LAW COMMISSION OF INDIA

TWENTY-FOURTH REPORT

(THE COMMISSIONS OF INQUIRY ACT, 1952)

DECEMBER, 1962

GOVERNMENT OF INDIA : MINISTRY OF LAW

140 M of L.—1

CHAIRMAN,
LAW COMMISSION,
5, Jorbagh, New Delhi—3,
Dated 26th December, 1962.

Shri Asoke Kumar Sen,
Minister of Law,
New Delhi.

MY DEAR MINISTER,

I have great pleasure in forwarding herewith the Twenty-Fourth Report of the Law Commission on the Commissions of Inquiry Act, 1952.

2. The subject was referred by the Government to the Law Commission under the circumstances mentioned in paragraph 1 of the Report, and was taken up in December, 1961 for consideration. A draft Report was prepared and discussed at the 37th meeting of the Law Commission held on the 7th April, 1962. Certain points were reconsidered at the 38th meeting of the Law Commission held on 5th May, 1962. In conformity with the decisions taken at those meetings the draft Report was revised.

3. The draft Report, as so revised, was circulated to State Governments, High Courts, Bar Associations and also to certain eminent Judges who, as Chairmen of certain Commissions appointed under the Act, had practical experience of its working. The comments received on the draft Report were considered by the Law Commission at the 42nd meeting held on the 17th and 18th December, 1962, and the draft Report was revised in accordance with the decisions taken at that meeting and finalised.

4. Mr. Niren De was unable to attend the meeting of the Commission at which the Report was finalised. The Report has not, therefore, been signed by him. I am, however, authorised by him to state that he concurs in the recommendations made in the Report.

5. My colleagues and I wish to record our appreciation of the assistance we have received from our Joint Secretary & Draftsman, Mr. S. K. Hiranandani and Additional Draftsman, Mr. P. M. Bakshi.

Yours sincerely,
J. L. KAPUR.

REPORT ON THE COMMISSIONS OF INQUIRY ACT, 1952

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APPENDICES

REPORT ON THE COMMISSIONS OF INQUIRY ACT, 1952

Reference to Law Commission.

1. The circumstances in which the Commissions of Inquiry Act, 1952, was referred to the Law Commission may be briefly stated. Section 5(2) of the Act authorises a commission of inquiry to require any person to furnish information useful for, or relevant to, the matters under inquiry. No penalty is provided in the Act for disobedience to such a requisition, and the Press Commission, constituted under the Act, appears to have experienced some difficulty in collecting the required information. Government had, therefore, referred this matter to us for examination. Taking into account the importance of the Act and the need for a proper system of inquiries, we have, instead of confining ourselves to the specific points referred to us, preferred to undertake a comprehensive examination of the entire Act in the light of the working of the Act during the last ten years, the practice in other countries in relation to inquiries, and the vast thought-provoking literature on the subject.

Genesis of the Act.

2. The Commissions of Inquiry Act, 1952 was enacted after due consultation with State Governments to facilitate the setting up of commissions with requisite powers to inquire into and report on any matter of public importance. Government realised, on the basis of its previous experience, that the expedient of promoting special legislation for setting up a commission of inquiry each time the need for it arose involved a tardy process which more often than not ended in the withdrawal of the proposals for inquiry. On the other hand Government felt convinced of the utility of such inquiries as a means of arriving at a proper appraisal of matters of public importance and of infusing the confidence of the public in its administration and conduct. As the necessity for such inquiries was bound to be a recurring one, it was felt advantageous to have an enactment generalising the powers which commissions of inquiry may exercise and leaving it to the Government to constitute a commission as and when necessary. Such, in short, is the genesis of the Commissions of Inquiry Act, 1952.

Analysis of the Act.

3. The Act is a short one, consisting of 12 sections. Section 2 defines, *inter alia,* 'appropriate Government' to mean the Central Government in relation to any matter relatable to any of the entries in List I or List II or List III in the Seventh Schedule of the Constitution, and the State Government in relation to any matter relatable to any of the entries in List II or List III in that Schedule. Under section 3, a commission of inquiry for the purposes of making an inquiry into any definite matter of public importance may be appointed by the 'appropriate Government' of its own motion; but if a resolution in this behalf

is passed by the House of the People or, as the case may be, the Legislative Assembly of a State, it is obligatory on the appropriate Government to appoint such a commission. Where a commission is appointed by the Central Government, a State Government cannot appoint a commission to inquire into the same matter except with the approval of the Central Government, and conversely, where a commission is appointed by a State Government, the Central Government is barred from appointing another commission to inquire into the same matter unless the Central Government is of opinion that the scope of the inquiry should be extended to two or more States. A Commission of Inquiry may consist of one or more members. Section 4 confers upon a Commission of Inquiry certain powers of a civil court (e.g. summoning and enforcing the attendance of witnesses and examining them on oath, etc.). Section 5 empowers the 'appropriate Government' to confer some additional powers on a Commission of Inquiry relating to the production of information and seizure of books of account or documents. Sub-section (4) of section 5 lays down that a Commission of Inquiry shall be deemed to be a civil court and when any offence as is described in section 175, section 178, section 179, section 180 or section 228 of the Indian Penal Code is committed in the view or presence of the Commission, it may forward the case to a magistrate for trial. Sub-section (5) of section 5 enacts that any proceeding before a Commission shall be deemed to be a judicial proceeding for the purpose of sections 193 and 228 of the Indian Penal Code. Section 6 confers upon persons giving evidence before the Commission protection from prosecution except for perjury. Section 7 empowers the 'appropriate Government' to dissolve a Commission when its continuance becomes unnecessary. Under section 8 the Commission may regulate its own procedure subject to any rules made by the 'appropriate Government'. Section 9 contains the usual indemnity for action taken in good faith and section 10 provides that members of a Commission and other officers appointed by it to exercise functions under the Act shall be deemed to be public servants within the meaning of the Indian Penal Code. Under section 11 the provisions of the Act may also be made applicable to a Commission of Inquiry set up by the appropriate Government in the exercise of its executive power. Section 12 authorises the appropriate Government to make rules to carry out the purposes of the Act.

Purposes for which Act used.

4. The Commissions of Inquiry Act, 1952 has been used for a variety of purposes.[1] The inquiry which has received the widest publicity under the Act was the "Mundhra Inquiry" which led to the resignation of the then Finance Minister. This inquiry, held by a Commission consisting of a single member, the former Chief Justice of the Bombay

[1]See Appendix III for a statement showing the Commissions appointed under the Act.

High Court, Mr. M. C. Chagla, related to certain investments of the funds of the Life Insurance Corporation of India alleged to have been improperly made.

5. Before taking up the examination of the Act it will be useful to deal briefly with analogous laws in other countries and consider in some detail the English Legislation on the subject on which our Act is largely modelled— Analogous laws in other countries.

(*a*) In England, inquiries are held under the Tribunals of Inquiry (Evidence) Act, 1921. Before this Act was passed, inquiries were held by Committees of Parliament. An inquiry by a Committee of Parliament suffered from one serious defect. A Committee of Parliament is likely to be influenced by political considerations. This is well illustrated by the Reports of the Parliamentary Committee in the *Marconi* case. The Act, however, does not exclude inquiries by Parliamentary Committees. In some cases, Committees of Parliament may still be appointed for making certain kinds of inquiries, particularly inquiries the subject-matter of which is predominantly political.

(*b*) In Australia, there is the Royal Commissions Act, 1902—33. This is a general Act relating to inquiries by Royal Commissions. In view of certain constitutional difficulties and the decision of the Privy Council in the *Colonial Sugar Refinery Company's* case[1], it has been the practice of the Commonwealth to enact special legislation empowering the setting up of commissions of inquiry in relation to specific matters and to incorporate the provisions of the General Act therein (*e.g.* the Royal Commission Act, 1954, No. 2 of 1954, and the Royal Commission on Espionage Act, 1954, No. 28 of 1954).

(*c*) In Canada, the relevant Act in force is the Inquiries Act, 1927.

(*d*) There does not appear to be any law analogous to the English Act in force in the United States of America. It appears that in that country, inquiries are held by a Committee of the Congress. Committees of the Congress to inquire into un-American activities are well-known throughout the world. A Committee of Congress has power to examine witnesses on oath and to punish for its contempt.[2]

(*e*) In Ceylon, inquiries are held under the (Ceylon) Commissions of Inquiry Act, 1948.

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[1]*Attorney-General for Commonwealth* v. *Colonial Sugar Refinery Co. Ltd.* (1954) A. C. 237=17 C.L.R. 644 discussed in Wynes, Legislative etc. Powers in Australia (1956), page 490.

[2]Alan Barth, Government by Investigation, page 17.

Differences between the English and Indian Acts.

6. As already mentioned,[1] the Commissions of Inquiry Act, 1952 is largely modelled on the English Act, but it differs from it in certain respects. The Indian Act empowers the Government to set up a Commission of Inquiry *suo motu*. There is no corresponding provision in the English Act. Under the English Act a resolution of both Houses of Parliament is required for setting up a Tribunal of Inquiry, while the Indian Act requires a resolution of the House of the People only, or, as the case may be, the Legislative Assembly of a State. The English Act does not make the resolution binding on the Government, although normally the Government would respect the wishes of Parliament; but in India, the resolution of the House of the People or the Legislative Assembly is binding on the Central Government or the State Government, as the case may be. The English Act provides that if any contempt of the Tribunal is committed, the Tribunal can refer the matter to the High Court which will punish or take steps for the punishment of the person guilty of contempt in like manner as if he had been guilty of contempt of the High Court. There is no such provision in the Indian Act. The English Act expressly provides that an inquiry shall generally be held in public. The Indian Act leaves it to the Commission to hold its sittings in public or in private. The Indian Act provides that where any authority, by whatever name called, other than a Commission appointed under the Act has been, or is set up, under any resolution or order of the Government for the purpose of making an inquiry into any matter of public importance, the Government may direct that all or any of the provisions of the Act shall be applicable to that authority. There is no corresponding provision in the English Act.

Defects and drawbacks of inquiries by Commissions.

7. The working of the laws relating to inquiries by Commissions or Tribunals in various countries has revealed several defects and drawbacks.

First, in the absence of specific clear-cut provisions for the purpose, there is a danger of inquiries being instituted in relation to matters in which the remedies available under the ordinary law are adequate and effective. Thus, in England, in the famous *Waters* case an elaborate and expensive inquiry was embarked upon to investigate into allegations of a merciless assault by two constables on a young boy. Indeed, one of the criticisms directed in Parliament against the Bill leading to *our* Act was that it did not precisely define the circumstances in which a Commission may be set up.

