is concerned.

MR. CHAIRMAN : The question is:

That the Bill be passed.

The motion was adopted.

THE COMMISSIONS OF INQUIRY BILL, 1952

MR. CHAIRMAN : We now take up the next item :

"That the Bill to provide for the appointment of Commissions of Inquiry and for vest-

ing such Commissions with certain powers, as passed by the House of the People, be taken into consideration."

(MR. DEPUTY CHAIRMAN in the Chair.)

SHRI RAJAGOPAL NAIDU (Madras) : Sir, before the hon. Minister moves this Bill, may I submit that this is a Bill which affects the privileges of this House and as such, I feel it absolutely necessary that the author of this Bill—the hon. Shri Kailas Nath Katju—should himself move this Bill. As it is, it is only the Lower House that is given the power to pass any Resolution for the appointment of Commissions and that means that a privilege of this House is being ignored. The procedure in our Parliament is based on that of the Parliament of England and there I may point out that the English Constitution has provided that the Upper House also has the power to pass similar Resolutions along with the Lower House. That being so, I cannot understand why this provision has been ignored here. It is for this reason that I submit that the author of this Bill might kindly move this Bill.

THE LEADER OF THE COUNCIL (SHRI N. GOPALASWAMI) : May I say a word ? Sir, this Bill is one for which the Government as a whole are responsible. There is the principle of collective responsibility and for everything that is put before the House it is the Cabinet as a whole that is responsible.

Now it is true that the Member in charge of a Bill should be usually the person who should pilot it even in this House; but the exigencies of public business today are such that the Minister is wanted in both the Houses at the same time and he cannot possibly be present at both the places at the same time. So far as my colleague the Law Minister is concerned, I am sure he will do more than full justice to any debate that may take place in this House on this Bill, and I suggest that my hon. friend may accept that position.

SHRI RAJAGOPAL NAIDU : Sir I am not at all questioning the ability of the Law Minister, but I would only submit that the author of this Bill may be pleased to yield to the suggestion that we make here.

SHRI J. R. KAPOOR (Uttar Pradesh) : May I make a suggestion ? If we suggest that the consideration of this Bill may be put off a little, it is not because we think the hon. Law Minister is not competent to pilot it here or that the hon. Shri Kailas Nath Katju is more capable of piloting it. The submission that I would make for the consideration of the Chair and also the consideration of the Leader of the House is that instead of proceeding with this Bill just now, we may take it up after having a sort of informal discussion this afternoon with the Leader of the House. I say this because the privilege of this House is involved in this Bill. It is a very important matter. We are not so much concerned with the various detailed provisions in the Bill as with the question of the privileges of this House, I mean the important principle underlying clause 3 of this Bill, as to whether it is the House of the People alone which has the right to move a Resolution compelling Government to appoint a Commission and whether this House also should not have an opportunity of moving a Resolution like that and persuading Government to agree to the appointment of the Commission. Therefore I would earnestly and most humbly suggest to the Chair and to the Leader of the House that we may have some kind of informal discussion some time today and come to some agreement. It may be possible for us to persuade the Leader of the House to agree to our viewpoint or it may be that we are convinced by the Leader of the House as a result of these informal discussions. That would also save a lot of time of the House as otherwise we would be speaking over the same points here. Our friends on the other side of the House—the Opposition—also I hope, will have no objection to this procedure because they are as anxious to preserve the rights and privileges of

this House as any one else. So I suggest this item may be put off till tomorrow and some other item on the agenda taken up now.

MR. DEPUTY CHAIRMAN : What does the Leader of the House say ?

THE MINISTER FOR LAW (SHRI C. C. BISWAS) : Sir, may I make a few observations ?

Sir I am a little surprised that this suggestion should have been made now, because there is already one amendment, rather two amendments, which raise this very question which my hon. friend has referred to and if this matter is to be discussed it should be at the time when those amendments are taken up. If, after discussion on those amendments it is felt that informal conversations should go on between this House and Government, the suggestion might be made at that stage. Let us first deal with those amendments. Let us hear the arguments which are to be put forward on either side of the House. Let us hear what Government have got to say on that point. Then, and then only, will come the stage when you can ask for further adjournment of the proceedings in order that the matter may be thrashed out more fully.

MR. DEPUTY CHAIRMAN : That should satisfy the Member.

SHRI J. R. KAPOOR : I had suggested this in the interest of economy of time. If these amendments are moved, it will take time, as we will enter into long and detailed discussion, and if thereafter we have informal discussions with Government and then come here and discuss it over again, it will mean a waste of time.

SHRI C. C. BISWAS : That argument will apply to every Bill. We have been debating simple Bills for hours together. If we had sat together round the table, possibly we might have saved time.

MR. DEPUTY CHAIRMAN : You may go on to the Bill now.

SHRI C. C. BISWAS : Sir, it is my misfortune that I have got to deputise for the hon. the Home Minister once again. It is not of my seeking, but I do not mind when I am asked to shoulder the burden that rests normally upon any of my colleagues.

Sir, another matter, a Resolution, which stands in the name of the hon. the Education Minister has also been allotted to me. So, I cannot help it and there I am. I shall try to do my best and I shall try to satisfy my hon. friends in all sections of the House. I may not be so competent as the hon. the Home Minister.

SHRI RAJAGOPAL NAIDU : Certainly not, Sir.

SHRI C. C. BISWAS : What happens is that if a Bill is put down in the name of the Home Minister, it means that the Bill had been prepared in that Ministry in the first instance. But, this is a Bill which has been considered by the Law Ministry as well.

MR. DEPUTY CHAIRMAN : I think nobody questions your competence, Mr. Biswas.

SHRI C. C. BISWAS : I think this is a Bill for which every Ministry is responsible and anyone who may be available may pilot it, though, in the normal course, it is the Minister who is in charge of the Bill who should do so.

Sir, with these preliminary remarks I proceed to the Bill. I once again wish to express my regret that the Statement of Objects and Reasons has not been placed in the hands of Members of this House. If that had been done, a good deal of time might have been saved. But, as matters stand now, I have got to explain the genesis of this Bill.

Sir, as hon. Members may be aware, Commissions and Committees of Inquiry had been appointed in the past. But, such appointments had been made by executive order and not statutorily. The result has been, in many cases, these Commissions and

Committees of Inquiry had felt seriously handicapped for want of certain statutory powers. I will just illustrate this by reference to what took place two or three years ago in connection with an Inquiry Committee which had been appointed by Government to deal with the crisis in the sugar industry. The Committee—I think it was presided over by a retired High Court Judge, now unfortunately lost to us—in the Report said that they had done their best to invite co-operation from the public, but to their regret neither the industry nor the general public came forward to give them that co-operation. The witnesses whom the Committee wanted to examine were not available and they could not be forced ; the documents that were wanted could not be got, and so on. Difficulties like these had so far been sought to be overcome by the enactment of *ad hoc* legislation. That has not been done in every case, but it has been done in some cases. I know, Sir, in West Bengal, the Government appointed a Commission for investigating the affairs of the Calcutta Corporation of which I was the Chairman. A Bill was introduced in the West Bengal Legislature for the purpose of investing the Commission with certain powers such as are proposed to be taken under this Bill which is before the House. When the Report of the Committee appointed to enquire into the sugar industry crisis came before Government, the question was considered by them, and it was thought that the best course would be to enact Central legislation which would apply not merely to any specified Commission or Committee of Inquiry but to all Commissions and Committees of Inquiry. That was the position in the Bill as it originally stood. In the Select Committee, it was suggested that the powers which are proposed to be taken therein should be given only to such Commissions and Committees as were appointed by the Government under this Act. That was accepted. In any case, Sir, the Bill as it now stands is certainly a great improvement upon existing conditions. The Bill is not only useful but necessary.

[Shri C. C. Biswas.]

Let me now, Sir, proceed to examine the contents of the Bill, avoiding details, as far as I can, at this stage. First of all, I will point out that the power to appoint a Commission of Enquiry may be exercised either by the Central Government or by the State Government. If you come to the Union and Concurrent Lists, you will find Entry 94 in the Union List which authorises or empowers the Union Government to make laws regarding enquiries, surveys and statistics for the purpose of any of the matters in this List. Then, if you come to entry 45 in List III, you will find that it refers to enquiries and statistics for the purposes of any of the matters specified in List II or List III. So far as the Central Government is concerned, the Central Government can legislate both as regards the Centre and as regards the States in respect of matters falling not merely within List I or List III but also with regard to matters falling within List II. The powers of the Centre are very very comprehensive in regard to matters mentioned in all the three lists, Union, State and Concurrent. The next question is, for what purposes the appropriate Government, whether it is the Government at the Centre or the Government in a State, may appoint a Commission. It is said, Sir, that the appropriate Government, if it is of opinion that it is necessary so to do, may appoint a Commission of Inquiry for the purpose of making an enquiry into a definite matter of public importance.

So it is only when there is a definite matter of public importance to be enquired into that Government is given the power to appoint a Commission under this Act. In so acting, Government is competent to proceed *suo motu*. But there is another important provision which says that if a Resolution in this behalf is passed by the House of the People, or as the case may be, by the State Assembly of a State, then it shall be obligatory for Government to appoint a Commission of Inquiry. In other words, the position is that Government may act *suo motu* but shall be bound so to

act if there is a Resolution of the House of the People or of the Legislative Assembly in a State. That is the purport of clause 3.

Then there is also the question whether and how far there may be overlapping inquiries by the Centre appointing a Commission of its own and a State also appointing a Commission of its own to deal with the same matter. That is dealt with here in the proviso. The danger of overlapping is avoided by providing that if there is a Central Commission already functioning then it will not be open to a State Government, except with the approval of the Centre, to appoint another Commission to inquire into the same matter. Similarly, if there is already a Commission appointed by a State Government functioning with respect to a matter which is within the jurisdiction of the State, it will not be open to the Central Government to appoint another Commission to override the State Commission except in certain circumstances which are indicated, that is, unless the Central Government is of the opinion that the scope of the inquiry should be extended to two or more States. Then of course this will be done, obviously not without reference to the State. So, as you will see, Sir, provision is made in this clause for avoiding conflict between the Centre and the State.