Secondly, the powers usually conferred on Commissions are felt to be rather draconian in practice. When the

[1]Para. 5 *supra*, opening sentence.

Waters case was debated upon in the House of Lords,[1] some of the Members went to the extent of likening Tribunals under the English Act to the Court of Star Chamber. Similarly, in the course of the debates on our own Commissions of Inquiry Bill in Parliament the provisions as to requisition of information and search of premises were characterised by some members as drastic.

Thirdly, a Commission may virtually lead a person to make self-incriminating statements. In regard to the procedure adopted by the investigating committee of the American Congress into the gambling activities of one Nelson, Judge David Bezelon remarked caustically thus:

> "Nelson's freedom of choice has been dissolved in a brooding omnipresence of compulsion. The Committee threatened prosecution for contempt if he refused to answer, for perjury if he lied and for gambling activities if he told the truth."

Fourthly, inasmuch as a Commission may receive hearsay evidence at second-hand or third-hand, its findings on the conduct of persons involved in the case may cause irretrievable damage to those persons and may even ruin them for life. In this connection, a passage from the speech in the House of Commons of Sir Alfred Butt who was involved in the "Budget Leakage Inquiry"[2] in 1936 may be quoted:

> "I would ask right hon. and hon. Members to visualise the position in which I now find myself. I have been condemned, and apparently I must suffer for the rest of my life from a finding against which there is no appeal, upon evidence which apparently does not justify a trial, and there is now no method open to me by which I can bring the true and full facts, before a jury of my fellow-men..... If any good may come from this, the most miserable moment of my life, I can only hope that my position may do something to prevent any other person in this country being subject to the humiliation and wretchedness which I have suffered, without trial, without appeal and without redress."

Finally, in a number of cases inquiries may not result in any tangible results. Thus in England no prosecution seems to have ever been launched as a result of a tribunal of inquiry and the position seems to be hardly different in our country.

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[1]Parliamentary Debates, Lords, 1958-59, Vol. 216, pp. 454—478.

[2]Parliamentary Debates, Commons (1958-59), Vol. 600, John Waters (Tribunal of Inquiry), page 206.

Justification for our Act.

8. In the light of the foregoing discussion[1] as to defects and drawbacks of inquiries by Commissions, it becomes pertinent to consider—

(1) Whether the Commissions of Inquiry Act, 1952 should at all be on the Statute Book?

(2) If so, what safeguards should be provided to mitigate the rigour of the Act?

Our answer to the first question is in the affirmative. The Lord Chancellor, Viscount Kilmuir, in his reply to the debate in the House of Lords in the *Waters* case made a spirited and vigorous defence of the English Act in the following words[2]:—

> "Let me state quite shortly the arguments for some such procedure as the present. The sanction of the public inquiry is necessary on occasions for the purpose of maintaining a high standard of public administration and, indeed, of public life. The modern system has developed in consequence of the inadequacies of the machinery of inquiry by Select Committee on the one hand and the limitations of the ordinary process of law on the other..... The ordinary processes of law are geared to a charge or claim brought by one person against another. They do not fit when it is necessary to discover what has actually happened before the responsibility of or between individuals can arise, and, as has been discussed earlier in this debate, there are other fields, such as wreck inquiries, inquiries into accidents, courts of inquiry in the Services and the Committee of Privileges of the House of Commons, where the inquisitorial procedure is a necessary concomitant of their work. In all those cases the question of discovering what has actually happened is of prime importance..... After the true facts have been found and stated it may be necessary to stigmatise conduct which, although not a criminal offence or a civil wrong, falls short of the requisite standards of our public life. It may be necessary to kill harmful rumours which are found to be unjustified. It may be necessary—and this I am sure was very much in the minds of the Government who introduced this measure—to restore public confidence in public conduct and administration. These ends may well be of such importance to the life of the nation as to justify means which inflict hardship on individuals."

This seems to be a sufficient justification for an Act like the Commissions of Inquiry Act, 1952. The arguments set out by the Lord Chancellor in defence of the English Act apply equally to the Indian Act. It is true that in some

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[1]Para. 7, *supra*.

[2]Parliamentary Debates, Lords, 1958-59, Vol. 216, 'The Waters Tribunal', pages 470—72.

cases, the Government does not take any action on the report of a Commission of Inquiry. But that does not mean that the inquiry has not been useful. The Commission either exonerates the persons involved in the inquiry or holds them guilty. In either case the inquiry serves a useful purpose. In the first case, the inquiry sets at rest some ugly rumours which led to the appointment of the Commission. In the second case, the guilty persons are exposed to the public eye. A prosecution is not the only method of punishing persons who pollute the pure springs of public administration. Many persons would prefer to suffer a sentence in secret rather than face the public with their dark deeds. The glaring publicity which attaches to such inquiries is both its strength and its weakness. Such publicity exposes the wrong-doers to the public eye and there lies its strength. Sometimes, however, such publicity results in unmerited mud-slinging on some innocent persons who are denied the safeguards of the ordinary judicial procedure to vindicate themselves and there lies its weakness. But no human system of justice can be perfect. Cases of miscarriage of justice are not unknown in the ordinary courts of law.

9. As regards the second question,[1] we feel that in a matter like this, there should be a just balance between the interests of the general public and the rights of individuals, between the claims of the State and civil liberties. The fundamental rights enshrined in our Constitution will have little meaning if they can be trampled upon by a law which, though conforming to the letter of the Constitution, yet violates its spirit. In order that the special procedure envisaged in the Commissions of Inquiry Act, 1952 does not work any hardship on citizens, there should be some safeguards. The great American Judge, Mr. Justice Frankfurter has observed:[2]

> "the history of liberty has largely been the history of procedural safeguards.".

We may again quote from the speech of the Lord Chancellor, Viscount Kilmuir, in the House of Lords in the Debate on the *Waters case in which* he suggested some safeguards[3]:—

> "Parliament and the Government should be exceedingly chary of using this procedure when another remedy is open, for the inquiry may hopelessly prejudice subsequent proceedings. Yet, again, one has to set against this difficulty the public asset of confidence in the police or the civil service or the functioning by Government which it may be vital to re-establish.

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[1]See para. 8 *supra*.

[2]"Government by Investigation" by Alan Barth, Chapter VI, on "Self Incrimination", page 112.

[3]Parliamentary Debates, Lords Vol. 216 "The Water's Tribunal". Pp. 474-475, 477 and 478.

That is the only sort of exception and I think that if noble Lords consider it, they will be inclined to agree ..... The procedure should be invoked only for weighty and important matters, for it is only then that the sacrifice on the part of the individual can be fairly demanded..... It will help if the Tribunal, when it has to consider complicated matters, bears in mind two points and has two objectives: first, to get cleared what actually happened; secondly, as soon as it appears possible that responsibility may rest on a particular person, to secure that this person should have an opportunity of dealing with any point—I repeat, any point—which may be thought to tell against him."

Some general points examined.

10. Having come to the conclusion[1] that the Commissions of Inquiry Act with proper safeguards is a necessary piece of legislation, we proceed to consider some general points in relation to the Act.

Power of Government to appoint Commissions *suo motu*.

11. First, it has been suggested to us that Government should not have the power to appoint a Commission of Inquiry *suo motu*.[2] There is a great advantage if the Government, before it appoints a Commission of Inquiry, obtains a mandate from the Legislature. The obvious advantage is that in such a case the responsibility for determining whether a matter is a definite matter of public importance will shift from the executive to the elected representatives of the people. On the other hand, the disadvantage is that in an urgent case when the legislature is not in session the Government will not be able to act immediately (*e.g.*, when there is an accident which requires immediate investigation). Further, there may be cases in which it may be necessary to observe the utmost secrecy until certain facts have been ascertained by a Commission of Inquiry. On the whole, we do not think a change in the law is called for.

Contempt of Commission.

12. (1) Secondly, it has been suggested to us by Judges who have presided over some Commissions of Inquiry that the Commission should have power to punish for contempt. It seems that in the past, some members of Commissions of Inquiry have been subjected to scurrilous attacks in the press and elsewhere but the Commissions have not been able to punish them. It is contended that no Commission of Inquiry can effectively function if its authority is flouted or irresponsible comments are made in the press and elsewhere during the course of the inquiry on the personnel of the Commission or on the subject-matter of the Inquiry. We are, however, faced in this matter with a Constitutional difficulty. In the case of *Dalmia* v. *Mr.*

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[1]Paras. 8-9. *supra*.

[2]This relates to section 3(1).

Justice Tendolkar and others,[1] the Supreme Court has held that a Commission appointed under the Act does not perform any judicial functions. In the words of the Supreme Court,

> "The Commission has no power of adjudication in the sense of passing an order which can be enforced *proprio vigore*. A clear distinction must, on the authorities, be drawn between a decision which, by itself, has no force and no penal effect and a decision which becomes enforceable immediately or which may become enforceable by some action being taken. Therefore, as the Commission we are concerned with is merely to investigate and record its findings and recommendations without having any power to enforce them, the inquiry or report cannot be looked upon as a judicial inquiry in the sense of its being an exercise of judicial function properly so called....."

(2) A Commission under this Act merely ascertains facts. It does not decide any dispute. There are no parties before the Commission. There is no 'lis'. As Lord Shawcross has said in the case of the analogous Tribunal in England, "the procedure of the Tribunal is inquisitional rather than accusatorial".

In fact, it has already been held by the Nagpur High Court in the case of *Rajwade* v. *Hassan*[2] that a Commission appointed under the Commissions of Inquiry Act, 1952, is not a court within the meaning of section 3 of the Contempt of Courts Act, 1952.[3]

(3) Article 19 of the Constitution guarantees to every citizen the right to freedom of speech and expression, but under clause (2) thereof it is open to the Legislature to make a law imposing reasonable restrictions on such a right in relation, among other matters, to contempt of court. If, however, the Commission is not a court, the relevant entry, namely, entry 14 of the Concurrent List, will not be available to Parliament to make any such law. The expression "court" in relation to contempt of court, as it occurs both in article 19(2) and in entry 14 of the Concurrent List, must be given its well-accepted meaning and it would not, therefore, be open to Parliament to convert what is a mere fact-finding body into a court for the purpose of punishing contempt of it.

(4) We are aware that section 5(4) commences with the words "The Commission shall be deemed to be a Civil Court". These words are intended to make it clear that section 482 of the Code of Criminal Procedure is attracted.

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[1] (1959) S.C.R. 279, 293; A.I.R. 1958 S.C. 538.

[2] A.I.R. (1954) Nag. 71.

[3] *See also Braj Nandan Sinha* v. *Jyoti Narain.* (1959) 2. S.C.R. 955 where it was held that a somewhat similar body appointed under the Public Servants (Inquiries) Act, 1950, is not a court within the meaning of the Contempt of Court's Act, 1952.