Then comes the important clause, clause 4, which sets out the powers of a Commission of Inquiry. Those powers are the powers of a civil court. It was exactly the absence of such powers which was felt as a serious handicap by the Sugar Crisis Committee. The Commissions will have powers to summon witnesses, to take evidence on oath, to require production of documents and to issue commissions for examination of witnesses. These are just the ordinary powers which a civil court exercises in the trial of suits before it. Apart from these ordinary powers which will vest in every Commission appointed under this Act, there are some special powers mentioned in the next clause—

clause 5. Special powers will not be given to any and every Commission which is appointed. They are meant to be conferred only on particular Commissions having regard to the nature of the inquiry to be made by such a Commission and the circumstances of the case. These are regarded as extraordinary powers of a more peremptory character than the powers given under clause 4. These special powers are, firstly to require information from any person whatsoever. It is something different from summoning witnesses to get evidence. The Commission may require some information from some person without his being put into the box or without his being made to take an oath and so on. The information may be of a very confidential character and at the same time very important and very useful to enable the Commission to discharge its responsibilities effectively. This power of calling on any person to furnish information is provided for under clause 5 (2). There is a safeguard that if the person who is asked to supply information feels that he should not do so, it would be open to him to claim privilege. So this right to call for information is subject to any privilege which may be claimed by the person concerned under any law for the time being in force. Whether the information asked for is privileged or not, will depend on whether such privilege may be claimed under the law.

Then, Sir, another power which is given by this clause and which is also regarded as a special power is that of searching premises for discovery of documents and the power of seizing such documents which may be found in those premises ; very similar to the power of search given to police officers under the Criminal Procedure Code. The Select Committee thought that this power ought not to be left to any police officer as in the Code of Criminal Procedure, and laid down that none but a gazetted officer should conduct a search or seize documents. That is why you find it provided that

“The Commission or any officer, not below the rank of a gazetted officer, specially autho-

rised in this behalf by the Commission may enter any building or place”

or cause a search to be made or get hold of any books of accounts or other documents that may be found there. These operations are again subject to the provisions of sections 102 and 103 of the Code of Criminal Procedure. These are well known sections relating to searches. The officer will have to give notice before he goes there ; he will have to get search witnesses ; he will have to prepare a search list, and so on. On the other hand, if the officer goes there and does not get access to the premises, he is given the power to break open the premises and obtain access. So, these searches will be conducted under the conditions laid down in these sections of the Code of Criminal Procedure.

These, Sir, are the important provisions made in this Bill. The other clauses of the Bill deal with minor matters—incidental matters. I need only invite attention to clause 11, which empowers Government to treat an ordinary committee of inquiry appointed by executive order as if it was a Commission of Inquiry under this Act. A committee of inquiry might be appointed by executive order. While it is conducting its inquiry, it may appear that the committee should be legally vested with the powers referred to in this Bill. Power is taken in that clause to do that. In other words, a committee of inquiry which was not appointed under the statutory authority as given here, but was appointed by executive order, would also be invested with the powers given by this Bill :

“Where any authority (by whatever name called), other than a Commission appointed under section 3, has been or is set up under any resolution or order of the appropriate Government for the purpose of making an inquiry into any definite matter of public importance and that Government is of opinion that all or any of the provisions of this Act should be made applicable to that authority.....”

then, Government may by notification make such order.

Sir, I need not say more at this stage except to call attention to a point which I ought to have referred to at

[Shri C. C. Biswas.]

an earlier stage when I was dealing with the question of competing or overlapping Committees appointed by the Centre and by a State. In the original Bill the provision was that where there was a Central Committee, a State would not be competent to appoint a Committee to deal with the same matter while the Central Committee was functioning and for two years thereafter. This restriction of two years has been done away with by the Select Committee. The only provision which now stands is that so long as the Central Committee is functioning, a State Government will not be able to appoint another Committee for the same purpose. That is all I have to say at this stage. I move that the Bill be taken into consideration.

MR. DEPUTY CHAIRMAN : Motion moved :

That the Bill to provide for the appointment of Commissions of Inquiry and for vesting such Commissions with certain powers, as passed by the House of the People, be taken into consideration.

SHRI J. R. KAPOOR : Mr. Deputy Chairman, at the outset the hon. Law Minister expressed his regret that Members of this House were not in possession of the Statement of Objects and Reasons of this Bill and therefore he had to take the trouble of giving us details as to what the objects of this enactment are. May I suggest that hereafter we might ask the Secretariat to adopt the practice that whenever a Select Committee's report is presented to this House, along with it the original Bill and its Statement of Objects and Reasons should also be supplied to us, so that this sort of difficulty may not arise ?

SHRI C. C. BISWAS : I did suggest that procedure the other day, but possibly the hon. Member was not in the House at that time.