(5) While we cannot constitute the Commission into a Court for the purposes of contempt, we feel at the same time, that some provision should be made to protect members of the Commission from irresponsible and scurrilous attacks. Section 5(4) of the Act already provides for the punishment of certain offences under the Indian Penal Code committed in the view or presence of the Commission. We think that a provision should be made[1] for punishing persons who by spoken words or words intended to be read, make or publish any statement or do any other act calculated to bring the Commission or any member thereof into disrepute. And such a provision could be related to entries 1 and 2 of the Concurrent List.

It will not be possible to go beyond this, and to make a provision in wide terms on the lines of section 1(2) of the English Act, sections 18 and 24 of the Royal Commission on Espionage Act, 1954 (Australia), section 6—10 of the Royal Commission Act, 1902—1933 (Australia), sections 12(2) to 12(4) of the (Ceylon) Commissions of Inquiry Act, 1948, or section 5(1) of the Public Inquiries Act, Alberta (Canada), (R.S. Alberta 1955 Ch. 258). In our opinion, such a provision which punishes contempt of the Commission will be hit by clause (2) of article 19 of the Constitution.

(6) We are aware that the offence of defamation is already punishable under sections 499 to 502 of the Indian Penal Code. But, in spite of such provisions, virulent attacks have been made on Commissions and their members—a fact to which our attention has been drawn by several distinguished persons who had served on various Commissions of Inquiry appointed under the Act. We think that if the Act itself creates a specific offence of the kind suggested, the attention of the public will be focussed on the penal consequences of defamatory attacks on a Commission or its members. We consider it unnecessary to encumber the proposed provision with the various Exceptions and Explanations contained in section 499 of the Indian Penal Code, because we think that the clause, without the Exceptions and Explanations, will be interpreted by the courts in a reasonable manner.

(7) At one stage, we were inclined to include, in the new provision, acts likely to lower the authority of a Commission or its members or to interfere with any of its lawful processes. On further consideration, however, we felt that the provisions in the Indian Penal Code, Chapter X, sections 172 to 190, dealing with contempts of the lawful authority of public servants, (which would be attracted in the case of members of Commissions also, who under the Act, are public servants,) would meet the requirements of the case. We, therefore, decided to leave out those matters.

[1]See Appendix I, section 6 (5) as proposed.

13. Thirdly, it has been suggested to us that it should be made clear whether the Indian Evidence Act, 1872 applies to proceedings before a Commission of Inquiry. The position in England under the Tribunals of Inquiry (Evidence) Act, 1921 is stated by Keeton as follows[1]:— Application of the Indian Evidence Act, 1872.

> "In sifting the facts concerning the existence of rumours giving rise to the inquiry, all evidence is relevant and this part of the inquiry is simply fact-finding. When the question of the involvement of a particular person in a particular transaction is under consideration, however, the Tribunal restricts itself to the facts admissible under the normal rule of evidence."

We recommend that the same practice should be followed in our country also. We, however, do not recommend that any statutory provision in this behalf should be made in the Act, because such a rigid provision may defeat the very object of the Act, namely, to find out the truth.

14. Fourthly, a question has been raised as to the manner in which the Act should regulate the procedure to be followed. While the English Act empowers the Tribunal itself to regulate its procedure, the Indian Act leaves it to the Central Government to make rules for regulating the procedure of a Commission of Inquiry and subject to such rules the Commission of Inquiry may itself settle its procedure. The question of the procedure to be followed arose prominently in the inquiry held in England in 1936 into the budget leakage. The procedure was finally settled[2] by Mr. Justice Lynskey in the inquiry held in 1948. Procedure of Commission.

In the Mundhra Inquiry earlier referred to[3], Chagla, C. J. indicated the procedure which he proposed to follow in the following terms:—

> "I will examine the witnesses who come before the Commission. The Attorney-General will then question them and supplement the evidence in any manner that he thinks proper, Counsel who are appearing for other interests will then have the right of examining these witnesses and I will finally put any other question which I may think necessary to the witnesses. It will be open to the counsel appearing for the different interests to call for any evidence they think proper, and after all the evidence is offered, counsel may address me on the evidence."

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[1]Keeton, Trial by Tribunal (1960) Page 18.

[2]See Keeton; "Trial by Tribunal", (1960) Pages 16-17.

[3]See para. 4, *supra*.

There are two rules[1] made under section 12 of the Act which contain important provisions regarding procedure. Rules 4 and 5 read as follows:—

"4. If, at any stage of the inquiry, the Commission—

(*a*) considers it necessary to inquire into the conduct of any person, or

(*b*) is of the opinion that the reputation of any person is likely to be prejudicially affected by the inquiry,

the Commission shall give to that person a reasonable opportunity of being heard in the inquiry and to produce evidence in his defence.

5. The Central Government, every person referred to in rule 4 and, with the permission of the Commission, any other person whose evidence is recorded under rule 3—

(*a*) may cross-examine a witness other than a witness produced by it or him;

(*b*) may address the court; and

(*c*) may be represented before the Commission by a legal practitioner, or, with the consent of the Commission, by any other person,".

We think that since these rules embody the fundamental principles of natural justice and safeguard the rights of individuals, they should be incorporated in the Act itself.[2]

In England, it has been suggested that instead of the Attorney-General, who is intimately connected with the Government, an independent counsel should assist the Tribunal of Inquiry. We express no opinion on this question, but we see no reason why the highest law officer of the Government cannot take an objective view of the matter.

Costs.

15. The fifth question raised relates to costs, which may be examined from two aspects—

(*a*) costs of witnesses;

(*b*) costs of persons whose conduct is in question.

So far as costs of witnesses are concerned, we are suggesting a provision in the rule-making section.[3] As regards costs of a person whose conduct is in question, it is contended that the State should pay his costs if he succeeds and conversely he should be made to pay the costs if the findings are against him. It is observed that 'it seems unfair that persons should either be put to a very

[1]See rules 4 and 5, Central Commissions of Inquiry (Procedure) Rules 1960, issued on the 7th May, 1960.

[2]See Appendix I, section 8(1) to 8(3) as proposed.

[3]Appendix I, section 12 as proposed to be amended.

considerable expense of defending themselves or run the risk of things going against them because they cannot afford the costs'. It is further contended that the provision about the payment of costs would act as some sort of a brake on irresponsible, time-wasting and obstructive tactics. This question has been raised in England also, but, so far as we have been able to gather, no final decision has been reached. Neither the English Act nor the Australian nor the Canadian Act provides for costs. The reasons are not far to seek. In any inquiry of the nature under consideration which is held in the public interest, there are no parties. The Tribunal is a purely fact-finding body and does not adjudicate upon the rights of any persons. In these circumstances, we do not think that any provision should be made in the Act in respect of costs.

Publication of Report.

16. Lastly it has been suggested that the Act should provide that the Report of a Commission of Inquiry should be published as soon as it is submitted to the Government. Whether a Report should be published or not will depend upon the nature of the inquiry and the Report made to the Government. There may be certain cases in which it may not be advisable to publish the Report. We, therefore, think that this matter should be left to the discretion of the Government. Where a Commission of Inquiry has been appointed in pursuance of a resolution of the Legislature, we have no doubt that the Report will be laid on the Table of the Legislature. In other cases, we do not think that a rigid provision should be made that the Report should invariably be laid before the Legislature. Whenever necessary, the Legislature will be able to assert itself and beyond this it is not necessary to go.

Assistance to Commission for purposes of investigation.

17. The question as to the manner in which a Commission of Inquiry may be assisted in the matter of investigation may also be considered. In England, there is a Treasury Solicitor with a permanent staff who works under the directions of the Tribunals constituted under the English Act. The Treasury Solicitor performs the functions of investigation which in a criminal case are performed by the police. He sifts the facts and finds out what witnesses should be examined and collects other material which will be useful to the Tribunal. It has been suggested that a similar machinery should be set up in this country. We commend this suggestion to the Government. The setting up of such a machinery will relieve the Commissions of Inquiry of a great deal of preliminary and routine work over which it should not waste its time.

Detailed examination of Act.

18. With these general observations we now proceed to examine in detail the main provisions of the Act.

Section 3(z)—Relevant legislative entries.

19. The Commissions of Inquiry Act, 1952, falls under entry 94, List I (Inquiries for the purpose of any of the matters in List I) and entry 45, List III (Inquiries for the purposes of any of the matters in List II or List III), in

the Seventh Schedule to the Constitution. The two entries between themselves cover inquiries into any aspect of the matters included in any of the three legislative Lists, and thus the scope of the matters which can be inquired into by the Commission appointed under the Act is wide and extensive.[1]

Section 3(1)—Constitutional validity.

20. Section 3 authorises the appropriate Government to appoint a Commission to inquire into any matter of definite public importance. And where the Central Government appointed a Commission to inquire into the affairs of certain companies and firms in the interests of the investing public, the constitutional validity of section 3 was challenged in the Supreme Court in the case of *Ram Krishna Dalmia* earlier referred to.[2] It was argued that Parliament in authorising the appointment of a Commission of Inquiry, and the Government in appointing a Commission had arrogated to themselves judicial powers which do not in the very nature of things belong to their respective domains, which must be purely legislative and executive respectively. This contention was negatived by the Court on the ground that the Commission merely investigates facts and records its finding, and even if it were to make recommendations, it has no power to enforce them. An inquiry before a Commission is not a judicial inquiry, because no "judicial functions" properly so called are exercised by it, and in the circumstances there could be no question of usurpation by Parliament or the Government of the powers of the judicial organs of the Union.

The second attack was based on the ground that the Act conferred upon the Government an arbitrary and uncontrolled discretion as regards the appointment of a Commission and was therefore void under article 14 of the Constitution. This argument was also negatived by the Court by pointing out that the power to appoint a Commission is vested only in the Government and, further, such an appointment can be made only where a definite matter of public importance required to be looked into and not for any other purpose.

Section 3 is therefore constitutionally proper.

Section 3(1)—Whether resolution should be by both Houses of the Legislature.

21. We have discussed[3] elsewhere the question whether the power of the Government to appoint a Commission should be restricted to cases where a resolution in that behalf is passed by the appropriate legislative authority, and have come to the conclusion that it is neither necessary nor desirable to fetter the discretion of the Government in any way. On the other hand, while the existing Act,

[1] *Ram Krishna Dalmia* v. *Mr. Justice S. R. Tendolkar* and others (1959) S.C.R., 279, 289; (1958), S.C.A., 754, 765; A.I.R. 1958 S.C. 538.

[2] Para. 19 *supra*.