SHRI J. R. KAPOOR : It was exactly because of this that I have submitted that the Secretariat might adopt this practice, which the hon. Minister himself was good enough to suggest.

SHRI C. C. BISWAS : I have also spoken to the Secretary about it.

SHRI J. R. KAPOOR : I hope the Secretariat will take note of this suggestion which emanated from the Law Minister himself.

MR. DEPUTY CHAIRMAN : It will be supplied.

SHRI J. R. KAPOOR . Thank you.

Now, coming to this Bill, I am entirely in agreement with the hon. Minister for Law that this Bill is necessary and also useful. It is necessary obviously because the Commissions which were hitherto appointed by executive order had not the authority to examine witnesses and to act in the manner in which a civil court would act under the powers conferred on it under the Code of Civil Procedure. A Commission of Inquiry without such authority and without such powers would be practically of no use and would be ineffective. It is, therefore, very necessary that all Commissions of Inquiry which may be appointed hereafter should have all the powers vested in a civil court under the Code of Civil Procedure, as also the other additional powers which this Bill seeks to vest in such Commissions. It is also useful, because hitherto on every occasion when the Government considered it necessary to appoint a Commission of Inquiry and to vest it with these powers, it had to come before Parliament with a Bill on the subject, and every Bill took considerable time before it could be placed on the Statute Book. In the interests of economy of time and of the expeditious carrying out of the work it is obviously necessary and useful that we should have an enactment of this nature which once for all will authorise the Central Government to appoint a Commission with all the powers that are proposed to be given to a Commission under this Bill. But, Sir, while I agree with the hon. the Law Minister in that contention and while I agree that this enactment must be placed on the Statute Book, I feel unhappy at the attempt that is being made under clause 3 of this Bill to oust the jurisdiction of the Council of States in the matter of

having its say with regard to the appointment of Commissions hereafter. Now, Sir, the procedure hitherto was, as I submitted, that either the Central Government or the State Government used to appoint a Commission. But then that Commission had not the authority which we are now proposing to give and whenever it was considered necessary that the Commission should have such authority, the State Government or the Central Government had to come before the respective Legislature with a Bill. Now that Bill, Sir, as we know, before it could be placed on the Statute Book, had to be considered by both the Houses of Parliament and both the Houses in the State Legislature if the State had two Houses there. But what do we find now? We now find that it is proposed that the Central Government or the State Government may appoint a Commission on their own initiative. That is well and good so far as it goes. But then the question is: Should it or should it not be open to this House also to suggest to the Government to appoint a Commission in order to enquire into any particular affair. I say, Sir, I use the word 'suggest' advisedly because a Resolution which is moved by any non-official Member in this House would be very much in the nature of a mere suggestion because that cannot be passed in this House unless and until the Government itself is agreeable to it. The Government of the day is in majority in this House and will always have a majority in this House and no resolution in this House can be passed unless the Government itself consents to it. So all that a Resolution would imply would be a suggestion to the Government. If the Government is not agreeable to accept the Resolution, it will be thrown out. If they are agreeable to accept the Resolution, it will be accepted and the Government would naturally then in accordance with that Resolution appoint a Committee.

Now, Sir, in this clause 3 we have it only that if a Resolution is passed by the House of the People, then a Commission of Inquiry will be appointed. Obviously it implies that we shall have no say in the matter and it will not be open to us to move a Resolution to that effect in this House so as to be binding on the Government. Now, Sir, it may be said that there is nothing in the Constitution or even in this Bill preventing any hon. Member of this House from bringing in a Resolution. True. It may be so. But similarly it may be said of the other House also. Any Member in the other House also could at any time bring a Resolution in this regard. So if any Member there can bring a Resolution in this regard, and in spite of that the Government has considered it necessary to specifically incorporate in clause 3 of this Bill that if a Resolution in this behalf is passed by the House of the People, the Government shall appoint a Commission, why should it not be similarly said herein that if a Resolution is passed by this House, the Government shall appoint a Commission?

Well, Sir, perhaps it may be said that the Government is responsible under the Constitution only to the House of the People. No doubt it is true. But, my submission is that according to this Bill if a Commission is to be appointed, a Bill need not be brought before us. And if this Bill were not to be enacted, then every time when the Government considers it necessary to appoint a Commission with powers as mentioned herein they would come with a Bill and on every single occasion when such a Commission is appointed, we shall have an opportunity to have our say in the matter. Now, hereafter, Sir, we shall have no such opportunity because no Bill is going to come before us. Now, Sir, true it is, that the Government is responsible only to the House of the People but that does not mean that this House should be ignored in the

[Shri J. R. Kapoor.]
manner in which it is intended to ignore it according to the provision of clause 3 of this Bill.

12 noon.

Sir, under the Constitution there is only one matter in respect of which we have very limited rights and that is in regard to the expenditure. I say 'limited', Sir, because even in the matter of expenditure, even in the matter of Finance Bills we have certain rights. So far as the money Bill is concerned, of course we have practically no rights but so far as the Finance Bills are concerned, we have rights to the same extent to which we have in respect of any other Bill. So I submit, Sir, that even in financial matters our jurisdiction has not been absolutely ousted.