[3] See para. 11, *supra*.

in our opinion, correctly provides that Government should appoint a Commission if a resolution in that behalf is passed by the appropriate legislative authority, we see no justification for excluding the Council of States or the Legislative Council in States which have two chambers from the purview of the section. The only reason given for confining the power to pass resolutions to the House of the People and to the Legislative Assemblies is the fact that under the Constitution the Ministers are responsible to these Houses. It was, however, conceded that if the Council of States or the Legislative Council were to pass a similar resolution, Government would be bound to give the greatest possible consideration to it and it was extremely unlikely that the resolution would not be given effect to. On the whole, we think there is no justification for making a distinction between the two Houses of the Legislature wherever two Houses exist. We therefore recommend that wherever the Legislature resolves that a Commission of Inquiry should be appointed, the resolution should be by both Houses of the Legislature.

Section 3(1)—Possible overlapping in jurisdiction between Central and State Governments' Commissions.

22. Under section 3(1), read with the definition of 'appropriate Government' the power to appoint a Commission is given to,—

(*i*) the Central Government, if the inquiry is in connection with any matter relatable to any of the matters enumerated in List I, List II or List III in the Seventh Schedule to the Constitution;

(*ii*) the State Government, if the inquiry is in connection with any matter relatable to any of the matters enumerated in List II or List III.

It would be noticed that so far as List II and List III are concerned, both the Central Government and the State Governments can appoint a Commission of Inquiry. The Act, however, eliminates any possible conflict or overlapping in jurisdiction by expressly providing that where a Commission has been appointed to inquire into any matter by the Central Government, no State Government is to appoint another Commission to inquire into the same matter so long as the Commission appointed by the Central Government is functioning except with the approval of the Central Government. Conversely, where a Commission has been appointed by a State Government to inquire into any matter, the Central Government is also not to appoint another Commission to inquire into the same matter so long as the Commission appointed by the State Government is functioning, unless the Central Government is of opinion that the scope of the inquiry should be extended to two or more States. Here, there is an omission, namely, the Act does not indicate what is to happen if, after the appointment of a Commission by a State Government, the Central Government decides that the scope of the inquiry should be extended to two or more States and accordingly appoints

a Commission. In our opinion, in such a situation the Commission appointed by the State Government should cease to function,[1] particularly as the inquiry is to be made into the same matter. We recommend that an express provision in this behalf may be made.

Section 3(1)— Scope of functions of Commission.

23. Section 3(1) states that the functions which can be entrusted to a Commission are two-fold, namely,—

(*a*) making an inquiry into any definite matter of public importance, and

(*b*) performing such functions.....as may be specified in the notification appointing the Commission.

24. (a) An argument was advanced in *Ram Krishna Dalmia* v. *Mr. Justice Tendolkar and others*[2] that while Parliament could make a law with respect to "inquiries" under the relevant legislative entries, it could not make a law conferring a power to perform any function other than the power to hold an inquiry. Further, it was contended that the law which the appropriate legislature is empowered to make under the relevant legislative entries relating to inquiries must be with reference to inquiries for the purpose of legislation and not for administrative purposes. The Supreme Court rejected these arguments and pointed out that an inquiry under the Act was not limited in its scope or ambit to future legislative purposes. So far as the expression 'performing such functions' was concerned, it was assumed that such functions would be functions necessary for or ancillary to the purposes of the Commission. It is desirable to make the position clear in the Act and we recommend accordingly.[3]

(b) In the above mentioned case, the notification appointing the Commission, after directing an inquiry to be made into the affairs of certain companies and firms and after stating in detail the facts to be investigated, called upon the Commission to inquire into and make recommendations in respect of the following, among other matters, namely (item 10), "any irregularities, fraud or breach of trust or action in disregard of honest commercial practices.....in respect of the companies and firms whose affairs are investigated by the Commission which may come to the knowledge of the Commission and the action which, in the opinion of the Commission, should be taken *as and by way of securing redress or punishment or to act as a preventive in future cases*".

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[1]The provision that when a State Commission is functioning the Central Government should not appoint a Commission unless the scope of the inquiry is to extend to two or more States was not included in the Bill as originally introduced but was inserted by the Select Committee.

[2]1959 S.C.R. 279; 1958 S.C.A. 754; A.I.R. 1958 S.C. 538.

[3]See Appendix I, Section 3 (1) as proposed.

(c) It was held by the Supreme Court that, having regard to the fact that the Commission had no judicial powers and its report could only be recommendatory, there was no point in the Commission making recommendations for any action "as and by way of securing redress or punishment" regarding wrongs already done or committed because the redress or punishment, if any, for such wrongs has to be given or imposed by courts of law in their own discretion and without being in any was influenced by the view of any person or body, however august or high-powered that person or body might be. Accordingly the Court held that any recommendation about action to be taken as and by way of securing redress or punishment could not be said to be necessary for or ancillary to the purpose of the Commission and such a direction to the Commission was outside the scope of the Act. This, however, relates to the actual specification of the functions of the Commission and does not require any amendment in the Act.

Section 3—Fixing of time.

25. In a case decided by the Andhra Pradesh High Court[1] it was held that if the notification under section 3 appointing a Commission does not specify the time within which the Commission has to complete its inquiry and if the mistake is not rectified by a subsequent notification[2] then, until the defect is cured, the Commission is debarred from functioning under the notification notwithstanding the fact that the notification is not invalid. The Commission, it was observed, would be in a state of suspended animation. This decision shows that it is desirable that the appropriate Government appointing a Commission should specify the time within which the Commission is to conclude its work. The Act, however, does not require any amendment in this behalf. The only clarification we are recommending[3] is that the period within which a report is to be submitted may be extended from time to time by notification.

Section 3—Filling up of vacancies, etc.

26. Judging from the experience gained in the working of one or two Commissions of Inquiry, we consider it desirable to provide expressly for the filling up of vacancies or for an increase in the number of members whenever the Government thinks it necessary or expedient to do so. We recommend an amendment to section 3 in this behalf.[4]

Section 4—Personal attendance of witnesses.

27. Section 4 authorises the Commission to summon and enforce the attendance of any person. It does not, however, specify the territorial jurisdiction of the Commission in this behalf, and consequentially, it may be argued that the restriction under Order 16, Rule 19 of the Code of Civil

[1]*Narayanadoss* v. *T. Neeladari Rao* A.I.R. 1959, Andhra Pradesh 148, 153.

[2]Compare *Ram Krishna Dalmia's case* 1959 S.C.R. 279, 312.

[3]See Appendix I Section 3(4).

[4]See Appendix I, Section 3(3) as proposed.

Procedure, 1908, would be attracted, since, under section 4, a Commission, in summoning witnesses, has the same powers as a civil court. On this reasoning, a Commission would not be competent to summon a witness residing at a distance longer than 200 miles from its headquarters. We consider that the limitation imposed on civil courts by this rule should not apply to Commissions appointed under the Act, in view of the different nature of the work assigned to a Commission of Inquiry. We accordingly recommend, that a Commission appointed under the Act should have jurisdiction to summon a witness from any part of the territories to which the Act extends. Rules under the Act[1] will secure that necessary travelling and other expenses are paid to witnesses who are summoned under the Act.

Section 5(2).

28. With reference to section 5(2) empowering a Commission to require any person to furnish information on a matter under inquiry, a question has been raised as to whether the persons so required can be punished for failure to give information, having regard, in particular, to the decision[2] in *Ali Mahomed* v. *Emperor*.[3] In that case the members of the Wakf Board had not been declared to be public servants by the Act constituting the Board. Further, the Act provided a separate punishment for failure to furnish information. There is, however, no objection to the position being clarified by stating in sub-section (2) that any person required to furnish information shall be bound to furnish such information, so as to attract the penal provisions of the Indian Penal Code in this behalf.

It has been suggested that a specific provision should be inserted in this sub-section (on the lines of section 175, Criminal Procedure Code), to the effect that a person shall not be required to disclose information which might incriminate him. We may point out that the obligation to disclose information under this sub-section is subject to any privilege available under the law for the time being in force. It would thus appear that no special privilege is conferred by this section, but any privilege conferred by any other law would be available under the sub-section.

Section 5(3).

29. Section 5(3) authorises the Commission or any authorised gazetted officer to enter any building or place where any books of account or other documents relating to the subject-matter of the inquiry may be found and to seize such books or documents, subject to the provisions of sections 102 and 103 of the Code of Criminal Procedure, 1898, in so far as they may be applicable. In *Narayanadoss* v. *T. Neeladri Rao*[4] already referred to,[5] an argument was

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[1]See Appendix I, section 12(2), as proposed.

[2]See Appendix II, Notes to s. 5 (2) for detailed discussion.

[3]72 I.A. 226; AIR 1945 P.C. 4.

[4]A.I.R. 1959 Andhra Pradesh, 148, 152.

[5]See para. 25, *supra*.

advanced that this provision conferred an uncontrolled and arbitrary power of entry and seizure on Commissions of Inquiry in general. Further, in that case the Commission had been appointed to inquire into the wide-spread mismanagement of the properties of Hindu religious and charitable trusts created for public purposes and it was therefore contended that there was also a violation of the fundamental rights guaranteed by articles 25 and 26 of the Constitution. The Court pointed out that the sub-section gave no such sweeping powers, but merely authorised the specified officers to enter buildings or places where the relevant books or documents could be found, and the power of seizure was hedged in by several restrictions or safeguards, including those contained in sections 102 and 103 of the Code of Criminal Procedure, 1898. It is not necessary to disturb the section on this point.

Section 5—Contempt of Commission.

30. (*1*) We have discussed elsewhere[1] the question as to the extent to which protection can be secured to Commissions of Inquiry in respect of scurrilous and scandalous attacks on them. Section 5 may accordingly be amended by the insertion of a sub-section[2] making it an offence to publish any statement or do any other act calculated to bring the Commission or any member thereof into disrepute.

(*2*) Certain procedural questions have been raised in connection with this offence. It has been suggested to us, that in view of the status of the members of the Commission who generally include a Judge of a High Court or the Supreme Court, the offence should be triable by a High Court exclusively. It was further suggested that in the trial of the proposed new offence the personal attendance of members of the Commission should be dispensed with and that an Exception should be made to section 200 of the Code of Criminal Procedure, 1898, which requires the examination of the complainant. Further, it was suggested, the offence should be triable as a summons case and a provision should be made on the lines of the proviso to section 244 (1) of the Code of Criminal Procedure, 1898 which confers on the court a discretion to hear the complainant or not. We have given careful consideration to all these suggestions. We feel that, taking all the circumstances into consideration, the procedure already prescribed in section 198B of the Code of Criminal Procedure, 1898, in respect of defamation of high dignitaries of the State (including the President and the Vice-President) and public servants generally, would be suitable for this offence also. Section 198B of the Code of Criminal Procedure, 1898, provides that any offence falling under Chapter XXI of the Indian Penal Code (sections 499 to 502—a group of sections relating to defamation) against the President, Vice-President etc., shall be triable by a

[1]See paragraph 12, *supra*.

[2]See Appendix I, s. 5(5) as proposed.

Court of Session. The section also lays down a special procedure for the trial of such offences. The Sessions Court can take cognizance of the offence without the accused being committed to it for trial, upon the complaint in writing of the Public Prosecutor. The Court may also, for reasons to be recorded in writing, refrain from examining the person against whom the offence is committed. Since a special procedure thus already exists for an analogous offence, we feel that there is no strong case for creating a new procedure by making the offence triable by a High Court exclusively and thus laying down a different procedure for more or less similar offences.

Section 6—Incriminating statements.

31. Section 6 provides that no statement made by a person in the course of giving evidence before the Commission shall subject him to or be used against him in a criminal proceeding. In this connection, a question was raised as to whether a person can claim protection under clause (3) of article 20 of the Constitution at the time of answering a question put to him and the Punjab High Court answered it in the affirmative[1]. Subsequently, in a Supreme Court decision[2], it has been held by a majority that clause (3) of article 20 applies only where at the time the statement is made the person stands accused of an offence. Section 6 does not require any amendment from this point of view.

It has been suggested that the protection given by section 6 to oral statements should be extended to documents. In our opinion, there is a good deal of difference between the spoken word and the written word. When dealing with inquiries into matters of definite public importance, there would appear to be very little justification for extending protection to persons whose guilt is clear from any documents in their possession or custody. No doubt, if no such protection is extended, such evidence may not be readily forthcoming. One has therefore to balance the two considerations. In any event, any protection given cannot be to the same extent as is given by section 6 in the case of the spoken word. The interests of a public inquiry would not be promoted by the enlargement of such protection, and we find that in many similar Acts no protection is afforded in relation to the production of documents.[3] In our country also, the practice has been to treat the spoken word differently from the written word, and to extend protection to the latter only if on the merits of the case protection is needed. Such protection has often been of a very limited or special

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[1]*Allen Berry & Co.*, v. *Mr. Vivian Bose*, I.L.R. (1960) Pun. 416; A.I.R. 1960 Pun. 86.

[2]*State of Bombay* v. *Kathi Kalu*. A.I.R. 1961 S.C. 1808.

[3]Section 21(3) Ontario Securities Act.

[R.S.O.: 1960 (363), section 5]; the Evidence Act, (Canada) (R.S.C. 59, S. 5). Both discussed in (1962) Can. Bar Journal, February, 6, 12 to 15 (The Privilege against self incrimination).

nature.[1] On the whole, we think that the protection conferred by section 6 does not require any enlargement.

32. In our opinion, it is desirable to make it clear in the interests of trade that nothing in the Act shall render it compulsory for any person giving evidence to disclose any secret process of manufacture.[2] We recommend that a new section[3] be inserted to that effect. Section 6A (New).

33. (1) While discussing the procedure to be followed by the Commission, we have recommended[4] the incorporation of rules 4 and 5 (with suitable modifications) in the Act itself. We recommend that section 8 be suitably amended in this behalf. Section 8.

(2) As regards sittings of the Commission in public or in private, the section leaves the matter to the Commission's discretion. Various suggestions have been made regarding this provision. On the one hand, it is argued that inquiries under the Act should always be held in public, since such inquiries relate to matters of public importance.[5] On the other hand, it is argued that sometimes the inquiry relates to a commercial concern and that the holding of such inquiries in public would be detrimental to the interests of such concerns. Since no uniform rule can be laid down in respect of all inquiries, and the question whether an inquiry or any part thereof should be held in public or in private will depend on the circumstances of each case, we think that the best course would be to retain the existing provision, which leaves the matter to the discretion of the Commission. A Commission would consist of responsible persons, and can be trusted to exercise its discretion in a reasonable manner.

34. Section 8 of the Act provides that the Commission may act notwithstanding the temporary absence of any member or the existence of a vacancy amongst its members. We have already proposed[6] an amendment to section 3 of the Act in order to make it clear that it is open to the Government to increase the number of members on the Commission at any stage of the inquiry or to fill any vacancy. We now recommend,[7] that it may be made clear that it is not necessary for the Commission to recommence its inquiry if a change takes place in the constitution of the Commission during the pendency of an inquiry. It may, Section 8A (New).

[1] *Cf.* Taxation on Income (Investigation Commission) Act, 1947; Indian Election Offences and Inquiries Act, 1920; the Capital Issues (Continuance of Control) Act, 1947. Contrast the general provision in s. 130, Indian Evidence Act, 1872.

[2] *Cf.* The Royal Commission Act, Australia, 1902—1933, section 6D(1).

[3] See Appendix I, section 6A.

[4] See para. 14, *supra*.

[5] See in this connection, a Private Member's Bill introduced in the Lok Sabha on 11-5-1962—to amend the Act (Bill No. 15 of 1962) (Shri D. C. Sharma).

[6] See para. 26, *supra*.

[7] See Appendix I, section 8A.

however, be provided that if the services of the Chairman have ceased to be available, the Commission should not act until a new chairman is appointed. Such a provision would appear to be appropriate.[1]

Section 12.

35. The rule-making section may be amended so as to expressly provide for two topics on which rules may be made, namely, the association of persons with the Commission as assessors and the payment of travelling and other expenses to persons summoned to give evidence.

Other changes.

36. We have explained above the important changes which we recommend. The other matters on which we have recommended an alteration in the existing Act will appear in the Notes on Clauses.[2]

Appendices.

37. In order to give a concrete shape to our proposals, we have, in Appendix I, put them in the form of draft amendments to the existing Act.

Appendix II contains Notes on Clauses, elucidating, with reference to the draft amendments in Appendix I, any points that may require elucidation.

Appendix III contains a statement showing the Commissions appointed under the Act.

1. MR. JUSTICE J. L. KAPUR, *Chairman.*
2. G. R. RAJAGOPAUL.
3. D. BASU.
4. K. G. DATAR.
5. T. K. TOPE.
*6. NIREN DE.

Members.

S. K. HIRANANDANI, *Secretary.*

NEW DELHI,
The 18th December, 1962.

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[1]Compare section 5 of the Industrial Disputes Act, 1947.

[2]See Appendix II.

*Mr. Niren De has been unable to sign the Report, but he concurs in the recommendations made therein.

APPENDIX I

PROPOSALS AS SHOWN IN THE FORM OF DRAFT AMENDMENTS TO THE EXISTING ACT.

(This is a tentative draft only)

Section 3

60 of 1952. For section 3 of the Commissions of Inquiry Act, 1952 (hereinafter referred to as "the principal Act"), the following section shall be substituted, namely:—

Appointment of Commission.

"3. (*1*) The appropriate Government may, if it is of opinion that it is necessary so to do, and shall, if a resolution in this behalf is passed by *both Houses of Parliament or*, as the case may be, by the Legislative Assembly of the State, *or, in the case of a State having a Legislative Council, by both Houses of the Legislature of the State*, by notification in the Official Gazette, appoint a Commission of Inquiry for the purpose of making an inquiry into any definite matter of public importance *which shall be specified in the notification*, and performing such functions, *being functions necessary or incidental to the inquiry*,..... *as may be so specified*.....:

Provided that where any such Commission has been appointed to inquire into any matter—

(*a*) by the Central Government, no State Government shall, except with the approval of the Central Government, appoint another Commission to inquire into the same matter for so long as the Commission appointed by the Central Government is *in existence*;

(*b*) by a State Government, the Central Government shall not appoint another Commission to inquire into the same matter for so long as the Commission appointed by the State Government is *in existence*, unless the Central Government is of opinion that the scope of the inquiry should be extended to two or more States; *and if the Central Government appoints such a Commission, the Commission appointed by the State Government shall cease to exist.*

(*2*) The Commission may consist of one or more members appointed by the appropriate Government, and where the Commission consists of more than one member, one of them may be appointed by the appropriate Government as the Chairman thereof.

(3) *The appropriate Government may, at any stage of the inquiry by the Commission—*

(a) *fill any vacancy which may have arisen in the office of a member of the Commission (whether consisting of one or more than one member); or*

(b) *increase the number of members of the Commission.*

As to fixation of period. Cf. existing s. 3(1).

(4) *The Commission shall complete its inquiry and make its report to the appropriate Governments within such period as may be specified by the appropriate Government by notification in the Official Gazette, or within such further period as that Government may by like notification specify.*

Section 4

To section 4 of the principal Act, the following Explanation shall be added, namely:—

"*Explanation.—For the purpose of enforcing the attendance of witnesses, the local limits of the jurisdiction of the Commission shall be the limits of the territories to which this Act extends.*".

Section 5

In section 5 of the principal Act,—

(a) in sub-section (*1*), after the word, figure and brackets "sub-section (5)", the words, figures and brackets "sub-section (6) or sub-section (7)" shall be inserted;

(b) in sub-section (2), the following words shall be inserted at the end, namely:—

"*and any person so required shall be bound to furnish such information.*".

(c) sub-section (5) shall be re-numbered as sub-section (7), and before that sub-section as so re-numbered, the following sub-sections shall be inserted, namely:—

"(5) *If any person, by words either spoken or intended to be read, makes or publishes any statement or does any other act which is calculated to bring the Commission or any member thereof into disrepute, he shall be punishable with simple imprisonment which may extend to two years or with fine or with both.*

(6) *The provisions of section* 198-B *of the Code of Criminal Procedure,* 1898, *shall apply in relation to an offence under sub-section* (5) *as they apply in relation to an offence referred to in sub-section* (*1*) *of the said section* 198-B, *subject to the modification*

5 of 1898.

that no complaint in respect of such offence shall be made by the Public Prosecutor except with the previous sanction—

(a) *in the case of a Commission or member of a Commission appointed by the Central Government, of that Government;*

(b) *in the case of a Commission, or a member of a Commission appointed by the State Government, of that State Government.*".

Section 6A (New)

After section 6 of the principal Act, the following section shall be inserted, namely:—

"6A. *Nothing in this Act shall make it compulsory for any person giving evidence before the Commission to disclose any secret process of manufacture.*". Secret process not to be disclosed.

Section 8

For section 8 of the principal Act, the following section shall be substituted, namely,—

"8. (*1*) *If, at any stage of the inquiry, the Commission considers it necessary to inquire into the conduct of any person or is of opinion that the reputation of any person is likely to be prejudicially affected by the inquiry, the Commission shall give to that person a reasonable opportunity of being heard in the inquiry and producing evidence in his defence:* Procedure to be followed by the Commission.