Then again in the matter of the election of the President, Sir, we have a right to vote. Then again in the matter of impeachment of the President also we have a right to participate in that. Not only that but a Resolution for the impeachment of the President can be brought in either House of the Parliament under article 61 of the Constitution. I am mentioning these things, Sir, only to give an analogy so that it may not be said that the Constitution never intended that we should be given a right of moving an important Resolution and that such right shall rest with the House of the People alone. Now, Sir, if we have a right to move a Resolution impeaching the President, if we have a right to move such an important Resolution, I do not see any reason why we should not have a right to move a Resolution for the appointment of a Commission. Sir, I had suggested that we might have an informal talk on this subject because I find that perhaps none of the amendments that have been tabled so far would be effective to meet the viewpoint which I am urging. Though I have myself submitted an amendment in this regard, yet by giving a little more

thought on this subject, I think that rather than each House should have this right of moving a Resolution, it may be more advisable if we have it in this enactment that a Resolution in this regard may be moved in either House but should be accepted by the other House also, just as we have in the case of the Bills. I want that some such procedure might be incorporated here also. Just as in the case of Bills, a Bill might be introduced in either House but before it is placed on the Statute Book, it must receive the consent of both Houses and in the case of any difference between either House with regard to the whole Bill or any part of it, both Houses would sit together, similarly I want that some such procedure might be provided for consideration and adoption of this Resolution. None of the amendments which have been tabled so far are exhaustive enough to cover all these points. It is, therefore, that I suggest that we might meet informally so that if this viewpoint is acceptable to the Government, a suitable draft might emanate from the Law Ministry itself. That was my only point and I do hope even now that before we carried on a lengthy discussion on this subject, the hon. Minister may be pleased to accede to this request to have an informal discussion.

My submission is that when hereafter we shall have absolutely no opportunity to have a say in the matter of the appointment of any Commission by the Government *suo motu* which will have all the rights under this Bill; we should at least have the right to avail of any possible opportunity to suggest to the Government to appoint a Commission or in the alternative and preferably perhaps, just as in the case of Bills both Houses have an opportunity to have their say, similarly both Houses in the matter of the Resolution should have an opportunity to have their say. This is a very simple and humble suggestion that I am making and I hope, Sir, that the hon. the Law Minister who is a Mem-

ber of this House and who I am sure would be prepared to preserve the dignity and the rights and privileges of this House as much as we are anxious to preserve them would carefully look into this suggestion and see his way to accept it. Nothing is going to be lost by it. Only the procedure with regard to the Bills will be followed in regard to this Resolution also. Thank you, Sir.

SHRI B. GUPTA (West Bengal) : Mr. Deputy Chairman, Sir, I am in agreement with the suggestion that is made by my hon. friend there. I think the Council of States should be placed on the same footing as the House of the People in respect of these matters so that we can have all opportunities for considering as to when a Commission should be appointed and also considering all the proposals made by the Government in regard to this matter.

Now, Sir, I am also in entire agreement with the fact that an enactment of this sort which deals with statutory powers for the appointment of Enquiry Committees and Commissions is very necessary in our public life today. We cannot escape it. We do need it, but what I expect is that the enactment should be a little more comprehensive and imaginative in this respect ; for unless we make some provisions with a view to creating such Committees and Commissions as would command the confidence of the public, we are not going to proceed very far. Here in clause 3 some provision is made for the appointment of Commissions. It is good that it has been said "by a resolution of the House". The position is that the Council of States should have a say. But what happens, Sir, when a Commission has to be appointed is this : It is the ruling party, viz., the Congress in this case, which decides as to what the personnel of the Commission should be and it chooses only from among those who support the Government. That is something which is very undesirable. I am speaking

from my own experience. The tendency has been on the part of the Government to fill these Committees and Commissions with people of their choice, and people who view public matters from a different angle have not been treated in the manner in which they should be treated. That is to say, their suggestions with regard to the personnel and their suggestions with regard to the enquiry have not been taken seriously into account by the Government. That has been the usual practice. As such, these Committees and Commissions have failed to create that measure of public confidence which is necessary for carrying on investigation on a quasi-judicial basis. When we are going to provide for powers for the appointment of these Committees and Commissions, it is also very necessary that we should ensure that in future they are so formed that they would command the confidence of the large section of the public. We ought to remember, Sir, in this connection that unfortunately for the Congress it does not command, if we go by the voting at the last general elections, the confidence of the majority of the people. I am not trying to make a debating point, but what I am suggesting is that it stands to reason, therefore, that the Opposition parties in the legislatures should be given full opportunity not only for ventilating their suggestions with regard to these Committees and Commissions but also for offering their concrete and tangible assistance and co-operation. Therefore, I say that there should be some sort of provision to the effect that the members of the Commissions and Committees should include the nominees or candidates put forward by the members of the Opposition parties. I know there will be some technical legal difficulty in this matter. Therefore, I request the Government to keep this in view and give us an assurance so that the Ministries in the States, while appointing these Committees and Commissions, would see to it that the people not belonging to their persuasion or thoughts and beliefs