Provided that nothing in this sub-section shall apply where the credit of a witnesses is being impeached.

(2) *The appropriate Government, every person referred to in sub-section (1) and, with the permission of the Commission, any other person whose evidence is recorded by the Commission,—*

(a) *may cross-examine any person appearing before the Commission, other than a person produced by it or him as a witness;*

(b) *may address the Commission.*

(3) *The appropriate Government, every person referred to in sub-section (1) and, with the permission of the Commission, any other person whose evidence is recorded by the Commission may be represented before the Commission by a legal practitioner or, with the permission of the Commission, by any other person.*

(4) Subject to the provisions contained in this Act and to any rules that may be made in this behalf, the Commission shall have power to regulate its own procedure (including *the power to fix* the places and times of its sittings and to *decide* whether to sit in public or in private).....".

Section 8A (New)

After section 8 of the principal Act, the following section shall be inserted, namely:—

Inquiry not to be interrupted by reason of vacancy or change in constitution.

"8A. (1) *Where the Commission consists of two or more members, it may act notwithstanding the absence of the Chairman or any other member or any vacancy among its members:*

Provided that, if the appropriate Government notifies the Commission that the services of the Chairman have ceased to be available, the Commission shall not act unless a new Chairman is appointed.

(2) *Where during the course of an inquiry before a Commission, a change has taken place in the constitution of the Commission by reason of any vacancy having been filled or by an increase in the number of members of the Commission or for any other reason, it shall not be necessary for the Commission to commence the inquiry afresh.*".

Section 12

In section 12 of the principal Act,—

(*a*) in sub-section (*2*)—

(*i*) after clause (*a*), the following clause shall be inserted, namely:—

"(aa) *the association with the Commission as assessors of persons having special knowledge of any matter relevant to the inquiry, to assist and advise it;*"

(*ii*) after clause (*c*), the following clause shall be inserted, namely,—

"(cc) *the travelling and other expenses payable to persons summoned by the Commission to give evidence before it.*"

(b) after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(3) *Every rule made by the Central Government under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two sucessive sessions and, if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.*".

APPENDIX II

NOTES ON CLAUSES

Section 3

Section 3(1), main para. Resolution of both Houses.

It has been provided that where the appointment is to be in pursuance of the resolution of Parliament or State Legislature, the resolution *should be of both the Houses.*[1]

Necessary change has been made.

The general question of the Government's power to appoint a Commission *suo motu* has been dealt with.[2]

Section 3(1), main para. Notification.

The notification constituting the Commission should specify the *matter* to be inquired into. It is considered that the Act should contain an express provision on the subject. Necessary change has been made.

Section 3(1) main paras. "Performing such functions".

The reasons for making an amendment in respect of the words "performing such functions" have been already given.[3]

Section 3(1), "and within such time."

There is a small verbal point in connection with section 3(1), main paragraph, which may be dealt with.

The appropriate Government can appoint a Commission of Inquiry "for the purpose of making an inquiry into any definite matter of public importance and performing such functions and within such time as may be specified in the notification.... ". The intention obviously is that the inquiry should be completed within the specified time. In order to make the intention clear, small verbal changes have been made.

S. 3(1), main para. Obligation to hold the Inquiry.

In section 3(1), main para, the words "the Commission so appointed shall make the inquiry, etc." have been omitted, because it is considered unnecessary to make any such mandatory provision.[4]

Section 3(1), proviso (*a*).

Section 3(1), proviso (a) has been brought in line with section 7 which uses the word "exists".

Section 3(1), proviso (*b*).

A provision has been added to deal with the case where after the appointment of a Commission by a State Government, the Central Government decides to appoint a Commission to inquire into the same subject.[5]

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[1]See the body of the Report, para. 21.
[2]See the body of the Report, para. 11.
[3]See the body of the Report, para. 24(a).
[4]In any case, section 3(4) as proposed creates the obligation.
[5]For detailed reasons, see discussion in the body of the Report, para. 22.

As the word "exists" is used in section 7, the proviso also has been framed in harmony with that use.

Section 3(2). It has been made clear that the appointment of the Chairman will be by the appropriate Government.

Section 3(3). A new sub-section has been added to give the appropriate Government power to fill up vacancies or increase the number of members.[1]

Section 3(4). The provision regarding conclusion of inquiry within the specified period—at present contained in section 3(1)—main para. has been embodied here. Power has been given to the Government to extend the period in suitable cases.[2]

General. Some of the other important points relating to section 3 have been already discussed.[3]

Section 4

An Explanation has been added to deal with the local limits of the jurisdiction of the Commission in relation to summoning a witness to attend in person. It broadly follows section 74 of the Copyright Act, 1957 and section 92 of the Representation of the People Act, 1951. Detailed reasons have been already given.[4]

Section 5

Section 5(1). As new sub-sections are proposed to be added in section 5, consequential change has been made here.

Section 5(2)-Enforcement of Commission's orders requiring information. Under section 5(2), a Commission has power to require any person to furnish information on matters useful for or relevant to the subject-matter of the inquiry. The section is, however, silent as to the penalty to be imposed on any person who does not obey a requisition for information issued by the Commission thereunder. Nor does any other section of the Act impose a penalty for such disobedience.

A question has been raised whether section 176 of the Indian Penal Code, under which a person "legally bound" to furnish information on any subject to any public servant and omitting to furnish such information, is punishable with imprisonment up to one month or fine up to five hundred rupees or both, may apply to a requisition made under a special law. The decision of the Privy Council in *Ali Mahomed* v. *Emperor*[5] may be seen on the point. In that case, a question arose whether a person failing to furnish information required by a Wakf Committee under

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[1]See the body of the Report, para. 26 for reasons.

[2]See also the body of the Report, para. 25.

[3]See the body of the Report, paras. 20 and 24(b) (c).

[4]See the body of the Report. para. 27.

[5]A.I.R. 1945 P. C. 147, 151.

section 3, Mussalman Wakf Act, 1923, as amended in Bombay, could be proceeded against in the High Court for contempt under the Contempt of Courts Act, 1926. The objection taken was, that under section 2(3) of the Contempt of Courts Act, the High Court could not take cognizance of contempt of a subordinate court, where such contempt is an offence punishable under the Indian Penal Code. It was argued, that the failure to furnish the information in question was an offence under section 176, Indian Penal Code. This argument was rejected by the Privy Council on the following chain of reasoning :

(i) Section 176 applies only where a person is "legally bound" to furnish information;

(ii) a person is legally bound to furnish only what is illegal for him to omit (section 43, latter half, Indian Penal Code);

(iii) it is illegal for a person to omit only that which is an offence (section 43, earlier half, Indian Penal Code);

(iv) an offence is only that which is punishable under the Indian Penal Code (section 40, Indian Penal Code).

(Therefore, section 176 applies only to a failure which is an offence under some section of Indian Penal Code).

The Privy Council observed that if no other section of the Penal Code dealt with the matter, then, one must conclude that the particular crime, though punishable under some other enactment, is not punishable under the Code, and would not fall under section 176. Therefore, the High Court was not prohibited from dealing with it under the Contempt of Courts Act. To make the matter clear a provision on the subject has been added.[1]

The difficulty felt by the Press Commission has already been dealt with.[2]

New sub-sections are being inserted to deal with matters bringing a Commission or its members into disrepute. This has been discussed in detail.[3]

Section 6A

This is new and has been inserted to give protection regarding disclosure of a secret process of manufacture. Section 6D(1) of the (Australian) Royal Commission Act, 1902—1933, may be compared.[4]

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[1]See also the body of the Report, para. 28.

[2]See the body of the Report, para. 1.

[3]See the body of the Report, paragraphs 12 and 30.

[4]See also the body of the Report, para. 32.

Section 8(1)

This is new.[1] It deals with the right of a person prejudicially affected to be heard. The new section is based on rule 4 of the Central Commissions of Inquiry (Procedure) Rules, 1960 issued on the 7th May, 1960 with one departure made from that rule. Where the conduct of any person is to be investigated merely in order to determine his credibility as a witness, the provision giving him right of hearing and producing evidence should not apply. To require opportunity for hearing in such cases would give rise to collateral inquiries which would never end. That has been made clear.

Sections 8(2) and 8(3)

These are new and have been added[2] to deal with certain rights which are important enough to deserve a place in the Act. They follow rule 5 of the Central Commissions of Inquiry (Procedure) Rules, 1960 issued on the 7th May, 1960, with verbal changes.

Section 8(4)

This represents existing section 8. Portion referring to temporary absence or vacancy is being omitted, as an elaborate provision on the subject is being proposed.[3]

Section 8A

A new provision has been added to deal with cases of vacancy or absence amongst the members of the Commission.[4]

Sub-clause (1).—What is proposed is that absence or vacancy shall not invalidate the proceedings. Section 7(5) of the Industrial Disputes Act, 1947 as originally inserted by the Industrial Disputes (Amendment and Temporary Provisions) Act, 1951 (40 of 1951) is more elaborate. Here a simpler provision is preferred. [That section was as follows :—

> "A Tribunal, where it consists of two or more members, may act notwithstanding the casual and unforeseen absence of the Chairman or any other member; and when the Chairman or any other member rejoins his office after such absence, the proceedings may be continued before the Tribunal from the stage at which he so rejoins."]

Section 5(4), Industrial Disputes Act, 1947 has been mainly followed.

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[1]See also para. 14 of the body of the Report.

[2]See also the body of the Report, paras. 14 and 33.

[3]See section 8A proposed to be inserted.

[4]See also the body of the Report, para. 34.

Sub-clause (2).—This is intended to deal with changes in constitution. It is considered that in such cases it should be permissible to continue the proceedings as they stand.

Section 12

Power to make rules regarding assessors and expenses of witnesses has been added, as such a provision would be useful.[1]

So far as rules made by the Central Government are concerned, recent legislative practice has been to require that the rule should be laid before each House of Parliament and should be subject to modification agreed to by both Houses (or to annulment, if so directed by both Houses). Consistently with this legislative practice, it is desirable that a similar provision should be inserted in the section under consideration also. Necessary amendment has been proposed.[2]

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[1]See the body of the Report, para. 35.

[2]The draft follows the usual provision as to laying of rules, as found in recent Central Acts. The Law Commission is examining separately the General Clauses Act, and in that connection the question of inserting in that Act a general provision requiring laying of rules before Parliament, is likely to receive the attention of the Commission. The amendment suggested above is, therefore, subject to any recommendations that the Commission may make (while dealing with the General Clauses Act) in relation to laying of rules before Parliament.