[Shri B. Gupta.]

get a place in these Commissions. It is very necessary to introduce this practice in our public life, because our Commissions, as we have seen, usually relate to corruptions, scandals and other matters like industrial disputes, etc., and therefore it is necessary to enlist the co-operation of the other sections of the public who may hold viewpoints different from those of the Government. I think that is very necessary. Now, speaking from my own experience in the State of West Bengal, there is a tendency on the part of the Government to exclude those who do not share the point of view of the Government there from these Commissions. I know, Sir, the Calcutta Corporation Enquiry Commission was appointed for investigating into the affairs of the Calcutta Corporation, and, the Law Minister, was the Chairman of that Commission. I would say here that the report that he has submitted is undoubtedly a very useful one in many ways and the discoveries that he has made are also very revealing, but it would have been much better and his task would have been much easier, much more effective and useful if it had been possible for him to seek the co-operation of the other elements in the Corporation. Nothing could have been lost and everything could have been gained by asking some people from the Corporation Workers Union to sit on this Commission.

SHRI C. C. BISWAS : That was done. Every possible source of information was tapped, and I can say to my hon. friend that a great deal of information was derived from the employees of the Corporation.

SHRI B. GUPTA : The Commission was examining many of these people no doubt as witnesses. But what I say is that a representative of the Corporation Workers Union should have been made a member of the Commission. In what I am saying I am not casting any reflection on that report. I have read the report. In fact, I have found it

very useful. There are very few reports so revealing as the report of the Calcutta Corporation Enquiry Commission. Therefore, when I speak, I do not speak in any spirit of derision. I speak with a sense of responsibility and I am only trying to impress upon the hon. the Law Minister the necessity for getting people of different points of view to function as members of these Commissions.

Now, Sir, it may be contended by the Government that it would be possible for the State Legislatures when they appoint these Commissions to consider this matter. If that argument is advanced, I can only say that, when we are discussing this matter, we have to deal with realities as they are. The tendency of the State Ministries, especially the Ministry of our State is that they would like to shut out people who do not share their point of view. I think the hon. the Law Minister should be aware of that kind of tendency prevailing in our State. Therefore I say that some kind of assurance should be given that steps would be taken to remedy these ills that exist in the public life today. That is why I say Commissions should be appointed and I only suggest that they should be so appointed that they can command the confidence of all sections of the public. Now, Sir, Dr. B. C. Roy, the Chief Minister of West Bengal might agree to appoint a Commission of Enquiry into the affairs of the Calcutta Corporation, but he would at the same time refuse to appoint a Commission to enquire into the police firing on defenceless women that took place in the streets of Calcutta on the 27th April 1949. Now, the police excesses have got to be gone into. The other day when we sought an assurance of that sort from the hon. Shri Gopalswami Ayyangar, the Leader of the House and a redoubtable member of the present Cabinet, he got up to say with a gusto, "No". They are not going to enquire into the police excesses that have been committed

in the country. That mentality has to be given up. If excesses are committed, if allegations are made about excesses, we must appoint a Commission to enquire into them. If things are good, then it is a gain to the Government. If things are bad, we have got to take certain steps against those people who have been guilty of these excesses. That is very essential. Therefore, I would like to impress upon the House that in the matter of selection of subjects on which the Commission should report, the Government should have a broader public view and they should try to appoint Commissions with a view to stopping excesses, corrupt practices in all spheres of public life.

Another thing to which I would like to draw the attention of the Minister is that the Ministers in the States should be completely outside this business. I don't know how to deal with them, you can think of how we can produce an enactment whereby they can be excluded from this. I am talking from the bitterest experiences that a man can have. The Ministers in the States should not have anything to do with the selection and nomination of Members or in the formulation of the terms of reference, etc., because they are not clean. I hope the hon. Law Minister will agree with me that those who come to the court of equity must naturally come with clean hands. The same doctrine should be applied here that those who appoint the Commission should be themselves clean. Of course the Legislature will sanction the appointment of the Commissions but the names of their personnel will be settled by the Ministers and they will be placed before the Legislature in which they have a majority. So I don't know how this position could be improved. It seems very essential that the State Ministers, some of whom are very questionable persons, should be given no quarter whatsoever in the matter of appointment of these Commissions. I wish there was some kind of a fool-proof enactment in this matter which

would make the Commissions answerable to a statutory body. The Commissioners may be recommended by that body subject to the Legislature's approval. The Legislature can review the matter and there should not be any loop-hole whereby the Ministers can exert their undue influence over the members of the Commission. All these things are necessary because the malpractices on that account have been rather a frequent occurrence in some of the States. So that is a point that I would like the Law Minister to consider.

I have nothing more to add in this matter. Only I hope the Commissions will be appointed with the spirit of public service, with the spirit of remedying the ills that have overtaken our society, with the spirit of creating confidence among public and in that effort which should be a noble one by all accounts, the co-operation of the people and of the Opposition should be generously and ungrudgingly sought. I know there are some Members sitting on that side of the House who would not like the sight of the Opposition party. They would not like the sight of the Communists. But since you have Communists in front of you, try to be a little more accommodating, try to be more reasonable. Gone are the days when you had a Parliament where you had a packed body. You are faced with a situation inside here and outside in the country where the Opposition is very strong, where the majority of the people don't share your programmes or your views, where it is very necessary for you, since you are placed on the Treasury Benches—to seek their co-operation. Nothing will have been lost by that kind of practice; much may be gained and the ills that have overtaken the country will have been a little removed. I hope the hon. Law Minister—who was himself a member of some important Commission in Calcutta—would be good enough to rise above the petty considerations of political party—the partisan considerations I mean—and

[Shri B. Gupta.]
find ways and means to implement this measure, when it becomes an enactment of the Parliament, in such a manner as will really bring benefit to the people and stop the malpractices, scandal and corruption in our public life.

SHRI RAJAGOPAL NAIDU : Mr. Deputy Chairman, I will take some time. At 12.30 I find some other item on the agenda.

MR. DEPUTY CHAIRMAN : You may go on till 12.30.

SHRI RAJAGOPAL NAIDU : In the first instance I should like to say that when I said that this Bill has to be moved by the hon. Dr. K. N. Katju, I never meant any disrespect to the hon. Law Minister. I only wanted to suggest that if hon. Dr. Katju was here, we could have got his acceptance of some amendments and it is only with that view that I said that it is better that he is here to move this Bill.

SHRI J. R. KAPOOR : Let us hope the hon. Law Minister is more generous.

SHRI RAJAGOPAL NAIDU : I also find that the hon. Law Minister is too sensitive to my remark. I once again say that I never meant anything and I believe that the hon. Law Minister will not get excited over some of the words which come from the Opposition Benches and.....

SHRI C. C. BISWAS : I never get excited.

SHRI RAJAGOPAL NAIDU : My first point is that this is an important Bill and when it was referred to a Select Committee in the Lower House I don't know why it was not referred to a Joint Select Committee especially when a question of privilege has arisen in this case. Now you try to set up Commissions by statutes and while setting up, you try to ignore the Upper House though it may be a revisory House.....

SHRI C. C. BISWAS : I hope the hon. Members will shed this inferiority complex.

SHRI RAJAGOPAL NAIDU : It is not a question of inferiority complex. It is a question of the competence of the House, whether this House is capable of advising on such matters and passing such resolution or enacting such a law.

Coming to the Bill which is now being pushed through, I wish to say that these Commissions of Inquiry under this Bill will have very large powers. They will have practically all the powers of a civil court under the Civil Procedure Code in respect of examination of witnesses, summoning and enforcing the attendance of any person and examining him on oath, requiring the discovery and production of any document, receiving evidence on affidavits, requisitioning any public record or copy thereof from any court or office, issuing commissions for the examination of witnesses or documents—all these powers that are contemplated under the Civil Procedure Code. Not only that. You try to impose on yourself certain powers without the power of the Legislature or authority of the Legislature under clause 5 by an executive order to compel any person to furnish information in his possession and to order search of any building or place where the Commission has reason to believe that any books of accounts or other documents relating to the subject matter of any inquiry may be found and may seize any such books of account or documents. My first suggestion would be that this extraordinary power, which you are trying to give to the Executive, of searching the house of any person and to compel any person with a view to eliciting information may be conveniently left to the Legislature which may pass a specific Resolution to that effect because it is a matter of urgent public importance. Such powers should not be given to the Executive under clause 5.

Secondly, compare this to the practice prevalent in England. Take, for example, the Royal Commission of England. I find that in England

such powers as powers of requiring a person to disclose information and authorising officials to enter private premises and seizing books are given only for very limited purposes and under very strict safeguards. The Royal Commission of England, though set up by the Executive Government, is normally preceded by a Resolution of both Houses of Parliament. Unless expressly empowered by the Act of Parliament, it cannot compel the production of documents or to give evidence nor can it administer an oath. There are what are called Statutory Commissions and the Executive Commissions. We are now dealing with Statutory Commissions and when dealing with this kind of Commissions, I would submit that such extraordinary powers should not be given to the Executive. While giving such powers to the Executive.....

SHRI C. C. BISWAS : The powers are not given to the Executive. These powers will be exercised by the Commission, and it will be for the Executive to direct at the time the Commission is appointed whether it will enjoy these powers.

SHRI RAJAGOPAL NAIDU : But this is what clause 5 says :

“Where the appropriate Government is of opinion that, having regard to the nature of the inquiry to be made and other circumstances of the case, all or any of the provisions of sub-section (2) or sub-section (3) or sub-section (4) should be made applicable to a Commission, the appropriate Government may, by notification in the Official Gazette, direct that all or such of the said provisions as may be specified in the notification shall apply to that Commission and on the issue of such a notification, the said provisions shall apply accordingly.”

The words here used are “the appropriate Government” and what I say is that this function that I have read out just now should be performed by a Resolution of either House of Parliament. It should not be left to the executive power of Government as is proposed to be done here in clause 5. That is what I want to suggest. That is also the practice in England when dealing with Royal Commissions.