INDEX TO APPENDIX III

[1]The Statement is based on information supplied by various Ministries and State Governments.

[2]The "S. No." mentioned indicates the Serial Numbers in the Law Commission's File.

APPENDIX III

Statement of Commissions of Inquiry set up under the Act

PART A

(Commissions set up by the Government of India)

MINISTRY OF RAILWAYS

(Railway Board)

Four Commissions of Inquiry were appointed under the Commissions of Inquiry Act, 1952 for the purpose of making inquiries into the causes of the following Railway accidents :—

(*i*) to the Down Passenger train No. 565 at mile 66/15-16 between *Jadcherla* and *Mahbubnagar* stations on the Central Railway on the night of the 1st/2nd September 1956;

(*ii*) to train No. 603 Tuticorin Express at mile 170/14-12 between *Ariyalur* and *Kallagam* stations on the Villupuram-Trichinopoly (Chord) Line of the Southern Railway at 5-30 hours on the 23rd November 1956;

(*iii*) to train No. 1 Down Bombay-Calcutta Mail at mile 97/4 between *Padli* and *Asvali* stations on the Igatpuri-Bhusaval double-line section of the Central Railway at 22-45 hours of 23rd November 1957; and

(*iv*) between No. 2-DU/Down Passenger train and 45 Up Delhi-Pathankot Janta Express at 4-17 hours on 1st January 1958 at Mohri station on the Delhi-Ambala Section of the Northern Railway.

(Particulars are given below)

Date of appointment	Duration of Commission	Matter for which appointed	Remarks
20-12-1956	20-12-1956 to 24-1-1957	For inquiry into the causes of the Mahbubnagar Accident.	
9-12-1956	9-12-1956 to 29-12-1956	For inquiry into the causes of the Ariyalur Accident.	

MINISTRY OF RAILWAYS

Date of appointment	Duration of Commission	Matter for which appointed	Remarks
4-12-1957	4-12-1957 to 27-1-1958	For inquiry into the causes of the Igaturi Accident.	
23-1-1958	23, 24, 25 and 27-1-1958 and from 3-2-1958 to 17-2-1958 to 26-2-1958.	For inquiry into the causes of the Mohri Accident.	

MINISTRY OF INFORMATION AND BROADCASTING

Press Information Bureau

3-10-1952 (The Press Commission)	Upto 31-7-1954	The Press Commission was appointed to enquire into the state of the Press in India, its present and future lines of development and in particular to examine:— (*i*) the control, management and ownership and financial structure of newspapers, large and small, the periodical press and news agencies and feature syndicates ; (*ii*) the working of monopolies and chains and their effect on the presentation of accurate news and fair views; (*iii*) the effect of holding companies, the distribution of advertisements and such other forms of external influence as	As regards the action taken on the Commission's Report, a Statement was, laid on the Table of Lok Sabha on 30-5-1957 indicating action taken on the main recommendations of the Press Commission. (As the statement is very lengthy, it is not reproduced here). Some of the recommendations were accepted. The Newspaper (Price and Page) Act, 1956, was enacted to reduce differences due to economic advantages, etc. The Press and Registration of Books

MINISTRY OF INFORMATION AND BROADCASTING—*contd.*

Press Information Bureau—contd.

Date of appointment	Duration of Commission	Matter for which appointed	Remarks
		may have a bearing on the development of healthy journalism ; (*iv*) the method of recruitment, training, scales of remuneration, benefits and other conditions of employment of working journalists, settlement of disputes affecting them and factors which influence the establishment and maintenance of high professional standards; (*v*) the adequacy of newsprint supplies and their distribution among all classes of newspapers and the possibilities of promoting indigenous manufacture of (*i*) newsprint ; (*ii*) printing and composing machinery and (*iii*) machinery for (*a*) ensuring high standards of journalism and (*b*) liaison between Government and the Press ; the functioning of Press Advisory Committees and organisations of editors and working journalists, etc. ; (*vi*) freedom of the Press and repeal or amendment of laws	Act, 1867 was amended to provide for the appointment of the Press Registrar and other matters. Rates for telegraphs for news agency messages were revised. Further with a view to extending the provisions of the Industrial Disputes Act to working journalists, the Working Journalists (Conditions of Service and Miscellaneous Provisions) Act, 1955, was enacted. Section 198B was introduced in the Criminal Procedure Code (relating to defamation of public servants). The Press (Objectionable Matter) Act, 1951, was allowed to lapse. Certain recommendations were brought to the notice of the State Governments, and the recommendations relating to privileges and contempt of

MINISTRY OF INFORMATION AND BROADCASTING—*concld.*
Press Information Bureau—concld.

Date of appointment	Duration of Commission	Matter for which appointed	Remarks
		not in consonance with it ; and to make recommendations thereon.	Legislature were brought to the notice of the various Legislatures. Certain recommendations were not accepted.
		MINISTRY OF HEALTH	
23-5-1958 (Kerala and Madras Food Poisoning Enquiry Commission)	One month from the date of which it commences its inquiry.	The inquiry into and report on the following matters, and for that purpose could take such evidence as is considered necessary :— (*a*) the circumstances and the causes whereby the food or foodstuffs used in preparing the food came to be contaminated ; (*b*) whether the contamination could have been avoided or detected in time ; (*c*) the action, if any, taken by the person or persons concerned after detection of such contamination to prevent further distribution of the contaminated food or foodstuffs ; (*d*) whether there had been any failure in taking adequate measures for the avoidance or timely	1. The Kerala and Madras Food Poisoning Cases Enquiry Commission embarked upon the enquiry on the 6th June, 1958 and submitted its Report to the Government of India on the 5th July, 1958. 2. In the Report, the Commission have *inter alia* made— (*i*) their special recommendation about the disposal of foodstuffs seized by the Kerala State Government ; and (*ii*) their general recommendations in regard to the steps to be taken to prevent such occurrences in future. 3. In so far as the special recommendations are

MINISTRY OF HEALTH—*contd.*

Date of appointment	Duration of Commission	Matter for which appointed	Remarks
		detection of such contamination and the person or persons responsible for such failure, and (*e*) the measures, to be taken to safeguard against similar occurrences in future.	concerned, they were accepted by the State Government concerned who took necessary action in the matter. 4. As regards the fifteen general recommendations, a Committee consisting of the representatives of the Ministries of C. & I., Food and Agriculture, Labour and Employment, Transport and Communications, Railways, S. R. & C. A., Law, Health, W. H. & S., Finance and Home Affairs was constituted. This Committee made recommendations for (*i*) short term measures and (*ii*) long term measures. *Short term measures* : Those insecticides which are considered highly toxic to man were notified as "Poison" under the Poisons Act, 1919 by the Ministry of Home Affairs. The State

MINISTRY OF HEALTH—*concld.*

Date of appointment	Duration of Commission	Matter for which appointed	Remarks
			Governments were also advised by that Ministry to take further action under the Poisons Act, 1919. The other short term measures were taken by various Ministries concerned. *Long term measures* : The Ministry of Food and Agriculture were requested to take necessary action to sponsor and pilot a bill called "Indian Pesticides Bill" for regulating the manufacture, import, storage, transport, distribution, etc. of pesticides.

MINISTRY OF COMMERCE AND INDUSTRY

Date of appointment	Duration of Commission	Matter for which appointed	Action taken on the Report of the Commission of Inquiry	Remarks
17-4-1954 (Plantation Inquiry Commission).	17th April, 1954 to 15th January, 1957.	1. The Plantation Inquiry Commission was appointed for making a comprehensive inquiry into	Government's decision on the report of Plantation Inquiry Commission on Tea was announced	

MINISTRY OF COMMERCE AND INDUSTRY—*contd.*

Date of appointment	Duration of Commission	Matter for which appointed	Action taken on the Report of the Commission of Inquiry	Remarks
		the economic conditions and problems of the tea, coffee and rubber industries. 2. In particular, and without prejudice to the generality of the foregoing powers, the Commission was, in the course of the inquiry to perform the following functions, *that is to say*, to — (*a*) ascertain separately the amount of capital, Indian and non-Indian, invested respectively in tea, coffee and ruber plantations ; (*b*) examine the methods of production and the costs of production of tea, coffee and rubber in the different important growing areas in India ; (*c*) examine the present methods of finan-	in the form of a Resolution published in the Gazette of India Extraordinary dated the 1st July, 1957. (It has not been reproduced, being lengthy).	Some of the recommendations of the Commission were accepted in principle, for example, making finance available to the tea industry, avoiding excessive use of Industrial Tribunals, regard for the needs of workers and availability of building materials, while phasing the implementation of the Plantation Labour Act, undertaking of a study by the Tea

MINISTRY OF COMMERCE AND INDUSTRY—*contd.*

Date of appointment	Duration of Commission	Matter for which appointed	Action taken on the Report of the Commission of Inquiry	Remarks
		cing tea, coffee and rubber plantations ; (*d*) examine the present methods of marketing tea, coffee and rubber including all the factors which affect the price paid by the consumer ; (*e*) examine the possibilities of further expansion and development of the tea, coffee and rubber plantation industries. 3. On the conclusion of the enquiry the Commission was to make recommendations to Government on the measures necessary : (*a*) to secure for the producer a fair price for his product and to the consumer fair price for the article he buys;		Board of cost data, organisation of small growers into co-operatives etc. Certain recommendations contemplating action by the State Governments and the industry were brought to the notice of the State Governments or the industry. Certain other recommendations were not accepted for reasons given in detail in the resolution of the 1st July, 1957.

MINISTRY OF COMMERCE AND INDUSTRY—*concld.*

Date of appointment	Duration of Commission	Matter for which appointed	Action taken on the Report of the Commission of Inquiry	Remarks
		(*b*) to enable the provision of necessary finance for plantation industries ; (*c*) to ensure suitable marketing arrangements ; and (*d*) to develop and expand the tea, coffee and rubber plantation industries.		
Department of Company Law Administration				
10-12-56	2 years (but see Remarks)	To investigate into the affairs of Dalmia Jain group of companies.		The term of Commission was extended from time to time so as to expire on 31-10-1962.

APPENDIX III

Statement of Commissions of Inquiry set up under the Act

PART B

(Commissions set up by the State Governments)

KERALA

S. No.	Date of appointment	Duration of Commission	Matter for which appointed	Remarks
1. (Rice Deal Inquiry Commission.)	May 1958	May 1958 to Feb. 1959.	The Government appointed a Rice Deal Inquiry Commission in May 1958 to enquire into and report on the following :— (*i*) whether the purchase of 5,000 tons of rice by the Kerala Government from Messrs. Sriramalu P. Suriyanarayana and Company, Madras in August-September, 1957 was unjustified, having regard to the food situation in the State ? and (*ii*) whether the purchase resulted in avoidable loss to the State?	