Coming next to the question of privileges, I would first of all refer to the procedure adopted in England in respect of Royal Commissions. Though set up by the Executive Government, they are normally preceded by a Resolution of both Houses of Parliament. I may just point out a passage on page 145 of this book—“Constitutional Law” by E. C. S. Wade and G. Godfrey Phillips. It says [

“Either House may set up a Committee of Inquiry into any matter of public importance, and a resolution to set up such an inquiry may be an expression of no confidence in the Government of the day.”

At another place on the same page we have this passage :

“Parliamentary Committees may examine witnesses upon oath and by the Tribunals of Inquiry (Evidence) Act, 1921, a Tribunal appointed by both Houses to inquire into a matter of urgent public importance may be given all the powers of the High Court with regard to the examination of witnesses and production of documents.”

Therefore, under the rules for the appointment of Royal Commissions of Inquiry and under the Tribunals of Inquiry (Evidence) Act, 1921, both Houses of Parliament of England—the House of Commons and the House of Lords—are given powers to appoint such Committees. I will next refer to the relevant section in the Tribunals of Inquiry (Evidence) Act, 1921 :

“An Act to make provision with respect to the taking of evidence before and the procedure and powers of certain Tribunals of Inquiry.

Be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Where it has been resolved (whether before or after the commencement of this Act) by both Houses of Parliament that it is expedient that a tribunal be established for inquiring into a definite matter described in the Resolution as of urgent public importance, and in pursuance of the Resolution a tribunal is appointed for the purpose either by His Majesty or a Secretary of State, the instrument, by which the tribunal is appointed or any instrument supplemental thereto may provide that this Act shall apply, and in such case the tribunal shall have

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all such powers, rights and privileges as are vested in the High Court, etc. etc.”

So it is evident that under the Tribunals of Inquiry Act also it is both Houses of Parliament that can appoint a Commission of Inquiry.

Now, it may not be out of place for me to read out a passage from the leader of a leading paper of our country—*The Hindu*—where it is said :

“The Council of States may also usefully raise the issue why, when in Britain a resolution of both Houses of Parliament is required to give such powers to any Commission, it should be thought that in India it is sufficient to give the Lower House alone the power to adopt a mandatory Resolution for the setting up of any Commission and for arming it with all the authority above referred to. It seems to us that so long as there is a Second Chamber, it should not be denied equal rights in such a matter. The kind of investigation usually entrusted to Commissions such as for example the eliciting of information on the operation of laws, or investigating particular matters, social, educational and so on, is elsewhere normally regarded as best initiated with the active support of the revisory chamber which can draw upon the exceptional knowledge and experience of its members.”

MR. DEPUTY CHAIRMAN :
The hon. Member will continue in the afternoon.

SHRI C. C. BISWAS : Will it be continued today after the next item on the agenda is finished ?

MR. DEPUTY CHAIRMAN : Yes, at 3 o'clock today.

RECOMMENDATIONS OF THE DELHI IMPROVEMENT TRUST ENQUIRY COMMITTEE

MR. DEPUTY CHAIRMAN :
Now Shri Kailash Behari Lall will raise a discussion on points arising out of the answer given on the 29th July 1952 to Starred Question No. 70 regarding implementation of the recommendations made by the Delhi Improvement Trust Enquiry Committee.

SHRI K. B. LALL (Bihar) : Sir, I wish the question on which I am going to raise a discussion now had been raised by some Delhi represen-

tative. Indeed some of my friends asked me how I had become interested in the matter of Delhi. I can only say that unfortunately I have become interested in Delhi and I have taken up this matter and I have unfortunately become the victim of the Delhi Improvement Trust.

Sir, the importance and urgency of the matter arise from the fact that it is now about two years since the Interim Report of this Committee was submitted to Government. It was submitted on the 20th September 1950 and we are now in August of 1952. So it is nearly two years since the Report was submitted to Government. The urgency of the question is quite evident from the very fact that it was thought necessary to appoint this Committee and I shall read out a portion from the Report itself to show how important and urgent is the question that was enquired into. They say :

“The enactment of new legislation will naturally take time, but a reference to the Notes on the Questionnaire contained in Volume II of the Report will show that there are a number of problems which cannot brook delay and call for an early remedy. A perusal of these Notes will show that some of our recommendations are capable of immediate implementation by the Government of India by the issue of executive orders within the framework of the existing law, or by bringing about a change in the existing policy of the Delhi Improvement Trust itself. Also there are certain recommendations which can be implemented by modifying the U. P. Town Improvement Act, 1919, as extended to Delhi under section 7 of the Delhi Laws Act, 1912. A summary of the major recommendations in each of these two categories is given below:—”

And then they give a list of things that should be done immediately.

Sir, it can be taken for granted that the matter was deemed important and urgent and that is why this Committee was appointed. When the Committee had submitted its Report, then that was not a matter to be slept over. The discussion that I am raising is to point out that the Government have not paid due regard and attention to the recommendations of this Committee which was appointed after due consideration. In reply to the question put