KERALA—*contd.*

S. No.	Date of appointment	Duration of Commission	Matter for which appointed	Remarks
2. (To inquire into a police firing.)	2-8-1958	2-8-1958 to 18-2-1959.	To inquire into police firing at Chandanathopu. (*i*) the circumstances which led to the firing, and (*ii*) whether the firing was justified under the circumstances?	The Commission's finding was that the firing was justified.
3. (To inquire into firing).	22-11-1958	22-11-1958 to 6-8-1959.	To inquire into firing at Munnar Regions.	The Commission's finding was that the firing was justified.
4. (To inquire into death in police custody).	4-5-1961	4-5-1961 to 8-8-1961.	Suspected death of Souri in Police lock up at Ernakulam. (*i*) true facts relating to death; (*ii*) to devise means to prevent such incidents in future.	(*i*) Finding was— Suicide by hanging. (*ii*) Recommendation was Construction of lock up should be in such a manner that there should not be any loophole left for a person

KERALA—*concld.*

S. No.	Date of appointment	Duration of Commission	Matter for which appointed	Remarks
				however bent upon he might be to commit suicide to do that.
3. (To inquire into bus accident).	13-9-1961	13-9-1961 to 15-1-1962.	To inquire into the causes of the serious bus accident that occurred at Chettupuzha near Trichur and to suggest measures to prevent such accidents.	The Commission has submitted its Report and the same is under the consideration of Government.

GUJARAT

1. (To inquire into firing).	5-8-1960	From 5-8-60 to 15-12-60 *i.e.*, the date of Report *i.e.*, 133 days. Commission ceased to exist from 13-7-1960	To inquire into and report on— (*i*) the circumstances in which the police resorted to firing on two occasions on the 12th July, 1960 at Dohad (Dist. Panchmahals), and (*ii*) whether the firing and their extent on each occasion were justified or not?	The Commission which consisted of Justice R. B. Metha held the morning firing to be justified but the afternoon firing as unjustified.

GUJARAT—*concld.*

S. No.	Date of appointment	Duration of Commission	Matter for which appointed	Remarks
2. (To inquire into a killing incident).	30-8-1960	Commission ceased to exist from 1-6-1961.	To inquire into and report on whether the authorities concerned took sufficient measures to avoid or prevent the incidents in which two Miyanas were killed in the court premises at Halvad, on 15th July, 1960 and whether there was any negligence on the part of the officials concerned in taking adequate measures to control and/or to disperse the crowd.	The Commission could not initially proceed with its work as a criminal case in connection with the incident was proceeding. The Sessions Judge made certain observations in his judgment which had a bearing on the terms of reference of the Commission. In view of these observations it was not necessary for the Commission to proceed with its work and it was therefore wound up.
3. (To inquire into firing).	29-11-1960	Report submitted on 8-3-61.	To inquire into and report on and in respect of— (*i*) the circumstances in which the Police resorted to firing on 2-10-60 at Shill (Distt. Kaira), and (*ii*) the question whether the firing and its extent were justified or not ?	The Commission held the firing to be justified and Government accepted the said finding.

RAJASTHAN

Date of appointment	Duration of Commission	Matter for which appointed
12th March, 1958 with Shri K. N. Wanchoo, Chief Justice, Rajasthan High Court, Jodhpur as the sole member. (To inquire into Nathdwara Temple funds).	2nd March, 1959 to 11th October, 1959. (The Commission submitted its report on 11th October, 1959).	To inquire into and report about the fund or valuables, like cash, jewellery, gold and silver, in the premises of the temple of Shri Nathji at Nathdwara.

MADHYA PRADESH

S. No. and name of the Commission	Date of appointment	Duration of Commission	Matter for which appointed	Remarks
1. Commission of Inquiry with Shri Justice C. P. Bhutt, Judge, Madhya Pradesh High Court as its sole member.	22-6-1957	3 months and 24 days.	To inquire into the police firing on 26th August, 1957 at Raipur.	The finding of the Commission was that the police firing was justified.
2. Commission of Inquiry with Shri C. B. Kekre, District Judge, Chhindwara,	18-1-1958	3 months and 16 days.	To inquire into the police firing on 12th January 1958, at village Khobi (District Surguja).	Do.

MADHYA PRADESH—*concld.*

S. No. and name of the Commission	Date of appointment	Duration of Commission	Matter for which appointed	Remarks
Madhya Pradesh, as its sole member.				
3. Commission of Inquiry with Shri Justice Shiv Dayal Shrivastva, Judge, Madhya Pradesh High Court, Gwalior Bench, Gwalior, as its sole member.	6-3-1961	11 months and 22 days.	To inquire into the disturbances which took place in the districts of Jabalpur, Sagar, Damoh and Narsinmhapur in February, 1962.	
		MAHARASHTRA		
1. Commission of Inquiry consisting of late Shri R. S. Bavdekar, Judge of the High Court, Bombay.	20-8-1960	Three months.	To inquire into the cases of the explosion which occurred on the 8th July, 1960 in the Gas Holder No. 4, situated at Lalbaugh, Bombay Gas Co. Ltd., Bombay.	The Commission submitted the Report on 5th November, 1960. The Government accepted the findings and recommendations of the Commission of Inquiry. The Report was released for publication in

MAHARASHTRA—*contd.*

S. No. and name of the Commission	Date of appointment	Duration of Commission	Matter for which appointed	Remarks
				December, 1960. The Commission suggested the measures to be taken to minimise corrosion and prevent such failure of Gas holders, and recommended more inspections of the internal condition of the sheeting of holders. As this statutory provision is to be made in the Factories Act, 1948, which is, a Central Act, the matter has been taken up with the Government of India, Ministry of Labour and Employment, New Delhi.
2. Commission of Inquiry consisting of Shri T. S. Bilgrami, Member, Industrial Court, Bombay.	19-5-1961	Five months	To inquire into the causes of the explosion which occurred on the 17th March, 1961, in the Sohanlal Pahladrai Solvent Extraction Plant, Jalgaon.	The Commission submitted the Report in October, 1961. The findings and the recommendations have been accepted by Government. The Report is not so far released for publication, as the question of taking action in pursuance of the Report is under consideration.

MAHARASHTRA—*contd.*

S. No. and name of the Commission	Date of appointment	Duration of Commission	Matter for which appointed	Remarks
3. Commission of Inquiry into the cases of Police firing at Ahmedabad on the 12th, 13th and 14th August, 1958, consisting of Shri Justice S. P. Kotval, Judge, High Court, Bombay.	31-10-1958	From 31-10-1958 to 16-5-1959	The Maha Gujarat Parishad erected a 'Martyrs Memorial' unauthorisedly in Ahmedabad(now forming part of the Gujarat State) on the 8th August, 1958. After the removal by the police of the unauthorised structures on the morning of 12th August, 1958, there was an outbreak of mob-violence, incendiarism, looting, etc. in certain parts of Ahmedabad. In quelling these disturbances, the police opened fire on the 12th, 13th and 14th August, 1958, which resulted in loss of life and injury to some persons. The former Bombay Government therefore appointed Shri S. P. Kotval, Judge,	The Commission of Inquiry was appointed by the former Government of Bombay. As a result of bifurcation, Ahmedabad now forms part of the present Gujarat State.

MAHARASHTRA—*contd.*

S. No. and name of the Commission	Date of appointment	Duration of Commission	Matter for which appointed	Remarks
			High Court, Bombay, to be the Commission of Inquiry with the following terms of reference, *viz.* — (*a*) to ascertain the circumstances under which the police resorted to firing on the said dates ; (*b*) to report whether there was an attempt, direct or indirect, on the part of any person or political parties to create, or instigate others to create disorder and to indulge in acts of violence, incendiarism, looting and destruction of private and public property, in the event of the local authorities obstructing the erection of the Memorials or removing them after erection ;	

MAHARASHTRA—*contd.*

S. No. and name of the Commission	Date of appointment	Duration of Commission	Matter for which appointed	Remarks
			(*c*) to determine whether the firing on the said date was justified or not ; (*d*) to report on such other matters as may be germane to the above.	
4. Commission of Inquiry consisting of late Shri R.S. Bavdekar, retired Judge of the High Court at Bombay.	24-7-1961	Three months	The Panshet and Khadakwasla Dams in Poona District failed on the 12th July, 1961, causing thereby serious damage to life and property in Poona and certain villages downstream of the Panshet Dam. A Commission of Inquiry consisting of R. S. Bavdekar, retired Judge of the High Court at Bombay, was appointed to inquire into and report on— (*a*) the causes of the failure of the	The inquiry could not be completed because of death of Shri R. S. Bavdekar.

S. No. and name of the Commission	Date of appointment	Duration of Commission	Matter for which appointed	Remarks
			dams at Panshet and Khadakwasla on 12th July, 1961, and the circumstances in which such failure occurred, and (*b*) the adequacy of the action taken by the various authorities before, during and immediately after the disaster to avert the same or to mitigate the consequences thereof.	
5. Commission of Inquiry consisting of Shri V.A. Naik, Judge of the High Court at Bombay.	3-11-1961	Upto the 30th April, 1962.	The Commission of Inquiry consisting of Shri R. S. Bavdekar, could not complete the inquiry about the failure of the Panshet and Khadakwasla Dams on account of the premature death of Shri Bavdekar. Government therefore appointed another	The Report is yet to be submitted to Government.

MAHARASHTRA—*concld.*

S. No. and name of the Commission	Date of appointment	Duration of Commission	Matter for which appointed	Remarks
			Commission of Inquiry under the Commissions of Inquiry Act, 1952 consisting of Shri Justice V. A. Naik, Judge of the High Court at Bombay to inquire into and report on— (*a*) the failure of the Panshet and Khadakwasla Dams and the circumstances in which such failure occurred; (*b*) the adequacy of action taken by the various authorities before, during and immediately after the disaster to avert the same or to mitigate the consequences thereof.	

ANDHRA PRADESH

Date of appointment	Duration of Commission	Matter for which appointed	Remarks
16-10-1961. (To inquire into affairs of one concern).	2 months	Inquiry into the affairs of the Andhra Handloom Weavers Limited, Vijayawada owing to its mismanagement, etc.	The Commission could not submit its Report, as stay orders were passed by the High Court of Andhra Pradesh.

HIMACHAL PRADESH ADMINISTRATION

20-1-1958 (To inquire into fire).	From 31-1-58 to 7-3-58.	Fire accident in Shri Laxmi Narain's Temple at Chamba.	

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